

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 January 2018

No.DHCC/2018/

Dated:

Index			
S.N.	Particulars		Page No.
(a)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	10.01.2018	Recommendation in respect of Dr. Radhakrishnan International School, Defence Colony, (B-109) recommending no intervention.
	2	17.01.2018	Recommendation in respect of Meera Model School, Janakpuri, (B-184) recommending no intervention.
	3	17.01.2018	Recommendation in respect of S.M. Arya Public School, Punjabi Bagh West, (B-69) recommending no intervention.
	4	31.01.2018	Recommendation in respect of Dev Samaj Modern School, Nehru Nagar (B-633) recommending refund of unjustified fee alongwith 9% interest.
	5	31.01.2018	Recommendation in respect of Dev Samaj Modern School 2, Sukhdev Vihar (B-378) recommending refund of unjustified fee alongwith 9% interest.
	6	12.01.2018	Review application of Bhai Joga Singh Public School, Karol Bagh (B-116) disposed off as not maintainable.
	7	12.01.2018	Review application of Jeevan Public School, Pratap Vihar Part-III (A-45) disposed off as not maintainable.
	8	18.01.2018	Review application of Maxfort School, Pitampura (B-615) allowed. Original order of the Committee set aside.
	9	19.01.2018	Review application of Saiwan Public School, Mayur Vihar, Phase-III (B-4) disposed off as not maintainable.
(b)	Cause List of the cases taken up in January 2018 on 08.01.2018, 10.01.2018, 12.01.2018, 17.01.2018, 18.01.2018, 19.01.2018, 22.01.2018 and 31.01.2018		104 to 105
(c)	Miscellaneous/ Interim orders passed in January 2018		106 to 136

Place: Delhi


Secretary

Delhi High Court Committee for Review of School Fee

Secretary
Delhi High Court Committee For Review of School Fee
(Formerly known as Justice Ad Div Singh Committee For Review of School Fee)
C-Block, Vazir Bhawan-2, Upper Bela Road, Civil Lines, Delhi-110054

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

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

In the matter of:

Dr. Radhakrishnan International School, C Block, Defence Colony,

New Delhi-110024 (B-109)

Order of the Committee

Present: : Sh. Bal Krishan Sharma, Accountant of the school.

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

The school submitted its reply vide letter dated 02/03/2012 as per which it was stated as follows:

- (a) The school had implemented the recommendations of VI Pay Commission w.e.f. 01/09/2008. The salary paid for the month of August, 2008 aggregated Rs. 6,99,646, which rose to Rs. 10,08,225 on implementation of the recommendations of VI Pay Commission w.e.f. Sept, 2008.



TRUE COPY

Secretary

- (b) It paid arrears of salary for the period 01/01/2006 to 31/08/2008 to the tune of Rs. 34,73,375 out of the total arrears due which amounted to Rs. 36,26,613.
- (c) The school increased the fee in pursuance of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008. As a result of fee hike, the total collection for the month of Sept. 2008 rose to Rs. 10,74,510 from Rs. 8,85,710 which was the total collection for the month of August, 2008.
- (d) The lump sum arrear fee for the period 01/01/2006 to 31/08/2008 was collected in two installments in 2008-09 and 2009-10, @ Rs. 3500 (1750x2) per student. The total arrear fee which was collected amounted to Rs. 16,01,195, out of which Rs. 7,99,450 was collected in 2008-09 and Rs. 8,01,745 in 2009-10.

It was also mentioned by the school that the total collection of arrear fees was short of the total payment of arrear salaries by Rs. 28,63,871. However, the school did not make any claim to be allowed to recover any additional fee for the purpose of meeting the aforesaid shortfall.

The initial calculations to examine the justifiability of increasing the fee as well as recovering the arrear fee in accordance with the aforesaid order dated 11/02/2009 were made by the Chartered



TRUE COPY

[Signature]
Secretary

Accountants (CAs) who were deputed by the Directorate of Education to assist this Committee and they endorsed the contention of the school that it suffered a deficit on implementation of the recommendations of VI Pay Commission.

