WP(C) 7777/2009

Delhi Abhibhavak Mahasangh & Ors.

Vs.

Govt. of NCT of Delhi & Ors.

Report of Delhi High Court Committee for Review of School Fee for June 2017

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Place: Delhi

Date: 27.7.2017

Secretary

Delhi High Court Committee for Review of School Fee

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

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

Cause List for Thursday, 1st June 2017

S. No.	Cat. No.	School Name & Address
1	B-639	Nutan Vidya Mandir, Dilshad Garden
2	B-640	The Srijan School, North Model Town
3	B-653	Apeejay School, Sheikh Sarai-I
		Review
1	B-618	Mount Carmel School, Anand Niketan
2	B-388	Mount Carmel School, Dwarka
3	B-71	N.C. Jindal Public School, Punjabi Bagh

Cause List for Friday, 2nd June 2017

S. No.	Cat. No.	School Name & Address
1	B-669	Blue Bells International School, East of Kailash
2	B-108	The Indian School, Josup Broz Tito Marg
3	B-660	Tagore International School, East of Kailash
4	B-402	Gitarattan Jindal Public School, Sector-7, Rohini

Cause List for Monday, 5th June 2017

S. No.	Cat. No.	School Name & Address
1	B-677	Ganga International School, Hiran Kudna
2	B-574	Manav Bharti India International School, Panchsheel Park
3	B-488	Queen Mary's School, Sect.25, Rohini
4	B-596	Vikas Bharti Public School, Sector-24, Rohini

Cause List for Wednesday, 7th June 2017

S. No.	Cat. No.	School Name & Address
1	B-622	Hillwoods Academy, Preet Vihar
2	B-638	Sneh International School, New Rajdhani Enclave
3	B-60	The Heritage School, Sector-23, Rohini
4	B-424	Pragati Public School, Sect.13, Dwarka

Cause List for Thursday, 8th June 2017

S. No.	Cat. No.	School Name & Address
1	B-684	Lovely Public Sr. Sec. School, Priya Darshini Vihar
2	B-581	St. Paul's Diocesan School, Jangpura
3	B-653	Apeejay School, Sheikh Sarai-I

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Cause List for Friday, 9th June 2017

S. No.	Cat. No.	School Name & Address
1	B-341	Starex International School, Vasundhara Enclave
2	B-539	Rosary Sr. Sec. School, Kingsway Camp
3	B-456	Little Angels Sr. Sec. Public School, Paschim Vihar
4	B-444	C.L. Bhalla Dayanand Model School, Karol Bagh

Cause List for Monday, 12th June 2017

S. No.	Cat. No.	School Name & Address
1	B-492	G.D. Goenka Public School, Sector-22, Rohini
2	B-435	Ramjas School, Pusa Road
3	B-180	St. Paul's School, Safdarjung Development Area
4	B-347	Ever Green Public School, Vasundhara Enclave

Cause List for Tuesday, 13th June 2017

S. No.	Cat. No.	School Name & Address
1	B-187	Balvantray Mehta Vidya Bhawan, GK-II
2	B-566	Bal Bharti Public School, Sector-12, Dwarka
3	B-623	Col. Satsangi's Kiran Merorial School, Chhatarpur
4	B-640	The Srijan School, North Model Town

Review

1	C-53	Inder Public School, Mandawali
2	C-377	Happy Public School, Vishwas Nagar
3	B-212	Oxford Publi School, Nehru Nagar

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01.06.2017

000003

B-639

Nutan Vidya Mandir, Dilshad Garden, Delhi

Present: Sh. P.K. Singhal, Accountant, Sh. Raj Kumar, Accountant & Sh. Jetendra Singh, Advocate of the school.

Vide letter dated 6th June 2012 the school had written to the Dy. Director of Education Yamuna Vihar, Delhi, that it had neither collected any dues of fee arrears nor paid any arrears to the staff. However when the school was required to produce its fee and salary records and books of accounts, it admitted that it had recovered a sum of Rs.16,59,443 in the year 2009-10 on account of arrear fee. It also stated that since the arrears of salary for staff that was due to be paid was more than Rs. 1 crore it did not pay any arrears to the staff and the parents were requested to collect the amount of arrear fee paid by them. It further submitted that a sum of Rs. 1,67,100 had been refunded to the parents in the year 2010-11 and Rs.3,800 in 2011-12. The balance amount of Rs.14,88,543 is still retained by the school.

During the course of hearing , it is submitted by the authorized representatives appearing for the school that the students who had paid the arrears had passed out from the schools and hence no body claimed the arrear fee back from the school. It is not understandable as to how the school which wanted to refund the fee to the parents as it has not paid the arrear salary could have put the onus on the parents to claim refund from the school. The school would have in its records the addresses of the students who had paid the arrears and ought to have sent the refund cheques by post.

Today during the course of hearing, the authorized representatives have filed a copy of extract of minutes of the meeting of governing body of the school held on 11.5.2017 resolving that the amount of Rs.14,88,543 which is the balance amount of arrear fee still retained by the school would be transferred to the staff gratuity account. Such a course of action is not permissible as the fee was specifically collected for payment of arrears of salary to the staff in pursuance of the order dated 11.2.2.009 issued by the Directorate of Education. Payment of gratuity to the retiring staff is the liability of the school and is not recoverable from the students.

With regard to the balance held by the school with the Parishad Cooperative bank, the school has produced its balance sheet as on 31.3.1994 to show that it had small FDR of Rs.1000 with that bank and the under the rules of the cooperative banks it has to maintain the small fraction of the deposit as compulsory deposit which are nominally still appearing in the balance sheet. Calculation sheet to be prepared. Matter to come up for further hearing on 11th July 2017

Delhi High Court Committee ★ For Review of School Fee ★

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

01.06.2017

000004

B-640

The Srijan School, North Model Town, Delhi

Present: Sh. Devashish Tewary, Admn. Officer & Ms. Shweta Bansal, Accountant of the school.

The school has not shown any cause as to why the funds which prima facie appeared to have been diverted by the school as recorded in the order sheet dated 4.5.2017. The authorized representatives requested for a short date to enable them to file an appropriate reply. As requested. the matter will be relisted for hearing on 13th June 2017, the school may file its rebuttal before the next date of hearing.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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01.06.2017

000005

B-653

Appejay School, Sheikh Sarai-I Delhi

Present : Sh. S.K. Murgai, Financial Advisor, Sh. Bharat Bhushan, General Manager, Sh. A.P. Sharma, Principal, Sh. Rajiv Jain, Sr. Accountant & Sh.Sunil Bhatt, Sr. Accountant of the school.

The school has filed detail of depreciation charged on eligible fixed assets from 1.4.1999 to 31.3.2011. However, the committee observes that neither the detail of eligible fixed assets nor their cost has been given in the details filed. The school seeks short date for filing the same. Accordingly the matter will now come up for hearing on 8th June 2017

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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02.06.2017

000006

B-669

Blue Bell International School, East of Kailash, Delhi

Sh. S.S. Kalra, CA and authorized representative of the school has appeared today and requested that hearing fixed for tomorrow in this case may be cancelled and a fresh date be given in the month of July as he would be travelling in the summer vacation. As requested the hearing fixed for 2.6.2017 is cancelled and matter is adjourned for 17th July 2017 at 11.00 A.M.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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02.06.2017

000007

B-660

Tagore International School, East of Kailash, Delhi

Present: Sh. Rajiv Agarwal, Accounts Incharge, Ms. Nidhi Rewari, Accounts Assistant & Ms. Rupa Banerjee, Accounts Assistant of the school.

The school furnished a revised statement of fee and salary on 1st June 2017. However, the Committee observes that even this statement does not reflect the correct picture. The total fee as shown in this statement does not match with the individual components of arrear fee regular tuition fee, development fee and fee under other heads. The information furnished with regard to arrear salary and regular salary also is at variance with the books of accounts produced before us. After detailed scrutiny, the Committee has arrived at the following figures as reflected in the books of accounts of the school

Fee	2008-09	2009-10	2010-11	Total
Arrear Fee for the period from 01/01/2006 to 31/08/2008	37,55,710	19,40,299	15,091	57,11,100
Arrear of tuition fee for the period from 01/09/2008 to 31/03/2009	0	44,03,900	15,300	44,19,200
Regular development fee	0	5,30,000	11,82,750	
Regular/Normal Tuition fee received for the year	3,71,43,371	4,49,87,513	5,23,79,095	
Revenue receipt				
Fee under other heads (Please specify head wise) (Annual Fee)	37,37,100	40,96,455	45,45,450	
Total Fees as per Income & Expenditure Account	4,46,36,181	5,59,58,167	5,81,37,686	

Salary	2008-09	2009-10	2010-11	Total
Arrear salary for 01/01/2006 to 31/08/2008	91,73,768	28,86,201	0	1,20,59,969
Arrear salary for 01/09/2008 to 28/02/2009				
Regular/Normal Salary paid for the year	2,10,08,970	3,48,72,229	3,81,64,938	
Total Salary as per Income & Expenditure Account	2,82,02,738	3,77,58,430	3,81,64,938	

Delhi High Court Committee * For Review of School Fee *

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On examination of the salary record of the school, the Committee observes that the school has been paying salaries to two Trusties of the Parent Trust namely Sh. Deepak Sen and Sh. Nalin Chester. The authorized representatives submits that Sh. Deepak Sen is the Director of school while Nalin Chester, is the Sr. Administrative Officer of the school. They further submit that there is a regular Principal of the school and the Director's functions over and above the Principal.

The Committee has examined the staff statement filed by the school under Rule 180 for the years 2006-07 to 2010-11 and observes that none of these two gentlemen are reported to the Directorate of Education as working in the school. The school is required to file complete details of payments made to these two gentlemen from 2006-07 to 2010-11. In case, the school is making payment of any other nature to any member of the Trust, information with their regard will also be filed. This may be done within one week of today.

On perusal of the audited balance sheet of the school for the year ended 31st March 2008, the Committee observes that a sum of Rs. 1,31,59,098 is reflected on the asset side as securities and deposit. However, no detail of such securities and deposit has been furnished by the school. The same may also be furnished within one week.

With regard to development fee, the school in its reply to the questionnaire issued by the Committee which was furnished on 13th Dec. 2013 stated that development fee was treated as a capital receipt. However, it was conceded that neither any earmarked development fund account was maintained nor the depreciation reserve fund account was maintained. However, the Committee finds that even the treatment of development fee in the accounts was also as a revenue receipt and not a capital receipt. During the course of hearing, the authorized representatives of the school have conceded this position. The school started charging development fee in 2009-10 when it recovered a sum of Rs. 5,30,000. In 2010-11, the amount recovered on this account was Rs. 11,82,750. After receipt of this information, calculation sheet to be prepared. Matter will be relisted on 7th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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B-402

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

Present : Sh.R.N. Jindal, Chairman, Sh. Ashok Sharma, From CA Office, Ms. Niti Tandon, Accountant, Ms. Shivangi Gupta, Acctt. Assistant of the school.

The hearing in the matter was closed on 28/04/2017 as the school had repeatedly failed to furnish the required information and documents or any credible justification for more than 100% increase in salary in the year 2009-10 as compared to 2008-09. However, the school was given 10 days time to furnish the correct and complete information. The school vide its letter dated 08/05/2017 sought 3 days extension upto 11/05/2017 to furnish the required information. Thereafter , the school furnished certain details under cover of two separate letters dated 11/05/2017 in respect of senior wing and junior wing. Subsequently vide letter dated 15/05/2017, the school filed an application for allowing rehearing in the matter. The application was allowed by the Committee and the matter was fixed for rehearing.

During the course of hearing, the committee has examined the revised information furnished by the school with regard to fee and salary giving break up of arrear fee and regular fee. The authorized representatives appearing for the school have been heard by the Committee. The Committee has examined the books of accounts produced by the school and has verified the payment of arrear salary with reference to the bank statements produced by the school. It has been explained by the accountant of the school that the school did not route ~~through~~ the arrear fee or arrear salary through its Income & Expenditure account. The arrear fee collected by the school was deemed to be the liability of the school for payment of arrear salary and as such was carried forward in the current liability of the balance sheet. The liability was successively reduced when the payment of arrear salary was made by the school.

The Committee notes that the school recovered a total of Rs. 16,58,300 as arrear fee for the period 01/01/2006 to 31/08/2008 in the Senior wing and Rs. 17,68,048 for the period 01/09/2008 to 31/03/2009. Thus a total of Rs. 34,26,348 was recovered by it as arrear fee in the senior wing of the school. However, the school paid a total sum of Rs.49,70,399.

With regard to the regular fee, the Committee notices that the senior wing of school recovered a sum of Rs. 1,31,45,905 as tuition fee in 2008-09 which rose to Rs. 1,57,32,872 in 2009-10, the increase being Rs. 25,86,877 in 2009-10. This appears to be in line with the fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. The Committee also notices that the school was charging the fee under various heads on a regular basis. While the fee increased under other heads appears to be in order the fee collected under the head of activity fees rose from Rs. 18,43,742 to Rs. 32,63,335 in 2009-10. Perusal of the fee schedules of the school for

Delhi High Court Committee For Review of School

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the years 2008-09 and 2009-10 submitted by the school in a comparative on under cover of its letter dated 31/05/2012 shows that the school was charging activity fee at varying rates between 175 per month for class I to Rs. 525 per month for class XII in 2008-09. The corresponding fee charged in the year 2009-10 ranged between Rs. 190 per month for class I and Rs. 605 for class XII. It is apparent that the school hiked the actual fee by approx 10% in 2009-10. However, the school has been unable to explain as to how the total collection under activity fee rose from Rs. 18,43,742 in 2008-09 to Rs. 32,63,335 in 2009-10 which shows a hike of around 60%. This indicates that the school might have been recovering some other charges from the students and camouflaging it under the head activity fees.

With regard to the junior wing, the Chairman of the school submits that the junior wing was started w.e.f. 01/04/2008. Though the school has shown the recovery of arrear fee for the period 01/01/2006 to 31/08/2008 besides for the period 01/09/2008 to 31/03/2009 and similarly has shown arrears of salary having been paid for that period, the representatives appearing for the school submit that the period for which the fee was received and salary was paid was 01/04/2008 to 31/03/2009 only. Similarly the arrear salary was also paid for that period only The following figures emerged from the financials of the school:

Total arrear fee recovered	Rs. 3,91,820
Arrear salary paid upto 2010-11	Rs. 4,07,815
Arrear salary paid during 2011-12 and 2012-13	Rs. 6,10,816
Regular fee for the year 2008-09	Rs. 25,31,990
Regular fee for the year 2009-10	Rs.22,24,060

As in the case of senior wing, the Committee finds that there has been an abnormal increase in the fee collected under the heads other fees it rose from Rs. 7,710 in 2008-09 to 57,495 in 2009-10.

With regard to the abnormal salary hike in 2009-10 in senior wing, the school has filed written submissions which are taken on record.

The representatives of the school submits that the school did not charge any development fee from 2006-07 to 2010-11.

Arguments Heard. Recommendations reserved.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee for Review of School Fee

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05.06.2017

000011

B-677

Ganga International School, Hiran Kunda, Delhi

Present: Sh. R.K. Narang, Accounts Officer of the school.

The school has filed written submissions dated 5.6.2017 pursuant to certain directions given by the Committee on 17.5.2017. The school has given vague replies in respect of all the queries raised by the Committee. Not even a single query has been responded. In this circumstances the hearing in the matter is closed.

Recommendations reserved.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee ★ For Review of School Fee ★

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Secretary

05.06.2017

000012

B-574

Manav Bharti India International School, Panchsheel Park , Delhi

Present: Ms. Shruti Pandey, Estate Manager, Sh. H.P. Mishra, Sr. Accountant & Sh. Vijay Maurya Accountant of the school.

The authorized representative appeared for the school has filed an application for adjournment on account of its chartered accountant preoccupied with his law exams. As requested matter will be taken up for hearing on 7th July

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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05.06.2017

000013

B-488

Queen Mary's School, Sector 25, Rohini, Delhi

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

On the last date of hearing, the school was required to file the following:

(i) Reconciliation statement between the audited financials of the school for the years 2008-09 to 2010-11 with the statement of fee and salary in the format given by the Committee which was filed by the school on 24/04/2017. This was required as the statement did not correctly give the various components of fee and salary and did not tally with the audited financials.

(ii) Copy of the judgment of the Hon'ble Delhi High Court in the case of their employee who have filed writ petition.

(iii) Details of gross amount as well as amounts withheld as security by the school from the arrear salary which was paid by the school.

(iv) Minutes of the meeting of the management committee which authorized the school to retain a part of arrears payable back by employees as security.

(v) Complete list of arrear fee recovered by the school from the students giving their class and date of recovery.

The school had not produced its books of accounts on any previous occasion nor has it done so today. Out of the items required to be filed as mentioned above, the school has not filed any reconciliation statement as mentioned in the list of fee recovered from the students nor the statement giving details of salary payable to the staff as per recommendations of VI Pay Commission.

Today the authorized representative of the school has filed only a statement of detail of salary arrears which were actually paid by the school. Besides, the school has also filed copy of the judgment of the Hon'ble High Court and a copy of the Minutes of the Meeting of school Management Committee held on 16/11/2010. The school has also filed a copy of its bank statement/pass book showing the payment of arrear salary and refund of security withheld to certain teachers after 31/03/2011.

Perusal of the judgment of the Hon'ble Delhi High Court in WP(C) 8474/2011 filed by one employee Ms. Sunita Prem John an aya employed by the school shows that the school had treated her as a regular employee only w.e.f. March 2010 while her claim was that she was regular employee w,ef. 24/07/2004. As a result of the school recognizing her as a regular employee only w.e.f. March 2010. The school did not pay any arrears that were due to her, consequent to the implementation of the recommendations of VI Pay Commission. The writ petition was allowed by the Hon'ble Delhi High Court and a cost of Rs. 40,000 was imposed on the school. Consequent to the judgment of the Hon'ble Delhi High Court, the school paid a sum of Rs. 6,03,208 to

Delhi High Court Committee For Review of School Fee

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her on 31/03/2016. However, no calculations has been filed by the school as to what this amount comprised off. More particularly the arrears on account of implementation of VI Pay Commission have not been separately mentioned which would have been included in the amount paid to her. The authorized representatives appearing for the school submit that they be given some time and will file the necessary calculation.

The Committee has also perused the Minutes of the Meeting of the school managing committee with regard to change in staff policy. Apparently the Manager was authorized to take necessary step required for the change in staff policy. It appears that in terms of the authority given to him, Manager of the school Sh. Ved Mittal who is also the Secretary of the Parent Society i.e. Mittal Educational Society, issued a notification dated 20/12/2010 which amended the staff policy and provided for deposit of a security equivalent to one month salary by the staff and such security would be refunded at the time of their resignation/relieving.

The statement giving break up of fee and salary has been examined by the Committee and the Committee notices certain discrepancies in that. The arrear fee 01/01/2006 to 31/08/2008 which the school treated as a liability does not match with the balance appearing in the balance sheet as on 31/03/2010. It appears that either the school has recovered more arrear fee than what is shown in the statement or the school has made certain provision of arrear salary but the same are discernible from the statement filed. The total collection under the head annual charges when calculated as the percentage of normal tuition fee appears to be much more than what could have been the collection under this head as per the fee schedules filed by the school. It appears that the school has collected fees under certain other heads which are not reflected in the fee schedules filed with the Directorate of Education and the same have been clubbed under the head annual charges.

The school is required to file a revised, true and corrected statement which would be supported by an affidavit by the Manager of school certifying its truth and correctness. This should be filed in respect of all the three sections/divisions of the school i.e. Main Section, Management Section and Nursery Section. The school will also file copies of balance sheets of the subsequent years upto 31/03/2016 as the school has been making payments of arrear salary in such years also. The school will also produce its complete books of accounts i.e. cash book, bank book, ledgers and journals on the next date of hearing for verification by the Committee. Matter will come up for further hearing on 11/07/2017.

R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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Secretary

05.06.2017

000015

B-596

Vikas Bharti Public School, Sector-24, Rohini, Delhi

Present : Sh. Anoop Singh Solanki, Chairman/Manager of the school.

Request has been made by the school to adjourn the date of hearing on account of non availability of accounts staff due to summer vacations . As requested matter is adjournment for 7th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee ★ For Review of School Fee ★

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07.06.2017

B-622

Hillwoods Academy, Preet Vihar, Delhi

Present: Sh. Nikhil Goel, Chartered Accountant, Ms. Ranjana S. Rautela, School representative, Sh. Ashutosh, Sr. Accountant, Ms. Richa Bhatia, Office Assistant of the school.

The school has filed a revised fee and salary statement, consolidating the figures of the junior as well as senior wing of the school. In its written submission, the school has stated that both the senior and junior wings are just a symbolic bifurcation done by the Chartered Accountant but the school management has not having any specific bifurcation as both the schools are under the same building.

The Committee has examined this contention of the school and finds the same to be precostrous. The school files only the balance sheet of its senior wing with the Department of Education as part of its returns filed under Rule 180 of Delhi School Education Act, 1973. The same were transferred by the Directorate of Education to this Committee. Even when specific directions were issued by the Committee through the Dy. Directors of respective district for submission of documents to the Committee including the audited financials. The school merely furnished copies of the coverihg letters of the returns filed by the school under Rule 180 for different years. The covering letter did not mention the details of documents which were filed by the school. It was only during course of hearing the Committee noticed that the account of the junior school in the balance sheet of the senior school and it was revealed that the school was preparing a separate balance sheet of the junior school. The Committee finds that this was being done with definite purpose for hiding the true state of affairs of the school. This would be apparent from the fact that in the junior wing, the school had a strength of 240 students out of which only 213 were fee paying students. The school charged annual charges (reflected as activity charges) in the audited financials @ Rs. 300 per month i.e. Rs. 3,600 for the whole year. By this, the activity charges ought to have been around Rs. 7,66,800 in the junior wing. However, the audited Income & Expenditure account of the junior wing shows a receipt of Rs. 28,44,800 as activity charges. When asked to explain, the authorized representatives appearing for the school admit that a part of the activity charges received from the students of the senior wing were accounted for in the books of junior wing. Similar is the position in the previous years as well as the subsequent years.

The Committee has perused the audited balance sheets of the senior as well as junior wing of the school in order to examine the fund that were available with the school prior to the decision to hike the fee was taken. From the audited balance sheets the following is manifest.

Delhi High Court Committee For Review of School Fee

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

	Particulars	Junior wing	Senior wing	Total
	Current Assets + Investments			
	Cash in Hand	-	-	-
	Bank Balances	11,427	31,154	42,581
	FDRs with banks	2,066,748	5,901,747	7,968,495
	Loans and advances	3,712,360	38,693,616	42,405,876
	Inter unit balance		37,000	37,000
	Loan to Harvard India Society (the Parent Society of the school)	1,000,000	(100,000)	900,000
	Total Current Assets + Investments	4,274,693		4,274,693
Less	*Current Liabilities*	**11,065,128**	**44,563,517**	**55,628,645**
	Advance Fee	6,894,224	18,520,669	25,414,893
	TDS Payable	4,401	51,530	55,931
	Salary payable	162,499	696,188	858,687
	Provident Fund payable	7,180	66,620	73,800
	Caution Money	54,250	360,998	415,248
	Total Current Liabilities	**7,122,554**	**19,696,005**	**26,818,559**
	Net Current Assets + Investments (Funds available)	**3,942,574**	**24,867,512**	**28,810,086**

The balance sheet of the school as on 31/03/2008 shows Sundry creditors amounting to Rs. 48,17,223. On examination of the books of accounts for the year 2008-09 by the Committee, the Committee finds that out of the aforesaid amount, a sum of Rs. 47,18,565 out of Rs. 48,17,223 alongwith a sum of Rs. 78,483 shown as expenses payable has been adjusted by transferring the same to the following fee accounts:

Bus Fees	Rs. 20.00 lacs
Development Fees	Rs. 10.00 Lacs
Examination Fees	Rs. 10.00 Lacs
Tuition Fee	Rs. 7,97,048.

Thus it is apparent that these were fictitious liabilities created by the school which have been taken to the revenue account in 2009-10. Therefore, the Committee does not consider the aforesaid sum of Rs. 47,18,565 as current liabilities of the school in the year 2007-08 Therefore the same have not been taken into consideration by calculating the funds available with the school.

To the aforesaid extent, the fee for the year 2008-09 as shown by the school under different heads has been exaggerated by the school and is being modulated for the purpose making the relevant calculations. Accordingly the fee for the year 2008-09 under different heads that is being considered by the Committee is as follows:

Head of Fee	Fee received as claimed by the school	Fee actually received
Normal Tuition Fee	3,00,89,601	2,92,92,553
Bus Fee	61,94,038	41,94,038
Development Fee	33,06,843	23,06,843
Examination Fees	12,78,225	2,78,225

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B-622

Perusal of the books of accounts of the school for the years 2008—09, 2009-10 and 2010-11 shows that the school had transferred funds to its parent society to the tune of Rs. 59,42,113 upto 31/03/2009 from the junior school. In the year 2010-11, a further sum of Rs. 5,00,000 was transferred to the Society. From the senior wing, the school had transferred sum of Rs. 64,000 in 2009-10 and a further sum of Rs. 13,88,016 in 2010-11.

In view of the various irregularities committed by the school, it would be expedient to examine the books of accounts and the audited balance sheets of the Parent Society of the school also. The school is required to file the audited balance sheets of its parent society for the years 2006-07 to 2010-11 within one week of the day. Thereafter, the calculation sheet is to be prepared. The school may rebut any of the findings made by the Committee as recorded above with cogent evidence on the next date of hearing and will also produced the books of accounts of the society for the aforesaid years on the next date of hearing. Matter to come up for further hearing on 11/07/2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee ★ For Review of School Fee ★

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Secretary

07.06.2017

000019

B-638

Sneh International School, New Rajdhani Enclave, Delhi

Present: Sh. Vinay Luthra, Assistant of Sh. Manu Luthra, Chartered Accountant of the school.

An application has been filed on behalf of the school seeking adjournment. While in the application, it is stated that the accountant of the school is not present but during the course of hearing. Sh. Vinay Luthra, an assistant of Manu Luthra, Chartered Accountant submits that Sh. Manu Luthra is out of station. On the last date of hearing a copy of calculation sheet prepared by the Committee was handed over to the Ms. Navita Chopra, accountant of the school who had appeared along with Sh. Manu Luthra. It was also mentioned in the order dated 18/05/2017 that the same school may file its rebuttal before the next date of hearing. No rebuttal has been filed by the school till date and the Committee does not find any reasonable cause for allowing adjournment today. As such, the request of adjournment is rejected. However, in the interest of justice, the school may file its written submission in rebuttal of the calculation sheet within one week which will be considered by the Committee before finalizing its recommendation.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee ★ For Review of School Fee ★

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07.06.2017

000020

B-60

The Heritage School, Sector-23, Rohini, Delhi

Present : Sh. Parveen Jain, CA, Sh. Ajay Gupta, CA, Sh. Vikas Gupta, CA, Sh. Nawal Kishor, Office Assistant and Sh. Susheel Dubey, Accountant of the school.

The school has furnished a calculation regarding recovery of arrears of development fee from the students of different classes. Persual of the same shows that the school not only hiked the rate of development fee from 10% to 15%, but also recovered the differential amount of development fee for the period 1/04/2008 to 31/08/2008 which was never authorized by the order dated 11/02/2009 issued by the Director of Education. The Committee observes that the school is not been filing its audited receipt and payment account as part of its annual returns under Rule 180 of the Delhi School Education Rules, 1973. The school may file same for the year 2006-07 to 2010-11 within one week and thereafter a provisional calculation sheet on the basis of the information and documents furnished by the school, will be prepared by the audit officer of the Committee which will be discussed on the next date of hearing. The school ought to keep its books of account handy on the next date of hearing. Matter to be taken up for further hearing on 13/07/2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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07.06.2017

000021

B-424

Pragati Public School, Dwarka, Delhi

Present : Sh. Anil Jain, Sh. Rajiv Malik, Authorised Representatives and Sh. Inder Pal Singh, Accountant of the school.

The school has filed its rebuttal in writing on 02/06/2017 in the office of the Committee. In its rebuttal, the school has disputed some of the figures taken by the Committee without producing any evidence in respect of the same. The authorized representatives appearing for the school submits that they will file necessary evidence within two days. The hearing is closed. However, if the Committee finds necessary to seek any further clarification, it may require the school to furnish the same.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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08.06.2017

000022

B-684

Lovely Public Sr. Sec. School, Priya Darshini Vihar, Delhi

Present: Mrs. S.D. Malik, Chairperson, & Ms. Monica, Representative of CA of the school.

As required in last hearing the school has furnished statements giving the date of issue of salary cheques to the staff as well as date of Payment from the bank. The school is required to furnish soft copies of the same at the email id of the Committee within two days. Matter will come up for hearing on 13th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee For Review of School Fee

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Secretary

08.06.2017

000023

B-581

St. Paul's Diocesan School, Jangpura, Delhi

Present: Sh. Sanjay Gupta, Accountant and Bharat Gupta, Accountant of the school.

Arguments heard. As per the calculations prepared by the Committee the Committee finds that the fee hike effected by the school in pursuance of order dated 11.02.2.009 issued by the Director of Education was justified in view of the funds position of the school. Further though the school was not fulfilling the pre conditions prescribed by Duggal Committee affirmed by the Hon'ble Supreme Court in the case of Modern School. No recommendations of refund is required to be made in view of the quantum of deficit incurred by the school on implementation of the recommendations of the 6th pay commission. Detailed order to be passed separately.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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08.06.2017

000024

B-653

Apeejay School, Sheikh Sarai, Delhi

Present : Sh. S.K. Murgai, Finance Advisor, Sh. Bharat Bhushan, General Manager, Sh. A.P. Sharma, Principal, Sh. Rajiv Jain, Sr. Accountant & Sh. Sunil Bhatt Sr. Accountant of the school

The Principal of the school has filed a letter dated 08.06.2017 alongwith which the school has filed year-wise detail of addition of fixed assets which are eligible to be acquired out of development fund alongwith the details of the depreciation charged thereon. On the basis of the details filed, the school contends that as on 31.03.2011 it had an unutilized balance of Rs.1,84,68,061 of development fund and it had an accumulated Depreciation Reserve Fund on fixed assets which were eligible to be acquired out of development fund, to the tune of Rs.5,00,84,314. Thus, it is contended that although, the school was required to have earmarked FDRs to the tune of Rs.6,85,52,375, its earmarked FDRs felt short of the requirement as it had only a sum of Rs.5,61,56,503.

The Committee has examined the details filed by the school with regard to the requirement of the earmarked FDRs vide its letter dated 11.04.2017, 20.04.2017, 13.05.2017 and 08.06.2017. The basic fallacy that the Committee observes in the calculations made by the school is that it has taken Depreciation Reserve on the total cost of assets which, were eligible to be acquired out of development fund in different years since 1999-2000, when the entire eligible assets were not purchased out of development fund. A substantial portion of such eligible assets were purchased out of the school fund. The FDRs that can be considered as earmarked can only be for a sum equivalent to the unutilized development fund available with the school and the Depreciation Reserve on eligible fixed assets which are acquired out of development fund. The Committee has made its calculation with regard to the depreciation on eligible fixed assets, the cost of which were sourced from the development fund and observes that the accumulated amount of depreciation on such assets was Rs.2,85,67,606. The unutilized development fund which was available with the school as on 31.03.2011 was Rs.1,87,16,712. Thus, the school was required to keep balance in earmarked FDRs amounting to Rs.4,72,84,318. Therefore, the Committee is of the view that out of a sum of Rs.5,61,56,503 which the school claims to be earmarked FDRs against unutilized development fund and Depreciation Reserve Fund, only a sum of Rs.4,72,84,318 can be considered as the earmarked FDRs against unutilized development fund and depreciation reserve fund. The remaining amount of Rs.88,72,185 has to be considered as available with the School for other purposes including for the purpose of paying the increased salaries and arrears on account of implementation of 6th pay Commission Report.

Calculation Sheet to be prepared to examine the justifiability of recovery of arrears and hike in tuition fee pursuant to order dated 11.2.2009 issued by the Director of Education. Significant to note here

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08.06.2017

is that the school was charging development fee @ 10% of tuition fee in 2008-09 but w.e.f. 01.09.2008, it hiked the rate of development fee @ 15% of tuition fee. The school is required to furnish the exact amount of arrears of development fee which were collected pursuant to the aforesaid order dt. 11.2.2009 as the school has given only the consolidated figure of total recovery of lump-sum fee, arrear tuition fee and arrear development fee for the period 01.09.2008 to 31.03.2009. Instead of giving the consolidated figure, the school is required to give the recovery of arrear fee under three distinct heads i.e. Lump-sum arrear fee for the period 01.01.2006 to 31.08.2008, arrear tuition fee for the period 01.09.2008 to 31.03.2009 and arrear development fee for the period 01.09.2008 to 31.03.2009.

The required information ought to be furnished within one week. The school may also rebut the calculation made by the Committee with regard to the FDRs considered as ear-marked as detailed above. Matter to come-up for further hearing on 13.07.2017. A copy of the calculation made by the Committee with regard to earmarked FDRs has been given to the authorized representative appearing for school.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

09.06.2017

000026

B-341

Starex International School, Vasundhara, Delhi

Present: Sh. Dilip Jha, Clerk of the school.

An application has been received on behalf of the school seeking adjournment for another date on the ground of non availability of the Principal of the school. After the last date of hearing, the Committee on the basis of information furnished by the school and the documents available on record, has prepared a preliminary calculation sheet which shows that although the school was in deficit after implementation of recommendations of VI Pay Commission, after taking into consideration the reserves to be kept by the school out of its fund available, the school was prima facie not complying with the pre conditions for charging development fee. After setting of the deficit incurred by the school on implementation of recommendations of VI Pay Commission, it appears that the school was required to refund a sum of Rs. 22,61,280 out of the development fee collected for the year 2010-11.

A copy of the calculation sheet has been given to Sh. Dilip Jha, Accountant of the school who is present on behalf of the school. The school may file its rebuttal if any before the next date of hearing. Matter to come up for further hearing on 14/07/2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

09.06.2017

000027

B-539

Rosary Sr. Sec. School, Kingsway Camp, Delhi

Present: Sh. Joseph Prabhakar Rayan, Accountant of the school.

A copy of the calculation sheet has been given to Sh. Joseph Prabhakar Rayan accountant of the school as the preliminary calcation shows that the school may have to refund a sum of Rs. 8,70,252 out of the development fee for the year 2010-11 as the school was not complying with the pre conditions laid down for charging of development fee. The school may file its rebuttal before the next date of hearing. Matter to come up for further hearing on 14/07/2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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09.06.2017

B-456

Little Angels Sr. Sec. Public School, Paschim Vihar, Delhi

Present : Ms. Manisha, Principal, Sh. Dilip Kumar Accountant of the school.

On the basis of the preliminary calculations prepared by the Committee, it appears that even after providing for reserves to be kept for future contingencies and for meeting the accrued liability of gratuity (the school has not provided any information with regard to its accrued liability and leave encashment) the school had more than adequate funds for absorbing the impact of implementation of recommendation of VI Pay Commission. As per the calculations, the school had available with it a sum of Rs. 2,33,01,307 in its kitty after providing for the aforesaid reserves, while total impact for implement of recommendation of VI Pay Commission was just Rs. 65,53,808. Further prima facie the school was not complying with the pre conditions laid down for charging development fee and as such the committee is of the view that the same charged in 2009-10 and 2010-11 ought to be refunded. A copy of the calculation sheet has been given to the Principal of the school for rebuttal if any. The school may file its rebuttal before the next date of hearing. It should be noted that no adjournment will be given on the next date on any ground. Matter to come up for further hearing on 14/07/2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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09.06.2017

000029

B-444

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

Present: Ms. Shalini Arora, Tr. Incharge, Sh. B.K.Awasthi, UDC and

This school functions under the aegis of DAV College Management Committee which runs a number of schools in Delhi. The collection, the accounting treatment, the manner of management of funds by all the school run by this organization are the same as all the school act on the basis of inspections issued by the parent body which sometimes are contrary to the provisions of the Delhi School Education Act and Rules 1973 and also contrary to the decision of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. For example, contrary to the provisions of the Rules and the decision of Supreme court as well as by the Action Committee, all the fee collected by the school is transferred in the first instance to DAV College Managing Committee. Subsequently, the funds required by the school for payment of salary and other administrative expenses are transferred back to the school, with the result that the school is left with very little funds at its own hand. Whatever surplus is earned by the school gets transferred to the DAV College Managing Committee by adopting this methodology. Again, contrary to the law laid down by the Hon'ble Supre Court in the case of Modern School that the development fee should be capitalized, almost all the DAV schools in Delhi treat the same as revenue receipt. The school maintained separate set for pupil fund and transport fund. The balance sheet of pupil fund and transport fund is separately prepared and not submitted to DOE as part of its annual returns under Rule 180 of DSER, 1973.