In order to arrive at the relevant calculations independently from those made by the CAs deputed with this Committee, the Committee issued a notice dated 29/04/2015 to the school to furnish all the relevant legal information 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. A questionnaire was also issued to the school for furnishing the relevant information with regard to recovery and utilisation of development fee, the manner of its treatment in accounts and the maintenance of earmarked accounts for development fund and depreciation reserve fund. An opportunity of being heard was also provided to the school.

On the date of hearing i.e. 25/05/2015, the school filed a letter seeking six weeks time. The request was acceded to by the Committee. Accordingly, another notice dated 23/06/2015 was issued for hearing on 16/07/2015. However, the authorized representatives of the school again sought some more time. The Committee again acceded to the



TRUE COPY

[Signature]
Secretary

request of the school and fixed the next date of hearing as 31/07/2015. The same request was again made on the next date also by the authorized representative of the school. The Committee provided a last opportunity to the school to furnish the relevant information within one week and fixed the hearing for 12/08/2015.

The school filed some of the relevant information on 10/08/2015 in the office of the Committee. The school also filed its reply to the questionnaire regarding development fee. It stated in its reply as follows:

- (a) The school recovered a sum of Rs. 10.46 lacs as development fee in 2007-08 for the first time. In 2008-09, 2009-10 and 2010-11, the respective amounts of collection were Rs. 12.85 lacs, Rs. 16.83 lacs Rs. 21.87 lacs.
- (b) The development fee collected by the school was utilised in full for capital as well as revenue expenditure on account of the fact that the school was extremely short of funds especially due to implementation of recommendations of VI Pay Commission.
- (c) Since there was no unspent amount out of development fee recovered, no separate account was maintained for that purpose. For the same reason, the school did not maintain any earmarked FDRs or investments in respect of depreciation reserve.



TRUE COPY

Secretary

On the date of hearing, Sh. Umesh Chander, Member of the Managing Committee appeared with Sh. Bal Krishan Sharma, Accountant of the school. The information and documents submitted by the school were examined by the Committee. The authorized representatives who appeared for the school contended that although the school fully implemented the recommendations of VI Pay Commission, the entire arrears of salary were not paid in accordance with the schedule of such payments fixed by the Director of Education vide order dated 11/02/2009 as the arrear fee was not received by the school on the due dates on which it ought to have been received. The school paid the arrear salary in six installments, which were paid through direct bank transfers to the bank accounts of the staff. The school also produced certificate from the bank in support of this contention. Modifying its contention made in reply to the questionnaire issued by the Committee, the school claimed that the actual implementation of the recommendations of VI Pay Commission took place with effect from January 2009 and not with effect from September 2008 as earlier claimed by the school. With regard to development fee, the authorized representatives conceded that it was treated as a revenue receipt as the school had deficit in its revenue account.

In the meantime, the constitution of this Committee underwent a change on account of resignation of Justice Anil Dev Singh as Chairman



TRUE COPY

[Signature]
Secretary

of the Committee. Accordingly a fresh notice dated 15/09/2017 was issued by the reconstituted Committee, to afford a fresh hearing to the school on 04/10/2017.

The Committee observed that the school had not filed its Receipt and Payment Accounts as part of its returns under Rule 180 of the Delhi School Education Rules, 1973. Accordingly, it directed the school to file its Receipt and Payment Accounts for the years 2006-07 to 2010-11 as prima facie, it appeared to the Committee that the school was incurring capital expenditure out of the fee charged from the school when the school admittedly had deficit on the revenue account and the school could not have incurred any capital expenditure, which could be incurred only, if the school had savings.

On the date of hearing, the authorized representatives again sought adjournment for filing Receipt and Payment Accounts. The same were ultimately filed by the school on 13/11/2017. The prima facie findings of the Committee were confirmed as it became obvious that the school had diverted funds out of the school fee for the purpose of repayment of loans it had taken for purchase of fixed assets. The amount determined by the Committee which the school had so utilised amounted to Rs. 12,15,907 from 2006-07 to 2009-10. Since the school could not have incurred capital expenditure out of its fee in terms of Rule 177 of the Delhi School Education Rules, 1973 as well as the ratio of the



TRUE COPY

[Signature]
Secretary

decision of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, the Committee considers the aforesaid sum of Rs. 12,15,907 to be available with the school for the purpose of implementation of the recommendations of VI Pay Commission.

The Committee examined the circulars issued by the school with regard to fee hike effected by it for implementation of the recommendations of VI Pay Commission in pursuance of the aforesaid order dated 11/02/2009 of the Director of Education. It observed that the school issued a circular dated 15/02/2009 requiring the students to pay lump sum arrear of Rs.3500 for the period 01/01/2006 to 31/08/2008 as well as the increased fee w.e.f. 01/09/2008. The tuition fee that was increased by the school was @ Rs. 400 per month. The Committee also observed that the school issued a fresh circular dated 30/03/2009 vide which it advised the parents to pay a further amount of Rs. 822 as arrears of development fee in respect of classes nursery to 8th , Rs.930 in respect of class 9th & 10th & Rs.1200 in respect of classes 11th & 12th. It was also observed that the school was charging development fee @ 15% of tuition fee as per its original fee schedules filed under section 17 (3) of the Delhi School Education Act 1973. The arrears of tuition fee, which were recovered @ Rs. 400 per month w.e.f. 1.9.2008, amounted to Rs. 2800 upto 31/03/2009. On the face of it, it



TRUE COPY

[Signature]
Secretary

appeared that the recovery of arrears of development fee was much more than 15% of the arrears of tuition fee.

Accordingly, the school was directed to furnish the calculations as to how it arrived at the aforesaid figures of arrears of development fee, which are stated to be @ 15% of the arrears of tuition fee.

The school vide its letter dated 30/12/2017 furnished the calculations with regard to recovery of arrears of development fee for the period 01/09/2008 to 31/03/2009.

The authorized representatives who appeared for the school submitted that on the face of it, it is apparent that the school recovered arrears of development fee at the rate which was higher than 15% of the arrears of tuition fee, however the apparent anomaly was account of the fact that the school had not fully recovered the development fee for the whole year based on its original fee schedule of 2008-09. The balance of development fee which was remaining out of the development fee originally recoverable was also clubbed with the arrears of development fee as permitted vide order dated 11/02/2009. In actual fact, the arrears of development fee which were recovered by the school pursuant to order dated 11/02/2009 amounted to only 15% of the arrears of tuition fee, which the school was entitled to recover.

The Committee has examined the calculations filed by the school as well as the fee schedules filed by the school originally for the year



TRUE COPY

[Signature]
Secretary

2008-09 under section 17(3) of the Delhi School Education Act, 1973. It notices that the development fee which the school was to recover originally was to be paid by the students in three installments. The last installment was to fall due simultaneously with the fee arrears which were required to be paid by the students in terms of order dated 11/02/2009. Therefore, the school clubbed the two and erroneously showed the entire amount as arrears of development fee recoverable pursuant to order dated 11/02/2009 issued by the Director of Education for implementation of the recommendations of VI Pay Commission in its circular dated 30/03/2009 issued to the students.

Based on the audited balance sheet of the school as on 31/03/2008 and the information furnished by the school in its various communications with the Committee, which have also been reconciled with the audited financials of the school for the years 2008-09 and 2009-10, the Committee has prepared the following calculation sheet to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education:



TRUE COPY

Signature
Secretary


Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	Total Diversion of funds in repayment of loans and payment of interest thereon from 2006-07 to 2009-10 (A)		1,215,907
	<u>Current Assets + Investments</u>		
	Cash and Bank Balances	36,946	
	FDRs with Bank of India	80,000	
	PF excess deposit	9,384	126,330
Less	<u>Current Liabilities</u>		
	Security Deposits refundable	902,675	
	Expenses payable	648,507	
	PF payable	686	
	Salary payable	410,000	
	Duties & Taxes payable	21,527	1,983,395
	Net Current Assets + Investments (B)		(1,857,065)
	Funds deemed to be available (A+B)		(641,158)
Less	Funds available for implementation of 6th CPC		
	Additional Liabilities after implementation of 6th CPC:		
	Arrear of Salary as per 6th CPC	4,316,085	
	Incremental Salary for 2009-10 (as per calculation given below)	3,330,091	7,646,176
Add	Excess / (Short) Fund Before Fee Hike		(7,646,176)
	Additional Recovery for 6th CPC:		
	Arrear of tuition fee	2,476,945	
	Arrear of development fee	325,346	
	Incremental fee for 2009-10 (as per calculation given below)	1,612,023	4,414,314
	Excess / (Short) Fund After Fee Hike		(3,231,862)