Looking into all the similarities in the cases the school runs by this organization, the Committee had disposed off the cases of 18 schools by a common order dated 25/04/2016.

It is submitted by Ms. Shalini Arora Teacher Incharge of the school that this school is also part of the organization i.e. DAV College Managing Committee and is run on the similar lines as the other schools are run under the aegis of this organization. Accordingly the Committee has given the order dated 25/04/2016 passed by it in the cases of 18 school to the Teacher Incharge. The Committee proposes to pass similar order in the case of this school also. The school may however, bring out any differentiating features in this case from the features as detailed in the combined order dated 25/04/2016 in the case of 18 schools.

Delhi High Court Committee ★ For Review of School Fee ★

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09.06.2017

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Matter will come up for final hearing on 14/07/2017 when the school may also show cause, if required, as to why it should be treated differently from the other 18 schools.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee
For Review of School Fee

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Secretary

12.06.2017

000031

B-492

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

Present: Sh. Vipul Garg, Chairman,., Sh. Mahavir Goel, V.C, Sh. N.K. Mahajan, C.A & Sh. Deepak Arora, Accountant of the school.

The authorized representatives appearing for the school have clarified that initially the parents were advised to deposit the arrear fee w.e.f. 1.1.2006, subsequently another circular was issued vide which it was clarified that the students who were admitted in the year 2007- 08 would pay Rs.3000 as the lump sum arrear fee instead of Rs.4500 and the students who were admitted in 2008-09 would pay Rs. 1500 instead of Rs.4500 towards lump sum arrear fee. They also submit that the figures of arrear fee given in the letter dated 8.7.2015 represent the actual collection of arrear on the aforesaid basis.

The Committee has prepared calculation sheet on the basis of the audited financials of the school and the information provided by the school from time to time during the course of hearing taking into consideration of the decision of the Hon'ble Supreme Court in the case of Modern school Vs. Union of India and the latest judgment of Hon'ble Delhi High Court in the case of WPC 5784/2016 in the case of St. Marks Sr. Sec. Public School and Others. As on the basis of the preliminary calculations the school may required to refund certain amount of fees collected from the students for the purpose of implementation of the recommendations of the 6th pay commission and the development fee charged in 2009-10 & 2010-11, a copy of the calculation sheet has been given to the authorized representatives for rebuttal, if any. The school may file its rebuttal on or before the next date of hearing i.e. 7th July 2017 and the matter will be finally heard on 7th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee for Review of School Fee

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Secretary

12.06.2017

000032

B-435

Ramjas School, Pusa Road, Delhi

Present : Sh. Anil Kumar Saluja, UDC of the school

An application has been filed by the authorized representative on behalf of the school seeking adjournment on the ground of non availability of its principal today. The matter was fixed for today for consideration of calculation sheet that was prepared by the Committee. The Committee has prepared the calculation sheet and observes that the school was in deficit after implementation of the recommendations of the 6th pay commission, after considering its funds available with the school which could have been utilized for the purpose of payment of increased salaries on account of implementation of the recommendations of the 6th pay commission and the requirement of the school to keep funds in reserves for future contingencies and accrued liabilities towards leave encashment. No accrued of gratuity taken into account as the school actually pays the annual premium of gratuity policy taken from the LIC and the liability for gratuity would therefore be met by LIC. The Committee has also factored in the additional fee recovered by the school in pursuance of order dated 11.2.2009 issued by the Director of Education. However, Committee finds that the school recovered arrear of incremental development fee for the years 1.9.2008 to 31.3.2009 @ 15% of the incremental tuition fee instead of 10% of incremental tuition fee which the school was entitled to recover as per the aforesaid order dated 11.2.2.009. Hence the school is given an opportunity to rebut this preliminary findings of the Committee, only the amount of refund that would arise on this account worked out by the Committee is Rs. 6,44,980, the calculation sheet is handed over to the representative appearing for the school . The school may file its rebuttal on or before the next date of hearing which is fixed on 11th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee for Review of School Fee

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Secretary

12.06.2017

000033

B-180

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

An application has been received on behalf of the school for postponement of hearing after 3rd July 2017. Today's date was fixed for consideration of calculation sheet that was prepared by the Committee. The calculation sheet has been prepared by the Committee and it observes that after taking into consideration of funds available with the school the additional funds by way of arrear fee and incremental tuition fee in the year 2009-10 and also after considering the requirement of the school to keep funds in reserve for future contingences and for meeting its accrued liabilities on account of gratuity and leave encashment, the school did not have sufficient funds to pay the increased salaries and arrear salary for implementation of the recommendations of the 6th pay commission and as such the hike in tuition fee effected by the school was justified. The school has not made any claim to allow increase any fee over and above the fee hike allowed to it by the Director of Education vide order dated 11.2.2.2009.

However, the Committee observes that the school illegally recovered development fee w.e.f. 1.4.2008, purportedly in pursuance of order dated 11.2.2009 of the Director of Education. In the original fee statement filed by the school u/s/ 17 (3) of the Delhi School Education Act 1973. There was no mention of any development fee and the school, in actual fact also did not charge any development fee. In view of the Committee the order dated 11.2.2.009 issued by the Director of Education did not authorize any school to introduce development fee, much less w.e.f. 1.4.2008, when it was not charging any development fee. The school recovered a sum of Rs.17,62,932 on this account for the full year 2008-09.

In 2009-10 also the school did not include the development fee in the statement of fee that was filed by it for the years 2009-10 . In this year the school recovered Rs. 68,60,573 on account of development fee. This was , in view of the Committee, illegal as the school cannot charge any fee over and above the fee i.e. in accordance with the statement filed under Rule 173 of Delhi School Education Rules 1973 . Any fee or increase in fee i.e. sought to be recovered by the school after the start of the academic years requires specific approval of the Director of Education, which in this case has apparently not even been sought. A copy of the statement showing the amount which a committee prima facie finds is refundable is handed over the representative appearing for the school for rebuttal, if any. Matter will come up for final hearing on 11.th July 2017.

Delhi High Court Committee For Review of School Fee

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary

12.06.2017

B-347

Ever Green Public School, Vasundhara Enclave, Delhi

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

The Committee has prepared calculation sheet to examinee the justifiability of recovery of arrear fee and increase in regular tuition fee w.e.f. 1.9.2008. The Committee observes that the school was diverting the funds available with it towards creation of fixed assets and repayment of loans taken for creating such assets and thus always hand to mouth in the matter of funds actually available with it. However even after considering this, the Committee finds that the school was not having adequate funds for payment of increase salaries for implementation of the recommendations of the 6th pay commission. However, the Committee notes that the school recovered the full amount of arrear fee as allowed by the Director of Education vide order dated 11.2.2009. The total recovery on this account amounted to Rs.36,97,660. Such recovery of arrear fee was made in the years 2008-09 and 2009-10. However, the school did not pay any arrear salary upto 2010-11. It payed Rs. 13,47,696 only in the year 2011-12 and Rs. 11,54,854 in the year 2012-13. However, these payments did not represent the full liability of the school towards arrear salary. The total liability of the school was Rs.64,55,431 but the school stop after paying Rs.25,32,530 and that too in the year 2012-13. This in spite of fact that the school recovered total of Rs. 36,96,660 towards arrear fee long back in the years 2008-09 and 2009-10. The remaining amount of Rs. 11,64,130 out of the arrear fee was quietly transferred by the school to its own revenues in the year 2013-14.. The authorized representative appearing for the school submits that he will try to prevail upon the management to pay at least this amount of Rs.11,64,130 to the staff in partial fulfillment of the obligation of the school to pay the arrears of salary in consequent of the implementation of the recommendations of the 6th pay commission. Accordingly the matter is adjourned to 14th July 2017. In case the management decides to pay the arrear salary to the staff, the payment ought to be made latest by 10th July 2017 and evidence of such payment by means of bank pay order or transfer to the accounts of the teachers be filed before the next date of hearing.

So far as development fee is concerned the Committee observes that the school was treating the same as a revenue receipt. The amount collected in 2009-10 was Rs.32,13,852 and in 2010-11 it was increased 34,90,502. Therefore, prima facie the school is required to make the total refund of Rs,78,68,484. However, in case it pays the arrear salary to the staff, the same shall be duly factored in by making the final recommendations.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

Delhi High Court Committee ★ For Review of School Fee ★

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Secretary

13.06.2017

000035

B-187

Balvantray Mehta Vidya Bhawan, GK-II, Delhi

Present: Gp. Capt. SC Bahri, Director/Manager, Ms. Geeta Mallick, Admn. Officer, Ms. Alka Sharma, Accountant & Sh. Peeyush Tyagi Officer supervisor of the school.

The Committee has prepared calculation sheet based on the audited financials of the integrated school and the information furnished by the school during the course of hearing from time to time. It appears that the school recovered more fee than was required to meet its additional liabilities arisen on account of implementation of recommendations of the 6th pay commission and also that the school was not fulfilling the pre conditions as laid down by the Duggal Committee affirmed by the Hon'ble Supreme Court in the case of Modern school Vs. Union of India. Copy of calculation sheet is given to the authorized representative appearing for the school for rebuttal, if any. The school may file its rebuttal on or before the next date of hearing which is fixed on 20th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Delhi High Court Committee For Review of School Fee

13.06.2017

000036

B-566

Bal Bharti Public School, Sector-12, Dwarka, Delhi

Present : Sh. S.K. Bhattacharya, Advisor, Ms. Surushi Gandhi Principal, Sh. Satish Pokhriyal Finance Manager, Ms. Charu Handa, Dealing Asisstant & Ms. Amarpreet Kaur, Dealing Assistant of the school.

Based on the audited financials of the school and information furnished by the school from time to time during the course of hearings, the Committee has prepared a calculation sheet and finds that the school did not have adequate funds of its own for absorbing the total financial impact of the implementation of the recommendations of the 6th pay commission and the fee hike was necessary. Accordingly the Committee finds no irregularity in respect of the tuition fee hiked by the school in pursuance or order dated 11.2.2009.

However, with regard to the recovery of arrear of development fee , which was purportedly recovered in pursuance of order dated 11.2.2009, the Committee observes that while the school was charging development fee @ 12% of the tuition fee in the year 2008-09, as reflected in the statement of fee filed by the school under section 173 of Delhi School Education Act 1973, the school recovered arrears of development fee for 7 months i.e. 01.09.2008 to 31.3.2009 @ 15% of not just the incremental tuition fee but also on the existing tuition fee . In all, the school recovered a sum of Rs. 16,12,660 as arrears of development fee for the period 01.9.2008 to 31.3.2009 as against Rs.57,70,600 which was recovered as arrears of tuition fee for the corresponding period i.e. about 28% of the incremental tuition fee. The authorized representatives appearing for the school submit that such recovery of arrears of development fee was in accordance with the order dated 11.2.2.009 of the Director of Education. The school may submit its submissions on this aspect in writing within 15 days, which will be considered on the next date of hearing. Matter to come up for final hearing on 19th July 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

Delhi High Court Committee * For Review of School Fee *

13.06.2017

B-623

Col. Satsangi's Kiran Memorial School, Chhatarpur, Delhi

Present : Sh. S. Krishna, Consultant, Sh. Sunil Kohli, Accounts Supervisor, Sh. Ram Lal Pandit, Sr. Accountant & Sh. Surendra Prasad, Asstt. Manager of the school.

In compliance with the directions given by the Committee the school filed the balance sheet and Income and Expenditure accounts of the four accounting entities in columnar form on 2nd June 2017. Perusal of the same shows that in the year 2007-08 the school received a refund of around Rs. 8 crores from the Income Tax Department which was again withheld by them against another demand of penalty. The authorized representative of the school submits that the school ultimately got relief from the appellate authorities and the entire amount withheld was received back in the year 2013-14. The school will furnish the audited balance sheet for the year 2013-14 as well as the balance in the columnar form as has been done in the other years. The school will also furnish soft copies of excel sheets of the columnar balance sheet and income and expenditure accounts by email at the email ID of the Committee i.e. feecommittee@gmail.com. This may be done within 3 days. Calculation sheet to be prepared thereafter. Matter will come up for further hearing on 19th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Delhi High Court Committee ★ For Review of School Fee ★

13.06.2017

000038

B-640

The Srijan School, North Model Town, Delhi

Present : Sh. Devashish Tewary Administrative Officer of the school.

An application has been received on behalf of the school seeking adjournment due to non availability of its chartered accountant. As requested the matter is adjourned to 20th July 2017.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Delhi High Court Committee ★ For Review of School Fee ★

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:

The Indian School, Josip Broz Tito Marg, New Delhi-110049 (B-108)

Present: Sh. Vinesh Bajaj, Chartered Accountant, Sh. K.S. Vaid, Manager, Sh. Brijesh Kumar Singh, Asstt. Bursar of the school.

Recommendations 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 06/03/2012 informed the Committee that the school had submitted the required information to the Dy. Director of Education(South), Defence Colony, New Delhi under cover of its letter dated 04/02/2012. We are at lost to understand as to how the information that was asked for vide email dated 27/02/2012 could have been responded by the school on 04/02/2012. As the school did not furnish reply to the questionnaire, a reminder dated 27/03/2012 was also sent to the school. The school did not respond to the reminder.

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Delhi High Court Committee * For Review of School Fee *

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 it 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 Committee again issued a questionnaire, the reply to which was required to be furnished along with the other information asked for in the notice.

The information was duly submitted by the school under cover of its letter dated 15/07/2015, along with reply to the questionnaire issued by the Committee. In its reply to the questionnaire, the school stated that:

(i) It had increased the salaries of the staff w.e.f. 01/09/2008. The total monthly salary bill prior to the implementation of VI Pay Commission was Rs. 11,89,659 while that after its implementation, it rose to Rs. 18,36,395.

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Delhi High Court Committee * For Review of School Fee *

(ii) The school paid arrear salary to the staff (however, the amount of arrear salary paid was not mentioned).

(iii) The school hiked the tuition fee as per the aforesaid order dated 11/02/2009 and also collected arrear fee. The total arrear fee collected by the school as per the information furnished by it amounted to Rs. 48,34,595.

(iv) The school charged development fee in all the five years for which the information was sought by the Committee. The development fee recovered by the school in 2009-10 amounted to Rs. 70,52,927 while that in 2010-11 it amounted to Rs. 72,49,938.

(v) The development fee was treated as a capital receipt.

(vi) The school maintained a depreciation reserve fund in respect of assets acquired out of development fee. However, no earmarked account was maintained by the school to park the unutilised development fund and the depreciation reserve fund.

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 was issued to the school requiring it to to appear before the Committee on 31/01/2017 and to produce its books of accounts and other relevant records for verification by the Committee. However, since term of this Committee expired on 31/12/2016, the hearing was rescheduled for 15/03/2017 after the term of the Committee was extended by the Hon'ble Delhi High Court.

On this date, the school put in its appearance through its Manager and other authorized representatives. appeared and produced the required records which were examined by the Committee. The authorized representatives of the school were also partly heard by the Committee.

The Committee perused circular dated 13/02/2009 issued by the school to the parents of the students regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked tuition fee by Rs. 400 per month w.e.f. 01/09/2008 and also development fee @ Rs. 60 per month w.e.f. the same date . Besides, the school recovered arrear fee of Rs. 3,500 for the period 01/01/2006 to 31/08/2008, as provided in the aforesaid order. The aforesaid increase was for all the classes.

The Committee also observed from the fee schedule for the year 2008-09 that originally development fee was being charged @ Rs. 2136 per annum as against tuition fee of Rs. 21,360 per annum (1780x12). Thus development fee was being charged @ 10% w.e.f. 10/4/2008. However, the school recovered arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the increase in tuition fee i.e. @ Rs. 60 per month on an incremental tuition fee of Rs. 400 per month.

The Committee also perused the fee and salary statement for the year 2008-09 and 2009-10 and observes that the school has provided for arrears of salary amounting to Rs. 59,80,453 for the period 01/01/2006 to 31/08/2008 and Rs. 57,63,084 for the period 01/09/2008 to 31/03/2009 in the year 2008-

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Delhi High Court Committee ★ For Review of School Fee ★

09 itself. The authorized representatives appearing for the school submitted that in addition, a sum of Rs. 60,33,646 was provided in the year 2007-08 itself on estimated basis in view of the announcement of the acceptance of the recommendations of VI Pay Commission in March 2008. This was done by way of prudential accounting as the school was anticipated this liability. However, in the fee and salary statement filed by the school, there was no reference to the provision made by the school in the year 2007-08. On a subsequent hearing, the school furnished details of the provisions made in respect of arrear fee and arrear salary in its books for different years vis a vis the payments made. As per the details furnished the school made a total provision of Rs. 1,77,77,183 for payment of arrear salary. However, the total payments actually made by the school in the different years amount to Rs. 1,50,71,293. The authorized representatives submitted that since the provision in 2007-08 was made on estimated basis, an excess provision came to be made and accordingly an amount of Rs. 15,37,186 was reversed in 2013-14. Thus effectively, the liability of the school for the payment of arrears was Rs. 1,62,39,987. In response to a query made by the Committee during the course of hearing, the authorized representatives of the school conceded that a sum of Rs. 11,68,693 was still outstanding out of the total provision for arrear salary made by the school. The school furnished the list of 18 employees to whom this liability pertains. It was further submitted that the respective staff members had left the school and did not claim arrears.

It was submitted by the authorized representatives that all the payments of arrear salary were made through direct bank transfers and they produced the statements of bank accounts, which were verified by the Committee. It was further submitted that the regular monthly salary was also paid by the school through direct bank transfers.

The Committee observed that the school had been making payment of salaries to its employees through direct bank transfers and therefore most of these ex employees, if not all, would still be having their account with same bank. Even otherwise, it should not be difficult for the school to locate those employees. The authorized representatives of the school submitted that they would try to locate the employees and make the payment to them. Accordingly the school was advised that if it made payment of the outstanding amount to its ex employees, the same would be factored in while making the relevant calculations. The school was advised to make payment of the arrears due to ex employees before the next date of hearing and produce evidence before the Committee in the shape of its bank statement showing the payment.