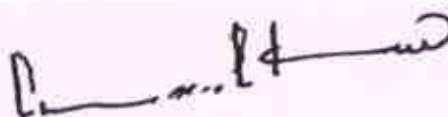
It is evident from the above calculations that the school did not have any funds of its own as on 31/03/2008 which could have been utilised for implementation of the recommendations of VI Pay Commission. The total financial impact of implementing the recommendations of VI Pay Commission on the school amounted to Rs. 76,46,176 as against which the additional revenue generated by the school by recovering arrear fee and increasing the regular fee pursuant to order dated 11/02/2009 amounted to Rs. 44,14,314, leaving an uncovered gap of Rs. 32,31,862 and that too without any consideration of the requirement of school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment which amounted to Rs. 63,24,476 as per the information furnished by the school and verified by the Committee. No doubt the school was not complying with any of the pre conditions prescribed by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra), no adverse inference is required to be drawn in this respect as the total amount of development fee recovered by the school in 2009-10 and 2010-11 amounted to Rs. 42,32,585 in view of the deficit incurred by the school in implementing the recommendations of VI Pay Commission and its requirement to keep funds in reserve for meeting its accrued liability of gratuity and leave encashment.



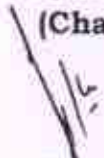
TRUE COPY


Secretary


It needs to be recorded that the school did not to ask for any further hike in fee, despite its incurring the deficit as aforesaid. In the circumstances the arrears of fee recovered by the School and fees hiked by the school cannot be termed contrary to the order of the Director of education dated 11 February, 2009 nor it will be appropriate to direct the school to refund the Development fee or any part of it in the facts and circumstances of the School. Order accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R. K. Sharma
(Member)

Date: 10/01/2018



TRUE COPY



Secretary

**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:

Meera Model School, Janakpuri, New Delhi-110058 (B-184)

Order of the Committee

Present: Nemo.

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.

The school submitted its reply to the questionnaire vide its email dated 02/03/2012. As per the reply submitted by the school,

- (a) The school implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/09/2008. The total monthly salary paid by the school rose from Rs. 17,62,453 to Rs. 26,86,144 as a result of implementation of the recommendations of VI Pay Commission. Further, the school paid a sum of Rs. 1,40,97,923 as arrears on account of the retrospective application of the recommendations of VI Pay Commission w.e.f. 01/01/2006.



(b) The school increased its tuition fee w.e.f. 01/09/2008 in pursuance of order dated 11/02/2009 issued by the Director of Education and recovered a total sum of Rs. 45,33,900 as arrear fee w.e.f. 01/01/2006.

In the first instance, the relevant calculations in order to examine the justifiability of fee hike effected by the school were made by the Chartered Accountants who were deputed with this Committee by the Directorate of Education. As per calculations made by them, the school incurred a deficit on implementation of the recommendations of VI Pay Commission. However, since the CAs had made a calculations simply by extrapolating the monthly differences in salary and fee for the period prior to implementation and after implementation of the recommendations of VI Pay Commission, without reconciling the same with the audited financials of the school, the same were not relied upon by the Committee.

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



questionnaire specifically with regard to the relevant queries about charging and utilisation of development fee and maintenance of earmarked accounts for development fund and depreciation reserve fund was also issued to the school.

The school furnished the required information under cover of its letter dated 20/05/2015, except the details of its accrued liabilities of gratuity and leave encashment. It was mentioned in the letter that the school did not have any transaction with its parent society.

The Committee issued a notice of hearing, requiring the school to appear before it on 09/11/2015 alongwith all its records and offer its justification in support of the fee hike effected by it and arrear fee recovered by it as per order dated 11/02/2009 issued by the Directorate of Education.

On the date of hearing, Sh. V. Hariharan appeared with Sh. Gautam Suri, Chartered Accountant. They filed the details of accrued liabilities of gratuity and leave encashment. They were partly heard by the Committee. The details filed by the school under cover of its letter dated 09/11/2015 were perused. It was contended by the authorized representatives appearing for the school that the school had paid full amount of arrears which were due to the staff, consequent upon implementation of the recommendations of VI Pay Commission. The payments were made through direct bank transfers. The Committee



verified these aspects with reference to the records produced by the school.

In the meantime, there was a change in the constitution of this Committee on account of resignation of Justice Anil Dev Singh. The reconstituted Committee issued a fresh notice dated 15/09/2017, providing an opportunity of being heard to the school on 04/10/2017.

On the date of hearing, Ms. Sadhna Bhalla, Principal of the school appeared with Sh. V. Haran, UDC.

The Committee examined the balance sheet of the school and observed that apparently the school had diverted a sum of Rs. 7,55,94,989 in purchase of land and construction of the building at Bakhargarh whereas the school itself was situated in Janakpuri. The Principal of the school submitted that this was meant for a new school with hostel at Bakhargarh for which the essentiality certificate was issued by the Directorate of Education and the land use was also changed by the Competent Authority from agricultural to institutional. She further submitted that the proposal could not come to final shape on account of various difficulties and in March 2017, the parent society of the school returned the total amount to the school.

The school was required to furnish copies of essentiality certificate and sanctioned plan of the school along with the necessary documents showing the change of land use. The school was also required to explain

Meera Model School, Janakpuri, New Delhi-110058/B-184/Order



Page 4 of 17

TRUE COPY

[Signature]
Secretary

as to how the funds of this school could be diverted for another school to be set up by the society as the Committee was of the prima facie view that had the funds remained with the school, they would have been no requirement for the school to recover any arrear fee or hike the regular fee in order to implement the recommendations of VI Pay Commission. The school was also required to show that the total amount diverted by it for setting up another school had been refunded by the parent society in March 2017, as contended by its Principal. The school was required to produce its books of accounts which were maintained in an accounting software in a lap top for verification by the Committee. The matter was directed to be listed for 9/11/2017, which was deferred to 29/11/2017.

On this date, the school furnished copies of essentiality certificate issued by the Directorate of Education for setting up a school at Bhakargarh, copy of resolution passed by MCD for change of land use, approved lay out plan of the school at Bhakargarh, no objection certificate from the Fire Department and the completion certificate issued by MCD. It was submitted on behalf of the school that the project at Bhakargarh was delinked from this school and the investment made by the school amounting to Rs. 8.81 crores had been returned to the school by its Parent Society of the school in the year 2016-17. It was further submitted that the school had transferred a sum of Rs. 6.00 crores to the development fund account which was earlier not kept in an earmarked account. It was further submitted that the school was permitted under



the law to make investment for establishing another school under the same management and there was no bar on the school for doing so. It was also submitted that the investment had already been made more than 10 years prior to the coming into effect of the recommendations of VI Pay Commission and was already a fait accompli and since the school did not actually have funds in its hands when the VI Pay Commission announced its recommendations which were accepted by the Government, there was no alternative with the school except to hike the fee and recover the arrear fee from the students in terms of the recommendations of VI Pay Commission.

The Committee also observed that while the development fee received by the school was capitalized and reflected as development charges in the balance sheet of the school, the utilization on account of acquisition of fixed assets is not deducted from the same. Therefore, the balance reflected as development charges/fund in the balance sheet may not represent the total unutilized balance of development fund which is required to be kept in an earmarked account. The authorized representatives submitted that the school started charging development fee in 2006-07. Accordingly, they submitted that the school would file a detailed statement showing year wise collection of development fund, utilization and the balance remaining unutilized at the end of the year as also the accumulated depreciation reserve fund in respect of assets acquired out of development fund. The school was also directed to reflect



the balances in earmarked FDRs/saving bank accounts against development fund and depreciation reserve fund, if any. It was desired by the Committee that this exercise ought to be carried out upto the year 2016-17 when the school reportedly transferred a sum of Rs. 6.00 crores in the earmarked development fund account. The matter was listed for further hearing on 07/12/2017.