Afterwards, the school filed a letter dated 15th May 2017 alongwith which it enclosed copies of the Pay Orders issued to the ex-employees of the school towards payment of arrears on account of implementation of 6th pay Commission. The school has also enclosed copies of the speed post receipts vide which the pay orders were sent to the ex employees. Thus after these

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Delhi High Court Committee ★ For Review of School Fee ★

payments, the school discharged its full liability of Rs. 1,62,39,987 on account of arrear salary.

In respect of arrear fee also, the school furnished a statement showing the accruals made in different years vis a vis the amounts actually received. The Committee observed that the school had recovered the entire amount of arrear fee amounting to Rs. 1,00,24,815.

The authorized representatives submitted that the school did not have any accrued liability of gratuity as it had taken a group gratuity policy from LIC of India and every year its contribution in respect of accrued liability of gratuity are deposited with it. The school has also furnished an employee wise of its accrued liability on account of Earned Leave as on 31/03/2010. The liability of the school is Rs. 18,15,310 as per statement filed by the school.

Based on the audited financials of the school and the information furnished by it from time to time during the course of hearings, the Committee prepared the following calculation sheet to examine the justifiability of the fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education:

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Delhi High Court Committee ★ For Review of School Fee ★

Statement showing Fund available as on 31.03.2008 with the school and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report.

	Particulars	Amount (Rs.)	Amount (Rs.)
	Current Assets + Investments		
	FDR School With Bank	2,627,760	
	FDR special reserve	19,160,982	
	FDR interest receivable	376,137	
	Sundry debtors	6,550	
	Cash in Hand	54,236	
	PNB CA No.2651	11,380,052	
	PNB SB A/c (Caution Money)	970,644	
	PNB - Pre school	894,682	
	Prepaid Expenses	449,473	35,920,516
Less	*Current Liabilities*		
	Security Deposit Students	1,031,734	
	Pre-reciepts 2008-09	22,509,529	
	Expenses Payable (excluding provision for 6th CPC liability and leave encashment)	1,437,814	
	Sundry Creditors	871,649	25,850,726
	Net Current Assets + Investments		**10,069,790**
Less	**Reserves required to be maintained:**		
	for future contingencies (equivalent to 4 months salary)	9,500,452	
	for accrued liability towards Leave Encashment as on 31.03.2010	1,815,310	
	for accrued liability towards Gratuity as on 31.03.2010 (LIC Policy)	-	11,315,762
	Funds available for implementation of 6th Pay Commission before Fee hike		**(1,245,972)**
Less	**Additional Liabilities after implementation of VIth Pay Commission:**		
	Arrear of Salary as per 6th CPC for 1.1.06 to 31.3.09	16,239,987	
	Incremental Salary for 2009-10 (as per calculation given below)	10,662,110	26,902,097
	Excess / (Short) Fund Before Fee Hike		**(28,148,069)**
Add	**Total Recovery for implementation of 6th Pay Commission**		
	Arrear of tuition fee for 1.1.06 to 31.8.08	4,834,595	
	Arrear of tuition fee for 1.9.08 to 31.3.09	4,505,200	
	Arrear of Development fee for the period 1.9.08 to 31.3.09	685,020	
	Incremental tuition fee for 2009-10 (as per calculation given below)	10,610,887	20,635,702
	Excess / (Short) Fund After Fee Hike		**(7,512,367)**

Development fee refundable being pre-conditions for charging the same are not fulfilled:

	Rs.
For the year 2009-10	7,052,927
For the year 2010-11	7,249,938
Total	14,302,865
Less: Shortage of funds	(7,512,367)
Net amount refundable	**6,790,498**

Working Notes:

	2008-09	2009-10
Normal/ regular salary	17,839,245	28,501,355
Incremental salary in 2009-10	10,662,110	

	2008-09	2009-10
Normal/ Regular Tuition fee	34,950,332	45,561,219
Incremental tuition fee in 2009-10	10,610,887	

As per the preliminary calculations, the Committee after taking into account the funds available with the school as on 31/03/2008 which were Rs.1,00,69,790, and the arrear fee for the period 01/01/2006 to 31/03/2009 and incremental fee recovered for the period 01/04/2009 to 31/03/2010 which aggregated Rs.2,06,35,702, had determined that the school did not have sufficient funds to fully absorb the financial impact of the recommendations of the 6th Pay Commission, which the Committee determined at Rs.2,69,02,097 on account of the fact that the school needed to keep a sum of Rs.1,13,15,762 in reserve for future contingencies and for meeting the accrued liability for leave encashment as on 31/03/2010. In fact the Committee determined that the school was in deficit to the tune of Rs.75,12,367 after factoring in all the above figures. (This figure has been modulated to Rs. 72,28,887 as discussed above). However, the school was, prima facie not complying with the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 and therefore, the development fee collected by the school in 2009-10 and 2010-11, in pursuance of order dated 11/02/2009 was prima facie, refundable after adjusting the

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Delhi High Court Committee ★ For Review of School Fee ★

deficit incurred by the school on implementation of the recommendations of VI Pay Commission.

A copy of the Calculation sheet was given to the authorized representative of the school for rebuttal during the course of hearing on 15/05/2017 and the matter was directed to be listed today to consider the submissions of the school. It was also directed that the competent authority for the school will file an affidavit stating that none of the pay orders issued to the ex-employees, had been received back.

Today during the course of hearing, Sh. K.S. Vaid, Manager of the school has filed an affidavit stating that out of 18 Pay orders that was sent to the ex employees, 12 Pay orders amounting to Rs. 8,98,152 were received back undelivered. However, the school had been able to contact six of such ex employees who were either holidaying or staying out of Delhi and they were informed of the matter and asked to collect the pay orders from the school. They had agreed to do so. The total amount of such pay orders was Rs. 6,14,672. The remaining 6 ex employees whose arrears amounting to Rs. 2,83,480 were untraceable and therefore their pay orders would be deposited back in the bank.

The Committee has considered this aspect of the matter and is of the view that this amount of Rs. 2,83,480 ought to be reduced from the liability of arrear payment of salaries as the employees are untraceable and moreover their claims have been come time barred. Therefore, the total amount of salary

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Delhi High Court Committee ★ For Review of School Fee ★

arrears that has been paid by the school is reduced to Rs. 1,59,56,507 from Rs. 1,62,39,987. Accordingly the deficit on implementation the recommendations of VI Pay Commission which was provisionally determined at Rs. 75,12,367 as per the calculation sheet stands reduced to **Rs. 72,28,887**. It is noteworthy that the school has not disputed any of the figures taken by the Committee in its calculation sheet or the manner of determination of the deficit on implementation of the recommendations of VI Pay Commission.

The Committee, in its preliminary calculations had taken the amount of development fee recovered by the school during the years 2009-10 and 2010-11 amounting to **Rs. 1,43,02,865** to be refundable to the students, as prima facie, the school was not fulfilling the pre conditions laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). In view of the Committee, the school would be entitled to set off the deficit incurred by it on implementation of the recommendations of VI Pay Commission.

The school has filed written submissions dated 2.6.2017 in rebuttal of the preliminary calculations prepared by the Committee in respect of development fee only.

The school in its written submissions has also relied upon the aforesaid judgment in the case of Modern School, and contends that it is following the pre conditions laid down therein for charging development fee and therefore the school is not liable to refund any part of development fee to the students.

The Duggal Committee, which was constituted by the Hon'ble Delhi High Court to examine a similar issue of fee hike effected by the schools consequent to the implementation of the V Pay Commission report, had made the following recommendations with regard to charging of development fee by the Pvt. Unaided Schools in Delhi:

> *"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 the recommendations of Ms. Justice Santosh Duggal Committee Report and in order to remove the irregularities and malpractices relating to collection and utilization of funds by the schools as pointed therein. 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 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

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Delhi High Court Committee ★ For Review of School Fee ★

generated from the investment made out of this fund, will be kept in a separately maintained development fund account.

The issue of charging development fee by Pvt. Unaided Schools in Delhi was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). It 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?"***

In this Context, the Hon'ble Supreme Court considered the aforesaid order dated 15/12/1999 issued by the Government of NCT of Delhi as well as the recommendations of Duggal Committee, on which the aforesaid order was based. After discussing the law, the Hon'ble Supreme Court held as follows:

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

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Delhi High Court Committee For Review of School Fee

development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipments is justified. *Taking into account the cost of inflation between 15th December, 1999 and 31st December, 2003 we are of the view that the management of recognized unaided schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee."*

It would be apparent from the above extract from the judgment of the Hon'ble Supreme Court that the school can charge development fee provided it full fills the following pre conditions :-

1. Development fee is treated as a capital receipt.
2. It is utilized for purchase, upgradation and replacment of furnitures fixtures and equipments.
3. An earmarked development fund account is maintained to park the unutilized development fee.
4. Depreciation reserve is created equivalent to the amount of annual depreciation charged in the accounts and is kept in an earmarked fund account.
5. The income from the development fund/depreciation reserve fund is also utilized for the purposes of which the development fee can be utilized.

Even in the order dated 11/02/2009 issued by the Director of Education, Govt. of NCT of Delhi, which was the subject matter of WP(C) 7777 of 2009 in which this Committee has been constituted, expressly stated as follows:

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

On the touchstone of the afore mentioned parameters, the Committee has examined the audited financials of the school from 2006-07 to 2010-11.

In 2009-10 the school charged Rs.70,52,927 as the development fee. Perusal of the balance sheet of the school as on 31.3.2010 shows that development fee was no doubt treated as a capital receipt, However, it was mainly utilized for construction of building. The expenditure on building alone was Rs.88 lacs out of the total addition of Rs. 113 lacs in all the fixed assets. The capital expenditure incurred on furniture and fixture and equipment, which alone could be acquired or upgraded replaced was very minimal.

The position in 2010-11 was also the same the school charged a sum of Rs.72,49,938 as development fee. The expenditure on building was Rs.1,19,50,823.44. Besides a sum of Rs.4,58,090 was spent on purchase of motor cars. The expenditure on furniture and fixtures and equipment was just Rs.8,68,471.

It is conceded during the course of hearing that the school was not maintaining any earmarked development fund account or depreciation reserve fund account in the bank. Hence there is no question of income arising from

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Delhi High Court Committee ★ For Review of School Fee ★

these funds to be utilized for the purposes for which development fee is charged.

In view of our foregoing observations, we are of the view that the school was not fulfilling the pre conditions recommended by the Duggal Committee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School (supra), and the school was not authorized to charge development fee in any of the years i.e. 2006-07 to 2010-11.

However, we are concerned with the fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. Therefore, we are making our recommendations in respect of the development fee charged by the school in 2009-10 and 2010-11 only for which the information is available with the Committee. For the prior and subsequent years, the Director of Education may take an appropriate view in accordance with law.

The net result of the above discussion is that the school recovered a sum of Rs.1,43,02,865 as development fee in 2009-10 and 2010-11 which it was not authorized to charge. However, the school incurred a deficit of Rs. **72,28,887** on implementation for the recommendations of the 6th Pay Commission. The school would be entitled to set of this deficit against the development fee recovered unauthorizedly.

The Committee, therefore , recommends that sum of Rs.70,73,978, which is the leftover amount of the development fee charged in the year 2010-11,

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Delhi High Court Committee * For Review of School Fee *

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

Recommendations pronounced in the open meeting after the conclusion of hearing.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 02/06/2017

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Delhi High Court Committee ★ For Review of School Fee ★

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 :

Mamta Modern Sr.Sec. School, Vikas Puri, Delhi (B-560)

Recommendations of the Committee

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

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. As the school did not furnish reply to the same, a reminder dated 27/03/2012 was sent to the school. The school did not respond to the reminder also. Again a detailed questionnaire was sent to the school, incorporating therein certain relevant questions regarding the justifiability of charging development fee on 04/06/2013.

The school furnished its reply under cover of its letter dated 27/09/2013. As per the reply submitted by the school,

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Delhi High Court Committee ★ For Review of School Fee ★

(a) It had implemented the recommendations of VI Pay Commission w.e.f. April 2009.

(b) It had paid arrears of salary amounting to Rs. 37,12,636 upto 31/08/2013 and was still to pay sum of Rs. 71,60,363 out of the total arrear liabilities of Rs. 1,08,72,999.

(c) The school increased the tuition fee of the students w.e.f. 01/04/2009 @ Rs. 200 per month for classes Prep to 8th and @ Rs. 300 per month for classes IX to XII.

(d) The school collected a total amount of **Rs. 31,32,434 in 2008-09, Rs. 4,25,600 in 2009-10** and **Rs. 2,93,100 in 2010-11** (Total – Rs. 38,51,134).

(e) The school charged development fee in all the five years for which the information sought by the Committee. The development fee charged in different years was as follows:

Year	Amount (Rs.)
2006-07	5,82,530
2007-08	7,89,940
2008-09	10,37,200
2009-10	17,72,370
2010-11	20,01,700

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Delhi High Court Committee ★ For Review of School Fee ★

(f) The development fee was treated as a revenue receipt and no earmarked development fund or depreciation reserve fund were maintained.

Preliminary calculations were prepared by the Chartered Accountants who had been appointed by the Directorate of Education to assist the Committee. As per their calculations, the school recovered excess fee to the tune of Rs. 44,28,052 in excess of its requirements to implement the recommendations of VI Pay Commission. The calculations were reviewed by the Committee and it was observed that the same could not be taken into account as the figures taken by them were contrary to the information provided by the school in its reply to the questionnaire. Therefore, the same are not being relied upon for the purpose of determining whether the fee hike effected by the school for implementation of recommendations of VI Pay Commission was justified or not.

The Committee issued a notice dated 25/05/2015 seeking information about the aggregate amounts regular tuition fee, arrear fee, regular salary and arrear salary in a format it devised to facilitate the calculations. The information was duly submitted by the school on 05/06/2015.

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As per the information submitted by the school, it reiterated the recovery of arrear fee to the tune of **Rs. 38,51,134** upto 2010-11. Besides, it also stated that a sum of **Rs. 2,27,850** was recovered in 2011-12, **Rs. 1,82,870** in 2012-13, **Rs. 1,84,130** in 2013-14 and **Rs. 1,86,230** in 2014-15. Thus the school admitted to the recovery of **Rs. 46,33,214** towards arrear fee for the period 01/01/2006 to 31/03/2009.

With regard to payment of arrear salary, the school gave the following data of payment in different years:

Year	**Salary arrears for the period 01/01/2006 to 31/03/2009 paid (Rs.)**
2008-09	7,30,000
2009-10	7,65,000
2010-11	3,65,000
2011-12	8,32,000
2012-13	7,16,000
2013-14	7,01,923
2014-15	5,79,792
Total	**46,89,715**

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

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Delhi High Court Committee ★ For Review of School Fee ★

Director of Education, a notice dated 20/09/2016 was issued to the school requiring it to appear before the Committee on 20/10/2016 and to produce its books of accounts and other relevant records for verification by the Committee.

The school appeared through Sh. R.S.Sharma, Vice Chairman, Sh. Vinod Sharma, Manager and Sh. Rajesh Sharma and Sh. Ajay Lal, Accountants of the school. The Committee perused the documents filed by the school and also the circular dated 16/02/2009 issued by the school to the parents regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. The authorised representatives who appeared for the school were partly heard.

As per the circular, the school hiked the tuition fee for classes Prep. to 8th @ Rs.200 per month w.e.f. 01.09.2008 and for classes 9th to 12th by Rs.300 per month from the same date . Besides, the school also recovered lump sum arrear fee as prescribed vides aforesaid order of the Director of Education. The authorized representatives of the school submitted that although the school was entitled to recover arrears of development fee also but the it did not do so.

With regard to implementation of the recommendations of 6th pay commission, the representatives of the school submitted that the arrears of salary for the period 01.01.2006 to 31.03.2009, were not fully paid.

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Delhi High Court Committee ★ For Review of School Fee ★

However, the school paid arrears to the extent the arrear fee was recovered from the students. It was submitted that the arrears were paid in fixed monthly instalments along with the regular salary for each month. It was also submitted that neither the arrears of tuition fee nor the arrears of salary was routed through income and expenditure accounts. However, whatever the arrear fee was received, was shown as liability towards payment of arrear salary in the balance sheet of the school.

The school was provided another opportunity to file detailed monthly salary record paid to the staff which it did on 23/12/2016. The authorized representatives of the school further submitted that the fee charged by the school was very less and fee hiked in terms of order dated 11.2.2009 was also just Rs.200 p.m. for classes pre. to 8th and Rs. 300 p.m. for classes 9th to 12th. It reiterated that the school did not hike any development charges although it was entitled to do so as per the order dated 11.2.2009.

Findings of the Committee:

The Committee has examined the annual returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973, the audited financials of the school, the books of accounts and other records produced by the school during the course of hearing and has also

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considered the submissions made by authorised representatives of the school on various dates of hearing.

The Committee observes that although the school collected bulk of the arrear fee in lump sum in the very first year i.e. 2008-09 (as much as Rs. 31,32,434 out of total of Rs. 46,33,214), it did not pay the arrear salaries in lump sum but chose to spread over the payment of arrear salaries through monthly instalments along with regular salary. Further, on perusal of the details of monthly salary as claimed to have been paid by the school, the Committee finds that while the recommendations of the Sixth Pay Commission had not been fully implemented, the school was showing some part of the regular salary as payment towards arrears of salary for the period 01/01/2006 to 31/03/2009. **The regular salary of the staff was not increased in terms of the recommendations of the 6th pay commission. The authorized representatives appearing for the school conceded during the course of hearing on 23/12/2016 that the school in actual fact, was not paying the full amount of DA.**

On examination of the bank statements of the school along with its salary registers, the Committee found that almost about 40% of the salary was paid through bearer cheques.

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Delhi High Court Committee For Review of School Fee

On examination of the ledger accounts of the parent society of the school i.e. Mamta Modern Education Society the Committee found that the school had been having transactions with its Parents Society and as on 31/03/2010, the accumulated amount that had been transferred over the years was **Rs. 26,15,984.50.** The authorized representatives merely stated that it was a one time transfer to the Society sometime in the year 1998 and the school was now recovering the same in instalments.