On 07/12/2017, written submissions were filed on behalf of the school alongwith which a statement showing collection and utilization of development fee from 2005-06 to 2016-17, copies of balance sheet and schedules of fixed assets required out of development fund for the said period and a list of FDRs and saving bank accounts against earmarked development fund were filed. Copies of FDRs and saving bank pass books were also enclosed by the school. The school also produced its books of accounts which were examined by the Committee.

Before making the relevant calculations, it needs to be settled whether the school could legally invest a sum of Rs. 7,55,94,989 in purchase of land and construction of the building at Bakhargarh, as contended by the authorized representatives appearing for the school because if it is found that the school could not do so, it will have to be held that the school had sufficient funds of its own, which were diverted by it for investment in establishing another school by its parent society and there would have been no need for the school to hike any fee for



TRUE COPY

[Signature]
Secretary

implementation of the recommendations of VI Pay Commission or for recovery of any arrear fee as per order dated 11/02/2009 issued by the Director of Education.

The prohibition to transfer funds to the society or any other institution is contained in clause 23 of the order dated 11/02/2009 issued by the Director of Education, with reference to which the availability of funds with the school is to be examined by this Committee. Clause 23 of the aforesaid order reads as follows:

23. Fees/Funds collected from the parents/students shall be utilised strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution.

This very issue arose in the case of **Modern School vs. Union of India and ors. (2004) 5 SCC 583** in which the circular dated 15/12/1999 issued by the Director of Education on acceptance of the recommendations of Duggal Committee constituted by the Hon'ble Delhi High Court after the schools hiked the fee for the purpose of implementation of the recommendations of V Pay Commission, was impugned. Clause 8 of this circular was exactly the same as clause 23 of the order dated 11/02/2009. The same is reproduced hereunder for immediate reference:



"8. Fees/Funds collected from the parents/students shall be utilised strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution."

The Hon'ble Supreme Court in the aforesaid case of Modern School held as follows:

"22. As stated above, it was argued that clause 8 of the order of Director was in conflict with rule 177. We do not find any merit in this argument.

23. Rule 177(1) refers to income derived by unaided recognized school by way of fees and the manner in which it shall be applied/utilized. Accrual of income is indicated by rule 175, which states that income accruing to the school by way of fees, fine, rent, interest, development fees shall form part of Recognized Unaided School Fund Account. Therefore, each item of income has to be separately accounted for. This is not being done in the present case. Rule 177(1) further provides that income from fees shall be utilized in the first instance for paying salaries and other allowances to the employees and from the balance the school shall provide for pension, gratuity, expansion of the same school, capital expenditure for development of the same school, reserve fund etc. and the net savings alone shall be applied for establishment of any other recognized school under rule 177(1)(b). Under accounting principles, there is a difference between appropriation of surplus (income) on one hand and transfer of funds on the other hand. In the present case, rule 177(1) refers to appropriation of savings whereas clause 8 of the order of Director prohibits transfer of funds to any other institution or society. This view is further supported by rule 172 which states that no fee shall be collected from the student by any trust or society. That fees shall be collected from the student only for the school and not for the trust or the society. Therefore, one has to read rule 172 with rule 177. Under rule 175, fees collected from the school have to be credited to Recognized Unaided School Fund. Therefore, reading rules 172, 175 and 177, it is clear that appropriation of savings (income) is different from transfer of fund. Under clause 8, the management is restrained from transferring any amount from Recognized Unaided School Fund to the society or the trust or any other institution, whereas rule 177(1) refers to appropriation of savings (income)



TRUE COPY

Secretary

from revenue account for meeting capital expenditure of the school. In the circumstances, there is no conflict between rule 177 and clause 8."

As is apparent from the aforesaid extract of the judgment, clause 8 of the order dated 15/12/1999 issued by the Director of Education, which mandated that no amount whatsoever shall be transferred from the recognised unaided school fund of the school to the society or the trust or any other institution was upheld by the Hon'ble Supreme Court.

A petition was filed on behalf of Action Committee Unaided Schools for review of the aforesaid judgment in the case of Modern School, in which quashing of, inter alia, the aforesaid finding of the Hon'ble Supreme Court was sought by the petitioners. The judgment in the review petition is reported as **Action Committee, Un-Aided Pvt. Schools & Ors. Versus Director of Education, Delhi & Ors. 2009 (11) SCALE 77**. The relevant discussion on this issue is contained in paras 18 to 20 of the judgment delivered by the majority. It reads as follows:

18. S/Shri Soli J. Sorabjee and Salman Khurshid, learned senior counsel appearing on behalf of the Action Committee and other review petitioners, submitted that clause 8 of the Order issued by DoE dated 15.12.1999 is causing administrative difficulties which needs to be clarified. This Court vide majority judgment has held that clause 8 is in consonance with rule 177 of Delhi School Education Rules, 1973. Rule 177 has been quoted hereinabove. Under clause 8, DoE has stipulated that "no amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution." According to the learned senior counsel, a rider needs to be introduced in clause 8, namely, "except under the management of the same society or trust". Thus, according to the learned counsel, if the suggested rider is added in clause 8 then the Management would



TRUE COPY

Secretary

have no grievance with the majority view. Thus, according to the learned counsel, clause 8 should be read as follows:

"No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution except under the management of the same society or trust"

19. According to the learned counsel, if the suggested rider is added to clause 8 then it would subserve the object underlying the 1973 Act.

20. There is merit in the argument advanced on behalf of the Action Committee/Management. The 1973 Act and the Rules framed thereunder cannot come in the way of the Management to establish more schools. So long as there is a reasonable fee structure in existence and so long as there is transfer of funds from one institution to the other under the same management, there cannot be any objection from the Department of Education.

In view of the findings of the Hon'ble Supreme Court, transfer of funds to any other institution under the management of the same society or trust for establishment of more schools is permissible under the law. This judgment of the Hon'ble Supreme Court was delivered on 7th August 2009 i.e. after the issuance of order dated 11/02/2009 by the Director of Education. This Committee, by its mandate, is bound to consider the issue of funds availability with the school keeping in view the ratio of the decisions of the Hon'ble Supreme Court in the case of Modern School (supra) and Action Committee (supra). Accordingly, this Committee is of the view that the prohibition contained in clause 23 of order dated 11/02/2009 would not apply to the present case as it is an established fact that the school at Bhakargarh was sanctioned to be set up by Oberoi Education Society (Regd.) which is the parent society of this school also.



Therefore, the contention raised by the school that it could legally transfer funds for establishing the school at Bhakargarh is required to be upheld. It is also established that the investment was made long before the recommendations of VI Pay Commission came to be announced and accepted by the government. Therefore, the Committee is of the view that the investment made by the school to the tune of Rs. 7,55,94,989 cannot be deemed as part of funds available with the school which could be utilised for implementation of the recommendations of VI Pay Commission. Accordingly the Committee has made the relevant calculations with regard to availability of funds with the school vis a vis the impact of implementation of the recommendations of VI Pay Commission by excluding the aforesaid investment. The Committee has based its calculations on the audited balance sheet of the school as on 31/03/2008 which was the latest audited financial statement before the school effected the fee hike.

The Committee has determined that the school had available with it a sum of **Rs. 66,91,987** as follows before effecting the fee hike:



Particulars	Amount (Rs.)	Amount (Rs.)
Current Assets + Investments		
Cash	50,959	
Bank Overdraft	(5,662,555)	
Fee receivable	183,192	
FDRs with IOB	17,186,405	
Prepaid Expenses	29,692	
Interest accrued on FDRs	45,095	
Sundry Debtors and Advances	86,007	11,918,795
Less : Current Liabilities		
Caution Money	1,131,900	
Security Deposit	22,470	
Retention Money	37,955	
Sundry Creditors	319,759	
Expenses Payable	2,041,497	
TDS Payable	47,877	
Fee received in Advance	1,625,350	5,226,808
Net Current Assets + Investments		6,691,987

The financial impact of implementing the recommendations of VI Pay Commission on the school has been determined to be **Rs. 3,08,32,450** as follows:

Arrear of Salary as per 6th CPC	18,553,110*
Incremental Salary in 2009-10 (as per calculation below)	12,279,340**
Total	3,08,32,450