In view of the position as detailed above, the Committee is not satisfied that the school implemented the recommendations of VI Pay Commission or paid any arrear salary to the staff. What it apparently did was that some incremental salary was paid on a monthly basis w.e.f. April 2009, and the differential amount was shown as having been paid against the liability for payment of arrear salary, in order to justify the collection of arrear fee to the extent of **Rs. 46,33,214**. This would be apparent when we juxtapose the figures of collection of arrear fee vis a vis the alleged payment of arrear salary in different years._ The following table would show the position:

Year	Balance B/F from previous year	Arrear fee collected (Rs.)	Arrear salary purportedly paid (Rs.)	Balance retained by the school
2008-09	0	31,32,434	7,30,000	24,02,434
2009-	24,02,434	4,25,600	7,65,000	20,63,034

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2010-11	20,63,034	2,93,100	3,65,000	19,91,134
2011-12	19,91,134	2,27,850	8,32,000	13,86,984
2012-13	13,86,984	1,82,870	7,16,000	8,53,854
2013-14	8,53,854	1,84,130	7,01,923	3,36,061
2014-15	3,36,061	1,86,230	5,79,792	0
Total		**46,33,214**	**46,89,715**	

It would be apparent from the above table that the school did not pay the arrears even to the extent of collection of arrear fee in different years and always retained large sums of money out of the arrear fee collected. Further, as observed by the Committee, the school did not infact implement the recommendations of VI Pay Commission but chose to show the incremental salary as payment towards arrear salary. This coupled with the fact that the school apparently paid 40% of the monthly salary by bearer cheques or in cash and the fact that it transferred huge sum of money to its Parent Society, further strengthens the view of the Committee that it did not implement the recommendations of VI Pay Commission. However, it recovered the arrear fee, may be not fully but nevertheless a substantial sum and also hiked the regular tuition fee to

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the maximum extent that was permitted vide order dated 11/02/2009 issued by the Director of Education.

In view of the aforesaid findings of the Committee, the school took undue advantage of the fee hike allowed to the school by the Director of Education vide order dated 11/02/2009. The recovery of arrear and hike in regular fee was specifically allowed in order to enable the school to meet its increased liabilities on implementation of the recommendations of VI Pay Commission. Since, the rieson d etre of the hike in fee was absent in this case, the Committee is of the view that the school was not justified either in recovery of arrear fee or in hiking the regular fee w.e.f. 1st April 2009. **The school admittedly recovered a total sum of Rs. 46,33,214 as arrear fee in different years. The Committee is of the view that the school ought to refund the entire arrear fee along with interest @ 9% per annum from the date of collection to the date of refund.**

So far as the incremental amount of regular tuition fee in the year 2009-10 is concerned, the school has furnished the figures vide its submission dated 05/06/2015. As per the figures furnished by the school, the regular tuition fee recovered by the school was Rs. 2,08,15,571 in 2008-09 and Rs. 2,59,72,962 in 2009-10. Besides, in 2009-10, the school also recovered fee under a new head i.e. 'Other

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charges' and the total sum recovered was Rs. 1,98,450. Therefore the total incremental fee recovered by the school in 2009-10 was Rs. 53,55,841 (2,59,72,962+1,98,450-2,08,15,571). In the absence of the implementation of the recommendations of VI Pay Commission, the Committee considers that the school could have recovered an additional fee to the tune of 10% over the fee charged in the previous year i.e. 2008-09. In that year the total tuition fee recovered was Rs. 2,08,15,571. The Committee considers that the hike in fee to the extent of Rs. 20,81,557 would be justified. **The fee recovered in excess i.e. Rs.32,74,284 (53,55,841- 20,81,557) was not justified and ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.**

As regards development fee, the school in its reply dated 27/09/2013 to the questionnaire issued by the Committee, conceded that the development fee though charged every year was treated as a revenue receipt and no earmarked depreciation reserve fund and development funds accounts were maintained . Thus the school was not complying with any of the pre conditions recommended by the Duggal Committee for charge development fee. The recommendations of the Duggal Committee were affirmed by the Hon'ble Supreme in the case of Modern School vs. Union of India (2004) 5 SCC 583. Therefore, the Committee is of the view that the school was not entitled to charge any

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development fee and the same charged by the school ought to be refunded to the students. However, since this Committee has mandated to examine the fee charged in pursuance of order dated 11/02/2009 issued by the Director of Education, it is restricting its recommendations of refund of development fee charged in the year 2009-10 and 2010-11 only. For the remaining years, the Director of Education may take an appropriate view in the matter in accordance with law.

The development fee charged by the school in the years 2009-10 and 2010-11, as per the details filed by school, was Rs. 17,72,370 and Rs.20,01,700 respectively, i.e. Rs. 37,74,070. **The Committee is of the view that the school ought to refund the aforesaid amount of Rs. 37,74,070 alongwith @ 9% per annum from the date of collection to the date of refund.**

Summary of Recommendations:

The School ought to refund the following sums charged under various heads to the students along with interest @ 9% per annum from the date of collection to the date of refund:

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Delhi High Court Committee ★ For Review of School Fee ★

Fee Head	Amount (Rs.)
Arrear Fee for the period 01/01/2006 to 31/03/2009	46,33,214
Incremental tuition fee in the year 2009-10	32,74,284
Development fee charged in 2009-10 and 2010-11	37,74,070
Total	1,16,81,568

Recommended accordingly.

Justice Anil Kumar (R)

(Chairperson)

J.S.Kochar

(Member)

Dr.R.K.Sharma

(Member)

Dated :- 02/06/2017

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Delhi High Court Committee For Review of School Fee

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:

St.Paul's Diocesan School, Jangpura, New Delhi-110014(B-581)

Recommendations of the Committee

Present: Sh. Sanjay Gupta, and Bharat Gupta, Accountants 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). As the school did not file any reply to the questionnaire, a reminder was sent on 27/03/2012. The school did not respond to the reminder also. However, the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 along with details of payment of salary prior to implementation of recommendations of VI Pay Commission as well as those paid after such implementation were received from the office of the concerned Dy. Director of Education (DDE). The comparative chart of fee received by the school during 2008-09 and 2009-10 was also received. A copy of the circular dated issued to the parents regarding deposit of arrear fee and the increase in regular tuition fee w.e.f. 01/09/2008 was also received through the office of the DDE.

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Perusal of the circular dated 26/02/2009 issued by the school showed that the school had hiked the tuition fee by Rs. 200 per month w.e.f. 01/09/2008 and accordingly collected Rs. 1400 per student for the seven months period of 01/09/2008 to 31/03/2009. The school also collected Rs. 2,500 towards lump sum arrear fee for the period 01/01/2006 to 31/08/2008. There was no mention of any hike in development fee w.e.f. 01/09/2008.

In the first instance, the relevant calculations were made by the CAs attached with this Committee. Prima facie, the calculations made by them showed that the hike in tuition fee effected by the school was justified.

The Committee issued a notice dated 25/05/2015 to the school to furnish the information in aggregates with regard to the arrear fee for different periods, arrear salary for different years, regular fee and regular salary, duly reconciled with the audited financials of the school. Besides, the school was also advised to furnish details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 in respect of both Nursery and Main Section of the school. The school furnished the required information under cover of its letter dated 19/06/2015.

In order to afford an opportunity of being heard, the Committee issued a notice dated 27/12/2016 to appear before this Committee on 23/01/2017, and to produce its books of accounts, salary records and

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fee records etc. The Committee also issued a fresh questionnaire, incorporating therein the relevant questions regarding receipt and utilisation of development fee, its treatment in account and maintenance of earmarked development fund depreciation reserve fund.

The school furnished a statement of its fee and salary and arrear fee and salary for the years 2008-09, 2009-10 and 2010-11. Besides, furnishing the statement of fee and salary for different years in the format given by the Committee, the school gave other information.

In reply to the revised questionnaire, the school stated as follows:

(a) It implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009 and also paid the arrear salary to the staff for the period 01/01/2006 to 31/03/2009. The total amount of arrear salary paid as given by the school amounted to Rs. 40,48,273.

(b) It had hiked the tuition fee as per order dated 11/02/2009. However, the extent of hike of and the amount of arrear fee recovered was not mentioned in the reply.

(c) The school charged fixed development fee at the time of admission only and the same was utilised for incurring revenue expenses like building maintenance, repair and maintenance, gardening enhancing and property tax.

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The hearing fixed for 23/01/2017 was cancelled as the term of the Committee had expired and the order of the Hon'ble Delhi High Court granting extension of time had not been passed. After the receipt of the order of the Hon'ble High Court, the hearing was refixed for 08/03/2017 but the school could not be heard as the information provide by the school did not bear anybody's signature. The matter was adjourned as the representatives appearing for the school requested some time to furnish the information in a proper manner.

On the next date i.e. 07/04/2017, the Committee observed that the information furnished by the school was incomplete and did not match with the payments made which had actually been debited to the bank account of the school. The authorized representatives appearing for the school again sought some more time to furnish the correct and complete information duly reconciled with the audited financials of the school. The school again furnished the required information on 26/04/2017 which was found to be in order by the Committee.

On 02/05/2017, Sh. P.N. Biswas, a teacher of the school appeared with Sh. Sanjay Gupta and Sh. Bharat Gupta, Accountants of the school and were heard by the Committee. The Committee observed that while the rest of the information was furnished by the school in terms of various notices and directions given by the Committee from time to time,

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Delhi High Court Committee For Review of School Fee

the school had not furnished the details of its accrued liability of gratuity and leave encashment. The same were submitted by the school on 30/05/2017. A calculation sheet was drawn up by the Committee to examine the justifiability of the recovery of arrear fee and the fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. The calculation drawn by the Committee is as follows:

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Delhi High Court Committee ★ For Review of School Fee ★

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

	Particulars	Main	Nursery	Total
	Current Assets + Investments			
	Investments with accrued interest	176,354	-	176,354
	Bank - Gratuity Fund A/c	154,611	78,641	233,252
	Bank - Contingency Reserved A/c	11,501	-	11,501
	Caution Money A/c	12,053	7,065	19,118
	Leave Encashment A/c	12,073	7,065	19,138
	Fees/ Amount receivable	11,825	4,125	15,950
	Prepaid Expenses	12,500	-	12,500
	Cash & Petty Cash	291	2,903	3,194
	Savings Bank A/C	23,737	363,740	387,477
	Total Current Assets + Investments	414,945	463,539	878,484
Less	*Current Liabilities*			
	Expenses Payable	224,410	-	224,410
	Fees received in advance	-	324,950	324,950
	TDS payable	9,442	-	9,442
	Caution Money Fund	12,053	7,065	19,118
	Caution Money	164,200	291,500	455,700
	Total Current Liabilities	410,105	623,515	1,033,620
	Net Current Assets + Investments	**4,840**	**(159,976)**	**(155,136)**
Less	**Reserves required to be maintained:**			
	for future contingencies (equivalent to 4 months salary)	2,371,300	387,797	2,759,098
	for accrued liability towards Leave Encashment as on 31.03.2010	1,139,002	73,628	1,212,630
	for accrued liability towards Gratuity as on 31.03.2010	3,573,954	719,256	4,293,210
	Total reserves required to be maintained	7,084,256	1,180,681	8,264,938
	Funds available for implementation of 6th Pay Commission before Fee hike	**(7,079,416)**	**(1,340,657)**	**(8,420,074)**
Less	**Additional Liabilities after implementation of 6th Pay Commission:**			
	Arrear of Salary as per 6th CPC for 1.1.06 to 31.3.09	4,120,862	355,186	4,476,048
	Incremental Salary for 2009-10 (as per calculation given below)	1,914,071	279,775	2,193,846
	Total additional liabilities	6,034,933	634,961	6,669,894
	Excess / (Short) Fund Before Fee Hike	(13,114,349)	(1,975,618)	(15,089,968)
Add	**Total Recovery for implementation of 6th Pay Commission**			
	Arrear of tuition fee for 1.1.06 to 31.3.09	1,824,250	372,800	2,197,050
	Incremental tuition fee for 2009-10 (as per calculation given below)	1,511,405	84,875	1,596,280
	Total recovery	3,335,655	457,675	3,793,330
	Excess / (Short) Fund After Fee Hike	(9,778,694)	(1,517,943)	(11,296,638)

Development fee refundable being treated as revenue receipt:	Main	Nursery	Total
For the year 2009-10	284,750	570,625	855,375
For the year 2010-11	350,000	635,000	985,000
Total	634,750	1,205,625	1,840,375
Less: Shortfall in Tuition Fee	(9,778,694)	(1,517,943)	(11,296,638)
	(9,143,944)	**(312,318)**	**(9,456,263)**

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Working Notes:

For Main School

	2008-09	2009-10	% increase
Normal/ regular salary	5,199,830	7,113,901	37%
Incremental salary in 2009-10	**1,914,071**		

	2008-09	2009-10	% increase
Normal/ Regular Tuition fee	4,801,495	6,312,900	31%
Incremental tuition fee in 2009-10	**1,511,405**		

For Nursery School

	2008-09	2009-10	
Normal/ regular salary	883,617	1,163,392	32%
Incremental salary in 2009-10	**279,775**		

	2008-09	2009-10	
Normal/ Regular Tuition fee	1,540,900	1,625,775	6%
Incremental tuition fee in 2009-10	**84,875**		

As would be apparent from the calculation sheet, the school did not have any funds of its own available to it which could be utilised for the purpose of implementation of the recommendations of VI Pay Commission. In fact, the school did not have any funds for keeping reserves for meeting its accrued liabilities of gratuity and leave encashment, much less for any future contingencies.

The additional financial burden that befell on the school on implementation of the recommendations of VI Pay Commission was to the tune of Rs. 66,69,894. As against this, the school raised only Rs. 37,93,330 by way of recovery of arrear fee and incremental fee upto 31/03/2010. The rest of the money was sourced by the school from the development fee, which it treated as its revenue income. The school has not made any claim for allowing it to raise any fee over and above the fee hike allowed to it by order dated 11/02/2009 of Director of Education.

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Delhi High Court Committee ★ For Review of School Fee ★

In the circumstances, the Committee is of the view that the school was justified in hiking the tuition fee by Rs. 200 per month w.e.f. 01/09/2008 and recovering the arrear fee @ Rs. 2,500 per student. The Committee is also of the view that the school is not required to refund any part of development fee on account of non fulfillment 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 vs. Union of India (2004) 5 SCC 583 as even after factoring the revenue under this head, the school was in a loss on account of implementation of the recommendations of VI Pay Commission.

Accordingly the Committee makes no recommendation with regard to any refund of any part of tuition fee, development fee or arrear fee recovered by the school in pursuance of order dated 11/02/2009 of the Director of Education.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K.Sharma
(Member)

Date: 08/06/2017

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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:

The Frank Anthony Public School, Lajpat Nagar-IV, New Delhi-110024 (B-658)

Recommendations of the Committee

Present: : Ms. Simran Singh, C.A. & Sh. Ashok Kumar, 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 the present school). As the school did not file any reply to the questionnaire, a reminder was sent on 27/03/2012. The school did not respond to the reminder also. However, the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 were received from the office of the concerned Dy. Director of Education (DDE).

The Committee vide its letter dated 21/05/2013 issued a revised questionnaire to the school which included the relevant queries with regard to collection and utilisation of development fee, its treatment in the accounts and maintenance of earmarked development and depreciation reserve fund. The school vide its letter dated 20/05/2013 sought time till 1st week of July 2013 for furnishing its reply. However, the school did not submit any information till 13/09/2013 when another

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reminder was sent to submit the same latest by 25/09/2013. In response to this letter, the school furnished its reply to the questionnaire under cover of a back dated letter dated 06/09/2013. A corrigendum was made vide letter 19/09/2013.

As per its reply, the school implemented the recommendations of VI Pay Commission w.e.f. 01/01/2006. However, the actual increase in salary was effected w.e.f. 01/12/2009. The school claimed to have paid a total sum of Rs. 2,18,74,884 as a arrears from 01/01/2006 to 30/11/2009. With regard to hike in fee, the school furnished the information in the following manner:

Class	**Pre increase**		**Post increase (w.e.f. 01/09/2008)**	
	Tuition Fee	**Development Fee**	**Tuition Fee**	**Development fee**
Pre Nursery to Prep.	1295	100	1595	235
I to IV	1380	100	1680	250
V to VIII	1535	100	1935	290
IX to X	1650	100	2050	305
XI to XII	1800	100	2200	330

A note was appended to the table saying that the tuition fee had been increased w.e.f. 01/09/2008 in terms of para 4 of the DOE order NO. F.DE/15(56)/Act/2009/778 dated 11/02/2009. It was further mentioned that the school was charging a fixed amount of Rs. 100 per month towards development charges upto 30/08/2008 but the same was

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increased to 15% of tuition fee in terms of para 14 of the DOE order No. F.DE/15(56)/Act/2009/778 dated 11/02/2009.

The school enclosed another statement giving details of one time arrear fee charged by the school in terms of para 7 of order dated 11/02/2009. As per the information given by the school, the school charged a sum of Rs. 3,000 as one time arrear from students of classes pre nursery to IV and Rs. 3,500 from students of classes V to XII. It was also mentioned that upto March 2013, the school recovered a total sum of Rs. 90,20,034 towards one time arrear as against Rs. 93,80,090 which was recoverable.

The school also gave an account of the development fee recovered by it from 2006-07 to 2010-11 giving details of its collection and utilisation and a balance remaining with it. The summarized position of the information given by the school with regard to development fee is as follows:

Year	Brought forward from previous year	Collected during the year	Utilised during the year	Balance remaining at the end of the year
2006-07	0	31,34,515	6,65,168	24,69,347
2007-08	24,69,347	31,17,440	4,66,030	51,20,757
2008-09	**51,20,757**	**77,04,585**	**22,63,909**	**1,05,61,433**
2009-10	1,05,61,433	1,05,67,565	4,18,918	2,07,10,080
2010-11	2,07,10,080	1,17,59,765	19,84,410	3,04,85,435
2011-12	**3,04,85,435**	**1,28,90,400**	**92,27,578**	**3,41,48,256**

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Delhi High Court Committee For Review of School Fee

It was mentioned that upto the year 2010-11, development fee was recognised as a revenue income and credited Income & Expenditure Account but from 2011-12, it was capitalized and credited to Development Fee Fund Account. It was also mentioned that depreciation reserve fund was maintained from 2011-12 onwards and the earmarking of the fixed deposits held against depreciation reserve fund and unutilised development fund was done only in 2012-13.

Perusal of the details of development fee received and collected shows that in the year 2008-09, the school collected development fee in three separate parts, the amounts whereof are as follows:

(a) Normal development fee	Rs. 38,54,740
(b) Development Fee on increased tuition fee	Rs. 11,72,045
(c) Development fee differential amount on account of increase in rate from 10% to 15% of tuition fee	Rs. 26,77,800
Total	Rs. 77,04,585

Further the details of utilisation of development fee in 2011-12 shows that a sum of Rs. 87,99,736 out of a total utilisation of Rs. 92,27,578 was on account of improvement to building.

The Committee issued a notice dated 26/05/2015 to the school to furnish the information in aggregates with regard to the arrear fee for different periods, arrear salary for different years, regular fee and regular salary, duly reconciled with the audited financials of the school. Besides, the school was also advised to furnish details of its accrued liabilities of

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gratuity and leave encashment as on 31/03/2010. The school furnished the required information under cover of its letter dated 07/07/2015.

In order to afford an opportunity of being heard, the Committee issued a notice dated 27/12/2016 to appear before this Committee on 25/01/2017, and to produce its books of accounts, salary records and fee records etc.

The hearing fixed for 25/01/2017 was cancelled as the term of the Committee had expired and the order of the Hon'ble Delhi High Court granting extension of time had not been passed. After the receipt of the order of the Hon'ble High Court, the hearing was refixed for 10/03/2017. On this date, Ms. Simran Singh, Chartered Accountant and Sh. Ashok Kumar, Accountant appeared on behalf of the school. They were heard by the Committee and with their assistance the records of the school were examined.

The Committee perused the circulars issued to the parents regarding fee hike in pursuance of order dated 11/02/2009 issued by Director of Education. It noticed that the information furnished by the school with regard to increase in fee in its reply to the questionnaire was in accordance with the circular issued to the parents. The Committee noticed that while the school had furnished complete details which were required to be filed vide notice dated 26/05/2015, with regard to the accrued liabilities of gratuity and leave encashment, the school had just

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given a note giving the figure of provision made in its balance sheet, without furnishing calculations or actuarial valuation thereof. The authorized representative appearing for the school sought some time to furnish the same which was granted by the Committee. However, no details were filed by the school. Therefore the Committee made the provisional calculations by taking the figures of provisions of accrued liabilities of gratuity/leave encashment, as made in its audited balance sheet as on 31/03/2010. The following calculation sheet was prepared by the Committee:

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

	Particulars	Amount (Rs.)	Amount (Rs.)
	Current Assets + Investments		
	Cash in Hand	4,127	
	Cheque in Hand	1,733,488	
	Cash at Bank in Current Account	3,716,691	
	Fixed Deposits with Bank	54,764,191	
	Loans & Advances	947,543	
	Interest Accrued on Fixed Deposits	3,986,267	
	Amount Recoverable	301,553	
	Funds recoverable from the Society	1,571,062	
	Outstanding fees	32,419	67,057,341
Less	*Current Liabilities*		
	Caution Money	242,750	
	In Current account with Banks	3,176,085	
	Fees received in Advance	1,733,488	
	Other Liabilities	1,363,328	6,515,651
	Net Current Assets + Investments		**60,541,690**
Less	**Reserves required to be maintained:**		
	for future contingencies (equivalent to 4 months salary)	17,663,859	
	for accrued liability towards Leave Encashment as on 31.03.2010	7,871,436	
	for accrued liability towards Gratuity as on 31.03.2010	1,158,149	26,693,444
	Funds available for implementation of 6th Pay Commission before Fee hike		**33,848,246**
Less	**Additional Liabilities after implementation of VIth Pay Commission:**		
	Arrear of Salary as per 6th CPC for 1.1.06 to 31.3.09	24,010,412	
	Incremental Salary for 2009-10 (as per calculation given below)	18,765,751	42,776,163
	Excess / (Short) Fund Before Fee Hike		**(8,927,917)**
Add	**Total Recovery for implementation of 6th Pay Commission**		
	Arrear of tuition fee for 1.1.06 to 31.8.08	9,380,090	
	Arrear of tuition fee for 1.9.08 to 31.3.09	7,638,330	
	Arrear of Development Fee	1,172,045	
	Additional arrears of Development Fee	2,677,800	
	Incremental tuition fee for 2009-10 (as per calculation given below)	13,770,008	34,638,273
	Excess / (Short) Fund After Fee Hike		**25,710,356**

Development fee refundable being treated as revenue receipt:

For the year 2009-10	10,567,565
For the year 2010-11	11,759,765
Total	22,327,330
Add: Excess recovery of Fees	25,710,356
Total amount refundable	**48,037,686**

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Delhi High Court Committee * For Review of School Fee *

Working Notes:

	2008-09	2009-10
Normal/ regular salary	34,225,826	52,991,57
Incremental salary in 2009-10	**18,765,751**	
	2008-09	**2009-10**
Normal/ Regular Tuition fee	55,838,120	69,608,12
Incremental tuition fee in 2009-10	**13,770,008**	

Since, prima facie, the school was found liable to refund a sum of Rs. 4,80,37,686, a copy of the above calculation sheet was given to the authorized representatives appearing for the school on 12/04/2017, for rebuttal, if any.

The school filed two written submissions dated 15/05/2017 alongwith a calculation sheet prepared by it controverting the calculations made by the Committee.

The Committee examined the calculation sheet as prepared and filed by the school and observed that the same was at variance with the calculations prepared by the Committee only in respect of following six items.

1. The school had taken the accrued liability towards leave encashment at Rs. 1,37,31,125 as against 78,17,436 taken by the Committee.
2. The school had taken the accrued liability of gratuity at Rs. 2,78,19,341 as against Rs. 11,58,149 taken by the Committee.
3. The school had claimed a sum of Rs. 13,80,684 for arrears on account of one additional increment as per office memorandum

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dated 19th March 2012 issued by the Govt. of India which was paid by it on 3rd May 2013 along with salary for the month of April 2013 (the school filed a detail of such payment along with copy of the bank statement evidencing therein).

4. The school had claimed a sum of Rs. 18,17,241 on account of differential increment in leave encashment and gratuity to the employees who had retired upto 31 March 2010, which was paid in the year 2010-11 (the school filed copies of bank statements evidencing such payments).
5. The school had claimed that a sum of Rs. 24,03,328 be allowed for the development fee received in 2009-10 and 2010-11 which had been utilized on eligible assets, although the school did not dispute that it treated development fee as a revenue receipt and thus it was not fulfilling 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.
6. The school had claimed that although the funds available with it amounting to Rs. 6,05,41,690 had been correctly determined by the Committee, the same could not have been fully utilized for the purpose of implementation of recommendations of VI Pay Commission as the school had already committed its funds towards construction of multipurpose hall as the process of its construction had started on 23rd April 2008 when the fees was

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paid to Municipal Corporation of Delhi for sanction of building plan. In support of this contention, the school filed copy of the demand draft as well as its internal payment voucher evidencing this payment. The school also filed a copy of the construction contract which it executed with the contractor on 10th April 2009.

Submissions & Discussion:

The Committee has considered the submissions made on behalf of the school and also examined the documents filed by the school during the course of hearing as well as those filed in response to the questionnaire issued by the Committee. The Committee has also heard at length the authorized representatives who appeared for the school.

As regards the accrued liability of leave encashment, the school has filed a copy of an actuarial valuation certificate dated 20th April 2017 of Sh. M.L. Sodhi, Consulting actuary, a fellow of Institute of Actuaries of India(Membership No. 00178). The liability estimated by the actuary is Rs. 1,37,31,125. The Committee has taken the value of the accrued liabilities at Rs. 78,17,436 as per information furnished by the school itself under cover of its letter dated 07/07/2015. Although, the authorized representative who appeared for the school was unable to explain as to how this figure was given she contended that since now the value has been correctly determined by a qualified actuary, the same ought to be taken into account in the calculations made by the

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Committee. The Committee considers this submission of the authorized representative to be reasonable as the actuaries are experts in the evaluating such liabilities and their reports has to be given precedence over the calculations made by a lay person. Accordingly, the Committee will make adjustments to the extent of Rs. 59,13,689 (1,37,31,125 - 78,17,436) to the amount of refund provisionally determined in final determinations.

With regard to the accrued liability of gratuity, the school submitted that, as in the case of leave encashment, the liability of gratuity was also estimated by the certified actuary at Rs. 3,87,58,166. However, the school had an LIC Policy of covering its liability of gratuity. It was further submitted by the authorized representative that fund value of LIC policy did not adequately cover the full liability as the past service liability of the employees was not fully covered while taking the policy. She stated that the fund value in respect of 136 employees of Frank Anthony Public School, New Delhi was only Rs. 1,09,38,824. Accordingly she claimed that an additional sum of Rs. 2,78,19,344 out of the total liability of Rs. 3,87,58,166 as determined by the actuary, was also required to be kept in reserve by the school. Although, the authorized representative was unable to provide any justification of the figure of Rs. 11,58,149 which the school had given vide dated 07/07/2015, for the reasons given on the issue of leave encashment, the Committee accepts the contention of the authorized representative. Accordingly, the

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Committee will make an adjustment of Rs. 2,66,61,195 (2,78,19,344 - 11,58,149) to the refund provisionally determined in the final determinations.

The third and fourth contentions with regard to payments on account of arrears which arose on account of additional increment to the staff as per office memorandum dated 19th March 2012 as also the increment on additional gratuity paid to employees who retired upto 31st March 2010, do not require much discussion as these liabilities pertain to the period prior to 31st March 2010 and have been discharged by the school. The school has already furnished their detail and bank statement in evidence of the payments. Accordingly, the Committee will make suitable adjustments to the tune of Rs. 31,97,925 (13,80,684+18,17,241), while making the final determinations.

The submission made by the school with regard to allowing Rs. 24,03,328 out of the development fee recovered by it amounting to Rs. 2,23,27,330 on account of the same having been incurred for capital assets cannot be countenanced.

Unaided Private Schools in Delhi were not authorized to recover any development fee originally. The Duggal Committee, which was constituted by the Hon'ble Delhi High Court to examine a similar issue of fee hike effected by the schools consequent to the implementation of the V Pay Commission report, after observing that the schools were not

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Delhi High Court Committee * For Review of School Fee *

competent to incur any capital expenditure out of the fee recovered from the students and the students should not be made to pay for the infrastructure like school buildings constructed by the Societies, made a recommendation that the schools may be allowed to charge a development fee, not exceeding 10% of the annual tuition fee to create a development fund which would be utilised for purchase or upgradation of furniture and fixtures and equipments needed for the school. However, recovery of such development fee was made subject to fulfillment of certain pre conditions by the schools like the development fee will be treated as capital receipt and the school would maintain depreciation reserve fund equivalent to the depreciation charged in its revenue accounts and the income generated on investments made out of this fund would also be utilised for the same purposes for which the development fee was to be utilised. The recommendation made by the Duggal Committee in this regard is reproduced below:

> *"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)*

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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 the recommendations of Ms. Justice Santosh Duggal Committee Report and in order to remove the irregularities and malpractices relating to collection and utilization of funds by the schools as pointed therein. 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 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 issue of charging development fee by Pvt. Unaided Schools in Delhi was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). It 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?"

In this Context, the Hon'ble Supreme Court considered the aforesaid order dated 15/12/1999 issued by the Government of NCT of

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Delhi as well as the recommendations of Duggal Committee, on which the aforesaid order was based. After discussing the law, the Hon'ble Supreme Court held as follows:

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

It would be apparent from the above extract from the judgment of the Hon'ble Supreme Court that the school can charge development fee provided it fulfils the following pre conditions :-

1. Development fee is treated as a capital receipt.

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2. It is utilized for purchase, upgradation and replacement of furnitures fixtures and equipments.
3. An earmarked development fund account is maintained to park the unutilized development fee.
4. Depreciation reserve is created equivalent to the amount of annual depreciation charged in the accounts and is kept in an earmarked fund account.
5. The income from the development fund/depreciation reserve fund is also utilized for the purposes of which the development fee can be utilized.

Even in the order dated 11/02/2009 issued by the Director of Education, Govt. of NCT of Delhi, which was the subject matter of WP(C) 7777 of 2009 in which this Committee has been constituted, expressly stated as follows:

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

The submission made by the school that the development fee charged by the school to the extent of expenditure actually incurred by the school on capital assets ought not to be directed to be refunded as

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the school has already gone out of cash, has to be considered on consideration of the recommendations of Duggal Committee, the orders passed by the Govt. of NCT of Delhi, accepting such recommendations and the law laid down by the Hon'ble Supreme Court in the case of Modern School (supra). The Committee is of the view that firstly the school has to be authorized to recover the development fee as per law. The stage of incurring expenditure out of such development fee would come subsequent to that. For the school to be able to recover the development fee, it has to be fulfil the following essential pre conditions:

(i) The development fee would be treated as capital receipt.

(ii) The school ought to maintain earmarked depreciation reserve fund in respect of the depreciation charged on the fixed assets acquired out of such development fund.

Admittedly the school was not fulfilling the aforementioned pre conditions for charging the development fee. When the charge of development fee itself is invalid, the same is required to be refunded to the students. No allowance can be made in respect of any expenditure incurred out of development fee. Therefore, the Committee does not find any merit in the submission made by the school.

The last contention raised by the school regarding earmarking of funds out of its past savings, to the extent they were already committed for construction of multipurpose hall has merit in it. The funds available

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with the schools have to be reckoned with a cut off date when the schools were advised by the Directorate of Education that they had to pay the salaries and arrears to their staff as per the recommendations of the VI Pay Commission. That was sometime in Sept. or Oct. 2008. If prior to that, the school had made some capital commitments out of its past savings as defined under Rule 177 of the Delhi School Education Rules, 1973, the school would be entitled to retain funds to meet those commitments. The school has claimed a sum of Rs. 3,50,22,910 as its committed reserves out of the total funds available with it as on 31/03/2008. Vide its submission dated 15/05/2017, the school has claimed that the building plan was sanctioned by MCD in 2008 and the civil contract for structure was awarded in 2009. The multipurpose hall was constructed and completed over a period of 4 years and a total sum of Rs. 3,50,22,910 was capitalized under the Head Building in the fixed assets. In support of its claim, the school has filed copies of the pay order dated 24/04/2008 amounting to Rs. 1,42,802 which was paid as fee for sanction for building plan, contract dated 10th April 2009 executed with the contractor for construction of multipurpose hall. Correspondence made between the school and the Architects/contractors employed by it, tender documents for award of construction contract.

The Committee has perused the documents filed by the school and is of the view that with the filing of building plans with Municipal Corporation of Delhi in April 2008, the school had commenced the

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Delhi High Court Committee ★ For Review of School Fee ★

construction project and the estimated cost which was likely to be incurred by the school was required to be kept in reserve by it before applying its fund for implementation of the recommendations of VI Pay Commission. However, the Committee notices that the total value of contract signed with the contractor was Rs. 1,49,53,990. The authorized representative appearing the for school Ms. Simran Singh who is also the auditor of the school conceded during the course of hearing on 15/05/2017 in the notes on account on the balance sheet as on 31/03/2009, the value of commitment for extension of school building was also mentioned as Rs. 1,49,53,990. Therefore, the Committee is of the view that instead of the claim of Rs. 3,50,22,910 as put forth by the school, it was entitled to keep funds in reserve to the tune of Rs. 1,49,53,990 out of its total funds as on 31/03/2008.

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Delhi High Court Committee ★ For Review of School Fee ★

Determinations:

In view of the foregoing discussion, the Committee makes the following determinations:

Particulars		Amount (Rs.)
Funds available with the school, as admitted by it, as on 31/03/2008 (A)		6,05,41,690
Less Reserves required to be maintained (B):		
(a) For accrued liability of leave encashment	1,37,31,125	
(b) For accrued liability of gratuity		
(c) For additional increment	2,78,19,341	
(d) For differential increment in leave encashment and gratuity to retired employees	13,80,684	
(e) For construction of multipurpose hall		
(f) For future contingencies	18,17,241	
	1,49,53,919	
	1,76,63,859	7,73,66,169
Net funds deemed to be available for implementation of VI Pay Commission (C)=(A)-(B)		(-) 1,68,24,479
Total financial impact of implementation of recommendations of VI Pay Commission(D)		4,27,76,163
Total Requirement of funds by the school for implementing VI Pay Commission (E) = (C) – (D)		5,96,00,642
Total arrear fee and incremental fee recovered by the school as per order dated 11/02/2009 (excluding arrears of development fee) (F)		3,07,88,428
Deficiency on implementation of recommendations of VI Pay Commission (G) = (F) – (E)		(-)2,88,12,214
Development fee recovered in 2009-10 and 2010-11 without fulfilling the mandatory pre conditions		2,23,27,330

In view of the above noted determinations, while the Committee is of the view that the school recovered development fee amounting to Rs. 2,23,27,330 in 2009-10 and 2010-11 irregularly and in normal course, we would have recommended its refund, however in view of the deficit incurred by the school in implementing the recommendations of VI Pay Commission to the tune of Rs. 2,88,12,214, we refrain from making any such recommendation.

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However, as noticed supra, the school recovered a sum of Rs. 26,77,800 as additional development fee for the period 01/04/2008 to 31/08/2008 totally illegally as the school was not competent to increase any fee after the start of academic session 2008-09, without the express approval of the Director of Education to this effect. Further it recovered a sum of Rs. 11,72,045 as arrears of incremental development fee for the period 01/09/2008 to 31/03/2009. The school which was charging a fixed amount of development fee of Rs. 100 per month resorted to hike the development fee to 15% of tuition fee with retrospective effect which is in total violation of Section 17(3) of the Delhi School Education Act, 1973. What the order dated 11/02/2009 of the Directorate of Education permitted was that the additional development fee on account of increase in tuition fee could be recovered by the school for utilizing the same payment of arrears to the staff. What was envisaged was the recovery of additional development fee on account of increase in tuition fee as development fee is normally charged as a percentage of tuition fee and any increase in tuition fee would necessarily entail an increase in development fee. However, where the school does not charge development fee as a percentage of tuition fee, as in the present case, the increase in tuition fee would not result in any increase in development fee. The aforesaid order dated11/02/2009 was issued primarily to permit the schools to increase the tuition fee for payment of increased salaries and arrears to the staff consequent to implementation of the

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recommendations of VI Pay Commission. It could not be availed of by the schools to increase development fee per se.

Hence, the Committee is of the view that the school unauthorisedly and illegally recovered arrears of development fee amounting to Rs. 38,49,845 (26,77,800 + 11,72,045) which it ought to refund to the students along with interest @ 9% per annum from the date of collection to the date of refund, despite the fact that the school was in deficit on implementation of the recommendations of the VI Pay Commission as it cannot be allowed to recover any fee which is against the specific provisions of law.

Recommended accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K.Sharma
(Member)

Date: 13/06/2017

Delhi High Court Committee ★ For Review of School Fee ★

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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:

Aadharshila Vidya Peeth , CD Block, Pitampura, Delhi-110034 (B-300)

Recommendations of the Committee

Present: Sh. Byomakesh Mishra, Principal, Ms. Pooja Aggarwal, Consultant, Sh. Rahul Aggarwal, Consultant, Ms. Ruchika Khattar, Treasurer, Sh. Vijay Kumar Sharma, Accountant and Sh. Ramesh Garg, Office Assistant 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). As the school did not file any reply to the questionnaire, a reminder was sent on 27/03/2012. The school did not respond to the reminder also. However, the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 along with details of payment of salary prior to implementation of recommendations of VI Pay Commission as well as those paid after such implementation were received from the office of the concerned Dy. Director of Education (DDE). Copies of circulars dated 24/02/2009,28/02/2009, 02/03/2009 and 06/03/2009 issued to the parents of different classes regarding deposit of arrear fee and the incremental fee w.e.f. 01/09/2008 were also received through the office of the DDE.

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Delhi High Court Committee ★ For Review of School Fee ★

Perusal of the aforesaid circulars issued by the school showed that the school had hiked the tuition fee by Rs. 500 per month w.e.f. 01/09/2008 for all the classes, except pre primary, in which case, the tuition fee was hiked @ Rs. 400 per month. Arrears of tuition fee for the period 01/09/2008 to 31/03/2009 were accordingly recovered @ Rs. 3,500/2,800 per student. Besides, the school also recovered arrears of development fee for the corresponding period @ Rs. 525/420 per student i.e. 15% of the arrears of incremental tuition fee. The School also recovered lump sum arrear fee for the period 01/01/2006 to 31/08/2008 @ Rs. 4,500 per student as envisaged in the order dated 11/02/2009 issued by the Director of Education.

In the first instance, the relevant calculations were made by the CAs attached with this Committee. They had determined that the school had recovered fee in excess of its requirements for implementing the recommendations of VI Pay Commission. However, these calculations were not relied upon as the figures taken by the CAs did not match with the audited financials of the school.

The Committee issued a notice dated 14/05/2015 to the school to furnish the information in aggregates with regard to the arrear fee for different periods, arrear salary for different years, regular fee and regular salary, duly reconciled with the audited financials of the school. Besides, the school was also advised to furnish details of its accrued liabilities of

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gratuity and leave encashment as on 31/03/2010. A revised questionnaire was also issued to the school for eliciting specific response to the relevant queries with regard to fee hike, recovery of arrear fee, salary hike, payment of arrear salary, collection and utilisation of development fee and maintenance of earmarked accounts for depreciation reserve fund and development fund.

The school furnished the required information under cover of its letter dated 01/06/2015. In its reply to the questionnaire, the school stated that it had implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009 and also paid the arrear salary for the period 01/01/2006 to 31/03/2009. The break up of arrear salary paid, as given by the school is as follows:

Particulars	**2008-09**	**2009-10**	**2010-11**	**Total**
Arrears paid for the period 01/01/2006 to 31/08/2008	0	30,09,459	2,723	30,12,182
Arrears for the period 01/09/2008 to 31/03/2009	7,76,500	20,40,001	0	28,16,501
Total	**7,76,500**	**50,49,460**	**2,723**	**58,28,683**

With regard to collection of arrear fee and incremental fee pursuant to order dated 11/02/2009, the school furnished the following figures:

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Particulars	2008-09	2009-10	2010-11	Total
Lump sum Arrear fee for the period 01/01/2006to 31/08/2008	11,44,222	17,42,449	3,750	28,90,421
Arrears of tuition fee for the period 01/09/2008to 31/03/2009	24,67,500	6,10,400	0	30,77,900
Arrears of development fee for the period 01/09/2008to31/03/2009	4,26,168	91,560	0	5,17,728
Total	**40,37,890**	**24,44,409**	**3,750**	**64,86,049**

The school also furnished the following figures of regular fee and regular salary for the years 2008-09 and 2009-10 which correspond to the pre hike and post hike consequent to the implementation of the recommendations of VI Pay Commission:

Particulars	2008-09	2009-10	Increase in 2009-10
Regular tuition fee	2,24,93,340	3,57,32,120	1,32,38,780
Regular salary	1,06,26,955	2,13,11,243	1,06,84,288

Prima facie, even without considering the funds available with the school prior to its decision to hike the fee, the school apparently increased more fee than was required to implement the recommendations of VI Pay Commission as would be evident from the following calculations:

Total financial impact of implementing the recommendations of VI Pay Commission on the school	
Arrear salary from 01/01/2006 to 31/03/2009	58,28,683
Incremental salary for the year 2009-10	1,06,84,288
Total	**1,65,12,971**

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Total additional fee revenue generated by the school for implementing the recommendations of VI Pay Commission	
Arrear fee from 01/01/2006 to 31/03/2009	64,86,049
Incremental fee for the year 2009-10	1,32,38,780
Total	**1,97,24,829**

Fee recovered in excess of the requirement of the school: Rs. 32,11,858 (1,97,24,829 – 1,65,12,971).

In order to afford an opportunity of being heard, the Committee issued a notice dated 29/06/2016 to the school to appear before this Committee on 18/07/2016, and to produce its books of accounts, salary records and fee records etc. During the course of hearing, it was observed by the Committee that the information furnished by the school, as above, was at variance with its audited financials and the school was advised to furnish the correct information. The school submitted a revised statement in which necessary corrections were made out. However, there were only minor changes, in so far as the aforementioned information is concerned. The only significant change was in respect of the arrears of development fee, which were now stated to be Rs. 4,61,685 instead of Rs. 5,17,728. It also came out during the course of hearing that the development fee which the school originally charged for the year 2008-09 was @ 10% of tuition fee. However, it recovered the arrears of

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incremental development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the incremental tuition fee.

As regards regular development fee, the school in its reply to the questionnaire issued by the Committee stated that the school was charging development fee in all the five years for which the information was sought. The amounts collected on this account were Rs.33,27,868 in 2008-09, Rs. 43,06,080 in 2009-10 and Rs. 67,71,023 in 2010-11. The arrears of increased development fee for the period 01/09/2008 to 31/03/2009 were also included in the figure of development fee for 2008-09 and 2009-10. On excluding these figures, which have been separately considered, the regular development fee for 2008-09 amounted to Rs. 29,01,700 and Rs. 42,14,520 for 2009-10.

The school filed separate statements of the collection of development fee and utilisation. These are as follows:

As per statements filed during the course of hearing					
Particulars	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**2010-11**
Development fee collected	1,288,650	2,076,552	3,271,825	4,306,080	6,771,023
Development fee utilised	972,441	1,370,988	2,475,172	3,668,354	6,509,770

However, the statements of collection of development fee and its utilisation, as filed by the school, do not agree with the audited financials of the school. The position of development fund, as culled out from the

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audited financials of the school for the years 2006-07 to 2010-11, is as follows:

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
Unutilised development fund brought forward	1,311,540	2,600,190	4,676,742	3,327,868	7,633,948
Development fee received during the year	1,288,655	2,076,552	2,901,700	4,214,520	6,771,023
	2,600,195	4,676,742	7,578,442	7,542,388	14,404,971
Utilised during the year			4,250,574	(91,560)	7,633,948
Unutilised development fund carried forward	2,600,195	4,676,742	3,327,868	7,633,948	6,771,023
Depreciation reserve fund	-	349,729	874,664	1,611,393	2,999,769
Total	**2,600,195**	**5,026,471**	**4,202,532**	**9,245,341**	**9,770,792**

Be that as it may, perusal of the statement of utilisation of development fund as filed by the school, shows that a major part of the development fee collected in 2009-10 and 2010-11 was utilised for construction of the school building. Out of a total of utilisation of Rs. 36,38,354 in 2009-10, the amount claimed to have been utilised for construction of building is **Rs. 26,61,800**. In 2010-11 also, out of Rs. 65,09,770 which is claimed to have been utilised, as much as **Rs. 43,07,110** is stated to have been utilised for construction of school building. The Committee has also perused the budgets of the school, which it has filed as part of its annual returns under Rule 180 of the Delhi School Education Rules, 1973 and observes that the school had even budgeted the construction/addition to the building out of the development fee. That is, the school from the very beginning had levied development fee for construction/addition to its building.

The Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the issue of fee hike in consequence of the implementation of the recommendations of V Pay Commission by the schools, made the following observations with regard to the fee recovered by the schools to fund the construction of its building:

> *20. The schools, should be prohibited from discharging any of the functions, which rightly fall in the domain of the parent society, out of the fee and other charges, collected from the students, or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the School ! (Para 7.24)*

However, the Duggal Committee, recognizing the need of the schools to keep themselves abreast with the latest equipments and furniture required for the purpose of education, made a recommendation that the schools may be allowed to levy a development fee for purchase and upgradation of furniture, fixtures and equipments only. The recommendation made was as follows:

> *18. Besides the above four categories, the schools could also levy a **Development Fee**, as a capital receipt, annually not exceeding*

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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)

Thus, the Duggal Committee drew a clear of distinction between the levy of fee for the purposes of creation of infrastructure facilities like Building and the levy of fee for the purposes of upgradation of furniture, fixtures and equipments. While it recommended the levy of fee for the later purposes, levy of fee for construction of building was not considered desirable.

The recommendations of Duggal Committee were accepted by the Govt. of Union Territory of Delhi. Pursuant to the report, the Government of National Capital Territory of Delhi passed an order dated December 15, 1999 in order to give effect to the recommendations of Ms. Justice Santosh Duggal Committee Report and in order to remove the irregularities and malpractices relating to collection and utilization of funds by the schools as pointed therein. One of the directions (no. 7) given vide the aforesaid order was that Development fee not exceeding

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10% of the total annual tuition fee for supplementing the resources for the purpose of purchase, upgradation and replacement of furniture, fixtures and equipment, 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 report of the Duggal Committee was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra), particularly with regard to charging the development fee and recovery of capital expenditure as part of the fee from the students. With regard to recovery of capital expenditure out of fee, particularly in the context of the provisions of Rule 177 of Delhi School Education Rules, 1973, the Hon'ble Supreme Court held as follows:

> *"Section 18(3) is to be read with Rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognised Unaided School Fund. Further, Rule 175 indicates accrual of income unlike Rule 177 which deals with utilisation of income. Rule 177 does not cover all the items of income mentioned in Rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows*

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that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance.

That after such deduction, surplus if any, shall be appropriated towards pension, gratuity, reserves and other items of appropriations enumerated in Rule 177(2) and after such appropriation the balance (savings) shall be utilised to meet capital expenditure of the same school or to set up another school under the same management. Therefore, Rule 177 deals with application of income and not with accrual of income. Therefore, Rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. ***Therefore, capital expenditure cannot constitute a component of the financial fee structure as is submitted on behalf of the schools.*** *It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.*

With regard to the levy of development fee by the schools, the Hon'ble Supreme Court formulated 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?"

The issue was decided by the Hon'ble Supreme Court and it was held as follows:

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

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

Considering the judgment of the Hon'ble Supreme Court, the Duggal Committee report and the aforesaid order issued by the Director of Education on acceptance of the recommendations of Duggal Committee, the following position emerges:

1. Generally, Capital expenditure cannot be part of the financial fee structure.
2. The schools are prohibited from discharging any of the functions, which rightly fall in the domain of the parent society, out of the fee and other charges, collected from the students, or where the parents are made to bear, even in part, the financial burden for

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the creation of facilities including building, on a land which had been given to the society at concessional rates.

3. Schools may charge development fee upto 15% of the tuition fee provided the following pre conditions are fulfilled:

   (a) The fee collected under this head is treated as a Capital receipt and deposited in a separate fund,

   (b) Such fee is utilized for *purchase,* upgradation and replacements of furniture and fixtures and equipments only (not building).

   (c) A separate Depreciation Reserve Fund is maintained wherein an amount equivalent to the depreciation charged in the accounts shall be deposited.

In the case of this school, it has been noticed by the Committee that the school was specifically budgeting for inter alia, the construction/addition to its building out of development fee. To the extent the development fee was utilised for construction/addition to the building, it was not charged in accordance with the law laid down by the Hon'ble Supreme Court which upheld the recommendations of Duggal Committee for charging development fee only for purchase/upgradation/replacement of furniture & fixtures and equipments. As we are concerned only with the fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director

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of Education, we are examining the justifiability of the charging of development fee only for 2009-10 and 2010-11. As noticed supra, the school charged a sum of Rs. 42,14,520 as development fee in 2009-10 and Rs. 67,71,023 in 2010-11. In these two years, the school utilised the development fee for the purpose of construction/addition to its building to the extent of Rs. 26,61,800 and Rs. 43,07,110 respectively. Thus out of a total development for these two years amounting to Rs. 1,09,85,543, a sum of **Rs. 69,68,910** would be considered as having been charged in contravention of law as declared by the Hon'ble Supreme Court. The Committee is not interfering with the remaining development fee as it finds that the school was fulfilling the essential pre conditions for charging of development fee.

In order to examine the justifiability of the recovery of arrear fee and the hike in tuition fee and development fee effected by the school, the Committee prepared the following calculation sheet, based on the audited financials of the school and the information provided by the school from time to time:

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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars		**Amount (Rs.)**
	Current Assets + Investments		
	Cash in hand	24,788	
	Cash at Bank	68,805	
	Fixed Deposits	5,100,000	
	Accrued Interest	218,587	
	Expenses paid in advance	27,276	
	TDS receivable	26,548	
	Recoverable advances	1,142,600	6,608,604
Less	*Current Liabilities*		
	Sundry Creditors	662,768	
	Expenses payable	127,997	
	Other Liabilities	76,975	
	Caution Money advance	1,295,150	
	Advance fee	3,269,260	5,432,150
	Net Current Assets + Investments (Funds available)		**1,176,454**
	Funds applied in payment of interest and repayment of Loans from 2006-07 to 2009-10 and for purchase of Fixed Assets (details as per Annexure)		21,564,675
	Funds deemed to be available		**22,741,129**
Less	**Reserves required to be maintained:**		
	for future contingencies (equivalent to 4 months salary)	7,103,748	
	for accrued liability towards Leave Encashment as on 31.03.2010 (No information provided)	-	
	for accrued liability towards Gratuity as on 31.03.2010 (No information provided)	-	7,103,748
			15,637,381
Less	**Additional Liabilities after implementation of 6th Pay Commission:**		
	Arrear of Salary as per 6th CPC for 01.01.06 to 31.8.08	3,011,486	
	Arrear of Salary as per 6th CPC for 01.09.08 to 31.3.09	2,816,501	
	Incremental Salary for 2009-10 (as per calculation given below)	10,684,288	16,512,275
	Excess / (Short) Fund Before Fee Hike		**(874,894)**
Add	**Total Recovery for implementation of 6th Pay Commission**		
	Arrear of tuition fee for 01.01.06 to 31.8.098	2,890,421	
	Arrear of tuition fee for 01.09.08 to 31.3.09	3,077,900	
	Arrear of Development fee for 01.09.08 to 31.3.09	461,685	
	Incremental tuition fee for 2009-10 (as per calculation given below)	13,238,780	19,668,786
	Excess / (Short) Fund After Fee Hike		**18,793,892**

An annexure giving details of Funds applied in payment of interest and repayment of Loans from 2006-07 to 2009-10 and for purchase of Fixed Assets was also prepared as under:

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Financial Year	Increase in Fixed Assets without procuring Fresh Loans	Repayment of Loans	Interest	Total
2006-07	4,724,808	1,354,171	780,082	6,859,061
2007-08	2,108,848	1,145,002	681,787	3,935,637
2008-09	3,533,733	1,250,004	643,647	5,427,384
2009-10	-	4,899,957	442,636	5,342,593
Total	**10,367,389**	**8,649,134**	**2,548,152**	**21,564,675**

A copy of the above calculation sheet and annexure was given to the authorized representatives appearing for the school on 08/12/2016, for rebuttal if any. The school filed its written submissions dated 09/12/2016 in the office of the Committee disputing some part of the calculation sheet made by the Committee. The matter was heard on 20/03/2017 and 28/04/2017 on the written submissions filed by the school.

Submissions by the school:

The Committee observes that the calculation sheet was disputed for the following reasons on which the school made the following submissions:

Funds in payment of interest and repayment loans from 2006-07 to 2009-10 and for purchase of fixed assets amounting to Rs. 2,15,64,675.

It was submitted that repayment of loans and interest were the liabilities of the school and could only be paid from the funds available with the school. Further fixed assets were purchased for upgradation of school from time to time as per CBSE/DOE requirement and welfare of the students. As the funds had already gone out of the coffers of the

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school before the order of 11/02/2009 was issued by the Director of Education.

Incremental tuition fee for 2009-10 amounting to Rs. 1,32,38,780 taken by the Committee.

In this regard, it was submitted that there were 322 new students admitted in various classes on account of the fact that the school added class XII for the first time in 2009-10. Hence the fee recovered from the new students which amounts to Rs. 91,60,800 ought not be considered as the incremental tuition fee in the year 2009-10. When asked to further clarify the position, the school, vide its letter dated 01/04/2017, submitted there was net addition of 294 fee paying students in the year 2009-10 and the total amount of regular fee received from them was **Rs. 83,07,360**. It was further submitted that this amount could not be considered as incremental fee recovered in pursuance of order dated 11/02/2009 issued by the Director of Education as the fee from these students was received after the issuance of such order.

With regard to development fee, it was also submitted that the Committee ought not to have considered the full amount of development fee recovered by the school in 2009-10 and 2010-11 as refundable. But it ought to have taken Rs. 8,07,419 which is the left over amount of development fee for these two years after investment in fixed assets.

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Discussion:

The issue regarding development fee has already been discussed at length in the earlier part of these recommendations and we need not dwell upon the submission made by the school, as above, once again. On the other two substantive issues which the school has brought up, the Committee is of the view that so far as the funds applied by the school in repayment of loans for creation of fixed assets is concerned and for purchase of fixed assets out of the fee recovered from the students is concerned, the matter is squarely covered against the school by the decision of the Hon'ble Supreme Court in the case of Modern School (supra). The school has concededly not infused any funds for the purpose of creating its fixed assets or for making repayment of loan taken for constructing its school building. The entire funds for this purpose have come out of the fee recovered from the students over a number of years. The repayment of loans taken for incurring capital expenditure (construction of building) stands on the same footing as incurring capital expenditure directly by making outright purchase. As discussed supra, even the Duggal Committee had opined that "*The schools, should be prohibited from discharging any of the functions, which rightly fall in the domain of the parent society, out of the fee and other charges, collected from the students, or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at*

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concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the School.

Therefore, so far as the principle followed by the Committee in considering the purchase of fixed assets for repayment of loans out of the fee charged from the students is concerned, the same cannot be faulted. However, the Committee observes that while determining the amount that has been applied by the school for the above purposes, certain omissions have taken place. These are as follows:

(a) The fixed assets have also partly come out of development fee. The Committee has already held that the school was fulfilling the pre conditions required to be fulfilled for charging development fee. Only the utilisation of development fee for construction/addition of building was improper and the Committee has already considered that to that extent, development fee ought to be refunded. Therefore, the development fee charged from 2006-07 to 2009-10 ought to be reduced from the amount of cost of fixed assets/amount utilised for repayment of loans, which can be deemed to be appropriated from the School Fund. The Committee observes that the total development fee recovered by the school from 2006-07 to 2009-10 was Rs. 1,09,43,107.

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(b) The Committee has also observed that the school has taken an unsecured loans from its parent society. As on 31/03/2006, the balance outstanding in this loan was Rs. 1,42,22,874 while the balance outstanding as on 31/03/2010 was Rs. 1,90,98,467. This indicates that the parent society introduced funds to the tune of Rs. 48,75,593 in the school from 2006-07 to 2009-10. Obviously, this amount has also to be reduced from Rs. 2,15,64,675 as to this extent the funding of capital expenditure has come from the parent society.

Therefore, the amount of capital expenditure that can be considered as having come out of the school fund would be **Rs.57,45,975** (2,15,64,675 - 1,09,43,107 - 48,75,593) instead of Rs. 2,15,64,675.

So far as Incremental tuition fee for 2009-10 amounting to Rs. 1,32,38,780 is concerned, the argument of the school that an amount of Rs. 83,07,360 ought to be excluded as the incremental fee did not arise on account of order dated 11/02/2009 but on account of addition of a new class XII during the year, consequent to which the student strength of the school increased by 294 (fee paying) has been examined by the Committee. The school was asked that in order to cater to the new students, the staff strength would also have increased. The school in its submission dated 01/04/2017 stated that no increase had taken place

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in the staff strength as the teachers who taught the students of class XI also taught the students of class XII. The Committee observes that compared to 2008-09 when there was a total staff strength of 107, the staff strength in 2009-10 reduced to 102. Consequently, there was no incremental salary on account of any incremental staff.

The submission made by the school, at the first blush, seems attractive but the same is untenable. It does not lie in the mouth of the school to say that the additional revenue generated by the school on account of new admissions would be pocketed by it and the incremental salary of the staff on account of implementation of recommendations of VI Pay Commission must come out of the fee hike as per order dated 11/02/2009. Perusal of the order dated 11/02/2009 itself shows that it was directed by the Director of Education that fee hike is not mandatory and further that the schools should not consider the increase in fee to be the only source of augmenting their revenue and that they should also venture upon other permissible measures for increasing revenue receipt (Para 11). In this case, the school increased its revenue receipts by increasing the number of students without there being any correspondence increase in the number of staff members. The school ought to have applied the additional revenue from the fee of the new students and the hike in fee should have been the last resort. In this case, the school has taken the hike in fee to be the first resort. In view of this, the submission made by the school on this score is rejected.

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Initially, the school did not file any details regarding its accrued liabilities on account of gratuity and leave encashment. However, faced with the possibility of having to make a refund, the school furnished the details of the liabilities on these accounts as on 31/03/2010. The liability on account of gratuity was projected at **Rs. 5,41,580** while that on account of leave encashment at **Rs. 3,90,021**. The Committee will duly factor these liabilities while making the final determinations.

Determinations:

In view of the above discussion, the Committee makes the following determinations:

Particulars		**Amount (Rs.)**
(a) Net current assets + investments as on 31/03/2008 (Funds available)	11,76,454	
(b) School Funds applied for capital expenditure from 2006-07 to 2009-10	57,45,975	69,22,429
Additional revenue on account of fee hike and arrear fee		1,96,68,786
Total		2,65,91,215
Additional expenditure on account of arrear salary and incremental salary as per the recommendations of VI Pay Commission		1,65,12,275
Surplus		1,00,78,940
Less Funds required to be kept in reserve		
(a) For future contingencies	71,03,748	
(c) For gratuity	5,41,580	
(e) For leave encashment	3,90,021	80,35,349
Fee recovered in excess of requirement		**20,43,591**

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As would be evident from the above table, the school recovered a sum of **Rs. 20,43,591** in excess of its requirements for the purpose of implementation of recommendations of VI Pay Commission. We have already determined that the school utilised a sum of **Rs 69,68,910** out of the development fee recovered in 2009-10 and 2010-11, in contravention of law declared by the Hon'ble Supreme Court.

Recommendations:

In view of the foregoing determinations, the school ought to refund a sum of Rs. 20,43,591 out of the incremental fee charged by it in the year 2009-10 and Rs. 69,68,910 out of development fee charged by it in 2009-10 and 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

Recommended accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K.Sharma
(Member)

Date: 13/06/2017

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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:

INDER PUBLIC SCHOOL(C-053),
150-, Village Mandawali,
Fazalpur,
Delhi 110092

And in the matter of

Application/representation dated 29th May, 2017to review the order Dated 7th May, 2012passed by the Committeein respectof the School.

Present: Sh. Rajinder Kumar, Managerand Ms. Arti Sharma of the School

ORDER

1. The Committee passed the order/recommendation dated 7th May, 2012 in respect of Inder Public School, 150, Village Mandawali, Fazalpur,Delhi 110092referred to as 'The School' and recommended that the fee hike by the school with effect from 1stApril, 2009 was not justified as the school has not implemented the recommendations of VI Pay Commission and therefore, it was recommended to direct the school to refund the increased monthly fee with effect from 1st April, 2009 till the date of actual refund along with interest @ 9% per annum. Since the annual fees of the school was increased by about 10% every year, there would be a ripple effect in the subsequent years from 2009-

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2010 and therefore, the school be directed to refund the additional fee for the subsequent years calculated at a percentage at which the fee for the subsequent years had been increased with interest @ 9% per annum.

2. While passing the order dated 7th May, 2012 the Committee writ considered the reply sent by the school to the questionnaire contending that the school has not implemented the VI Pay Commission nor has increased any fee pursuant to the order dated 11th February, 2009 issued by the Director of Education, Delhi. On examination of the records of the school it transpired that the school had increased the tuition fee by Rs.100 per month for all the classes which was the maximum increase permissible in terms of the order of the Director of Education. It also came to the notice of the Committee that the school was doing all the transaction in cash and did not even have a bank account. In the circumstances it was recommended that the school should refund the increase the entire increased fee as it had not implemented the VI Pay Commission with interest @ 9% per annum.

3. The school has filed a review petition dated 29thMay, 2017 seeking review of order dated 7th May, 2012 passed by the Committee. In the application for review of the order/recommendation dated 7th May, 2012 of the Committee it is contended that the school had not liked any fee in the years prior to 2009 – 10 and hiked the fee in 2009 – 10 in pursuance of the order dated 11th February, 2009 issued by Director of Education, Delhi which was Rs.100/- only. It is also contended that during sessions from 2006 to 2011 school had not taken any type of arrears of any fee or fund from the students/parents. It is asserted that during session 2006 – 07; 2007 – 08; 2008 – 09 fee was not hike and it had remained the same for three years by ₹ 3 25 for classes I to V and ₹ 435 for classes VI to VIII. During the session 2010 – 11 fee was hiked by ₹ 45 for classes I to V and for classes VI to VIII by ₹ 55. It is asserted that the school is middle recognized school, running in village area and serving the people who

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belongs to lower class family. The school has sought review of the recommendation dated 7th May, 2012 on these grounds.

4. Apparently the school has sought review of the order/recommendation of the committee dated 7th May, 2012 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 7th May, 2012. It is apparent that the Committee has become functus officio after it passed the order dated7th May, 2012. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

5. 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 (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

Black's Law Dictionary (6th 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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Delhi High Court Committee ★ For Review of School Fee ★

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 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **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"

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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.

8. From the perusal of the application/representation dated 29th May, 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'. This is also no more res integrathat no review lies on merits unless a statute specifically provides for it.In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.MANU/SC/0104/1987 and Patel NarshiThakershi and Ors.v. PradyumansinghjiArjunsingji 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 debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

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Delhi High Court Committee For Review of School Fee

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 7th May, 2012.

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

11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 7th May, 2012 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural

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Delhi High Court Committee ★ For Review of School Fee ★

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

12. The application/representation dated 29th May, 2017 seeking recalling/revoking of the order dated 7th May, 2012 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 29th May, 2017 by the school seeking review of the order/recommendation dated7th May, 2012 is, therefore, not maintainable and it is disposed of as not maintainable

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S.KOCHAR
MEMBER

Date: 13.06.2017

R.K. SHARMA
MEMBER

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Delhi High Court Committee For Review of School Fee

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:

HAPPY PUBLIC SCHOOL (C-0377),

Vishwas Nagar, Shahdara,

Delhi 110 032

And in the matter of

Application/representation dated

29th May, 2017 to review the order

Dated 23rd October, 2013 passed by the

Committee in respect of the School.

Present: Sh. Sugrive Dubey Advocate and Shri Daljit Singh Chairman of the School

ORDER

1. The Committee passed the order/recommendation dated 23rd October, 2013 in respect of Happy Public School, Vishwas Nagar, Shahdara, Delhi 110032 referred to as 'The School' and recommended that the fee hike by the school with effect from April, 2010 was not justified as the school has not implemented the recommendations of VI Pay Commission and therefore, the fees increased, in excess of 10% with effect from 01. 04. 2010, ought to be refunded along with interest @9% per annum. It has also been recommended that the fee hiked 2010 – 11 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent, it is relatable to the fee hike in 2010 – 11 also be refunded along with interest @9% per annum. Regarding The development

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Delhi High Court Committee ★ For Review of School Fee ★

fee, it has been recommended that the school was charging the same without complying with any of the preconditions which had been approved by the Hon'ble Supreme Court. Therefore, it was held that an amount of ₹ 13,31,100.00 charged as Development Fee should be refunded along with interest @ 9% per annum.

2. While passing the order dated 23rd October, 2013 the Committee had referred to returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 which were received from the office of Deputy Director, District East of the Directorate of Education. The school was placed in 'C' category. The school was directed by notice dated 22nd October, 2012 to produce its fee and salary records and also to file the reply to the questionnaire on 6th November, 2012. On the date fixed no one appeared and sought time by letter dated 7th November, 2012. Next date on 22nd November, 2012 was given but again no one appeared. On 26 November, 2012 an employee of the school appeared and submitted incomplete records. The school was directed to produce the complete records on 4th December, 2012 and reply to the questionnaire was also filed. It transpired that the school had hike the fee by 10% with effect from April, 2009 and had partially implemented the recommendation of VI pay commission without making payment towards DA, HRA and TA. On examination of the record of the school the audit officer of the committee had made certain observations which were confirmed by the representative of the school who had appeared on 4th December, 2012 as correct. They school though had charged the Development fee but had treated it as revenue receipt and separate depreciation reserved fund had not been maintained. It was also noticed that during 2010 – 11 the fee had been increased in excess of 10% contrary to the order of the Director of Education dated 11th February, 2009. Noticing these circumstances and the record of the school the recommendation dated 23rd October, 2013 were passed by the Committee.

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Delhi High Court Committee ★ For Review of School Fee ★

3. The school has filed a review petition dated 29th May, 2017 seeking review of order dated 23rd October, 2013 passed by the Committee. In the application for review of the order/recommendation dated 23rd October, 2013 of the Committee is sought on the ground that is located in an area which is inhabited by poor people and the school is charging the fee at rates below the rates fixed and paid by Government for the students of EWS. It was contended that the school is situated on land leased by the Society and the school is a very small school. It has been alleged that since the school is short of funds for payment of salary to the teachers/staff, the school makes use of the development fund for payment of salaries to the staff and the teachers which is the primary duty of the school otherwise the teachers and staff shall quit. It is contended that if the school is not allowed to use Development fund for regular running expenses of the school, it will be forced to close down. Relying on the balance sheet of the school it is also contended that the school does not have the funds to refund any money. According to the school, the Committee has not considered the ground realities of a very small school. It is asserted that proper maintenance of building evenly is also the building development. On these pleas the school has sought review of orders/recommendation dated23rd October, 2013 made by the Committee.

4. Apparently the school has sought review of the order/recommendation of the committee dated 23rd October, 2013 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 23rd October, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 23rd October, 2013. The school has not produced any law or

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Delhi High Court Committee ★ For Review of School Fee ★

precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

5. 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 (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

Black's Law Dictionary (6th 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

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Delhi High Court Committee ★ For Review of School Fee ★

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

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

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **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.

8. From the perusal of the application/representation dated 29th May, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The

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Delhi High Court Committee ★ For Review of School Fee ★

applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.MANU/SC/0104/1987 and Patel NarshiThakershi 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 debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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 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

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Delhi High Court Committee For Review of School Fee

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 23rd October, 2013.

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

11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 23rd October, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been

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Delhi High Court Committee For Review of School Fee

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

12. The application/representation dated 29th May, 2017 seeking recalling/revoking of the order dated 23rd 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/representations dated 29th May, 2017 by the school seeking review of the order/recommendation dated23rd October, 2013is, therefore, not maintainable and it is disposed of as not maintainable

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S.KOCHAR
MEMBER

Date: 13.06.2017

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:

OXFORD PUBLIC SCHOOL(B-212),

Opposite Block-4, Nehru Nagar,

New Delhi 110065

And in the matter of

Application/representation dated

30th May, 2017to review the order

Dated 7th May, 2015passed by the

Committeein respectof the School.

Present: Sh. Sugrive Dubey Advocate; Shri Gopal Sharma Manager and Ms. Sulakshana Pathak Vice Principal

ORDER

1. The Committee passed the order/recommendation dated 7th December, 2015 in respect of Oxford Public School, Opposite Blcok-4, Nehru Nagar New Delhi 110065referred to as 'The School' and recommended that the tuition fee hiked for 2009-10, Rs.9,76,272 should be refunded with simple interest @ 9% per annum; Rs.8,93,850 charged as Development Fee in 2009-10 be returned with simple interest @ 9% per annum and Rs.3,06,000 building Fund charged in 2009-10 and 2010-11 be refunded with simple interest @ 9% per annum. Before making the recommendations, the Committee had issued a questionnaire dated 27th February, 2012. A reply was received from the school dated 16th March, 2012 alleging that it had implemented the recommendation of VI Pay

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Commission with effect from 29th May, 2009; it had paid arrears of salary but the period for arrears was not mentioned and it also stated that the school had not hiked the fee pursuant to order dated 11th February, 2009 nor had recovered any arrear of fees. The school was directed to produce its records and after perusing the records it transpired that the school in fact had actually increased the tuition fee by ₹ 350 per month for classes I to VIII and by ₹ 300 per month for classes IX and X in 2009 – 10. It was also observed that the school had increased the fee in terms of order dated 11th February, 2009 of the Directorate of Education. The school was again issued a notice dated 27th April, 2015 to furnish records for the period 2008 – 09; 2009 – 10 and 2010 – 11. The school was also directed to furnish bank statements and details of the accrued liabilities of gratuity and leave encashment. The school was also directed to produce the records pertaining to Development Fee charged by it. From the records of the school it was observed that it had paid a sum of ₹ 1,150,000 by bank transfer and an amount of ₹ 796,000 in cash as arrear of salary over a period of four years from 2009 – 10 to 2012 – 13. Later on the school had also furnished the details of its accrued liabilities of gratuity and leave encashment. It was conceded by the school that Development fee was treated as a revenue receipt and no earmarked accounts were maintained for development and depreciation reserved fund. A preliminary calculation sheet was prepared and a copy was given to the school by notice dated 23rd June, 2015 and the school was also given an opportunity of being heard. The school had submitted that it would pay the balance arrears of ₹ 406,464. They school submitted evidence of payment of this amount through bank transfer. The school did not furnish any justification for charging building fund from the new students which was held to be illegal and thus had for its refund with simple interest @ 9% per annum. No cogent and reasonable explanation was given for non-fulfilment of essential preconditions about Development Fees. The Committee, therefore, recommended refund of

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Delhi High Court Committee ★ For Review of Fee ★

development fee charged during the years 2009 – 10 and 2010 – 11with simple interest @ 9% per annum. It also transpired that the school became liable to refund a sum of ₹ 976,272 out of the tuition fee hiked for the year 2009 – 10 with simple interest @ 9% per annum.

2. The school has filed a review petition dated 30thMay, 2017 seeking review of order dated 7th December, 2015 passed by the Committee. The review of the order/recommendation dated 7th December, 2015of the Committee is sought on the ground that while determining refund of the final amount for the tuition fee hiked in the year 2009 – 2010 did not take into consideration the arrears of salary amounting to ₹ 796,000 paid by the school to the teachers in cash in order to implement the recommendations of VI Pay commission. According to school since it has already paid ₹ 796,000 in cash, it cannot be directed to repay the said amount again. They school has sought review of order dated7th December, 2015 primarily on this ground.

3. Apparently the school has sought review of the order/recommendation of the committee dated 7th December, 2015 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 7th December, 2015. It is apparent that the Committee has become functus officio after it passed the order dated7th December, 2015. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its order on merits.

4. It is well settled that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated

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Delhi High Court Committee ★ For Regulation of School Fee ★

(put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced,published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

Black's Law Dictionary (6th 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.

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

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Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **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"

6. 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.

7. From the perusal of the application/representation dated 30th May, 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'. This is also no more res integra that no review lies on merits unless a statute specifically provides for it.In Dr. (Smt.) Kuntesh Gupta v.

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Delhi High Court Committee * For Review of School Fee *

Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.MANU/SC/0104/1987 and Patel NarshiThakershi and Ors.v. PradyumansinghjiArjunsingji 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 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.

8. 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

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Delhi High Court Committee * For Review of School Fee *

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, in as much 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 7th December, 2015.

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

10. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 7th December, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather

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Delhi High Court Committee For Review of School Fee

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

11. The application/representation dated 30th May, 2017 seeking recalling/revoking of the order dated 7th December, 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 30th May, 2017 by the school seeking review of the order/recommendation dated7th December, 2015is, therefore,not maintainable and it is disposed of as not maintainable

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S.KOCHAR
MEMBER

Date:13.06.2017

R.K. SHARMA
MEMBER

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Delhi High Court Committee for Review of School Fee