*Calculation of arrear salary as per 6th CPC

For the period 01.01.06 to 31.8.08	14,097,923
For the period 01.09.08 to 31.3.09	6,142,232
	<u>20,240,155</u>
Less: Arrears of 5th CPC included in above	1,687,045
Net Arrears of 6th CPC	<u>18,553,110</u>



**Calculation of incremental salary in 2009-10

	2008-09	2009-10
Normal/ regular salary	<u>22,083,879</u>	34,363,219
Incremental salary 2009-10	<u>12,279,340</u>	

Thus there was a shortfall of Rs. 2,41,40,463 (3,08,32,450 - 6,691,987) with the school which was required to be bridged by recovering arrear fee and increasing the regular fee of the students. Whether the extent of arrear fee recovered and tuition fee hiked was justified or was excessive is the question to be determined by the Committee.

The school generated a total revenue of Rs. 1,82,39,230 by way of fee hike and recovery of arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education. The calculation of the same is as follows:

Arrear of tuition fee from 1.1.06 to 31.3.09	9,945,150
Incremental tuition fee in 2009-10 (as per calculation below)	8,294,080 *
Total	18,239,230

*Calculation of incremental tuition fee in 2009-10

	2008-09	2009-10
Normal/ Regular Tuition fee	<u>27,476,226</u>	35,770,306
Incremental tuition fee in 2009-10	<u>8,294,080</u>	



TRUE COPY

Signature
Secretary

It is thus apparent that the school incurred a deficit to the extent of **Rs. 59,01,233** (2,41,40,463 - 1,82,39,230) on implementation of the recommendations of VI Pay Commission. It is worthwhile to note here that the Committee has upto the stage not taken into account the requirement of the school to keep funds in reserve for future contingencies or for meeting its accrued liabilities for gratuity and leave encashment. The liabilities of the school on these accounts amounted to Rs. 1,61,35,867 for gratuity and Rs. 43,63,320 for leave encashment.

In view of the aforesaid findings of the Committee, the recovery of arrear fee and the increase in tuition fee effected by the school pursuant to order dated 11/02/2009 cannot be faulted and thus no intervention is required to be made in relation thereto.

Development Fee:

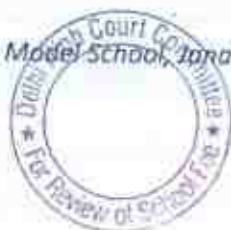
In reply to the questionnaire issued by the Committee, the school vide its submission dated 20/05/2015 stated that it had been charging development fee in all the five years for which the information was sought by the Committee. In particular, the development fee recovered by the school amounted to Rs. 54,40,601 in 2009-10 and Rs. 63,14,299 in 2010-11. Out of the development fee charged by the school, the amount utilised was just Rs. 2,62,653 in 2009-10 and Rs. 1,87,339 in 2010-11. The development fee was treated as a capital receipt and the school was maintaining earmarked funds against unutilised development fund and depreciation reserve fund. The school furnished details of



FDRs held by it purportedly against the development fund and depreciation reserve fund as Annexure 3 to its reply. The aggregate amount of FDRs purportedly earmarked by the school against development fund and depreciation reserve fund was Rs. 1,63,63,748 as on 31/03/2011.

The authorized representatives who appeared for the school, during the course of hearing on 09/11/2015 conceded that the details of FDRs as given in Annexure 3 of the reply to the questionnaire represented all the FDRs held by the school irrespective of whether they were held against school fund or depreciation reserve fund for development fund and no FDRs had been earmarked in particular against development fund or depreciation reserve fund. The Committee has also examined the audited financials of the school and finds that no funds were earmarked against development or depreciation reserve and thus the school did not comply with the pre conditions laid down by the Duggal Committee which were upheld by the Supreme Court in the case of Modern School (supra). In normal course, we would have recommended that the school ought to refund the development fee charged by it in 2009-10 and 2010-11 in pursuance of order dated 11/02/2009. The amount charged by the school as development fee in these two years amounted to **Rs. 1,17,54,900** (54,40,601 + 63,14,299).

However, keeping in view that the school had incurred a deficit of Rs. 59,01,233 and had accrued liabilities of gratuity



TRUE COPY

Signature
Secretary

amounting to Rs. 1,61,35,867 and leave encashment amounting to Rs. 43,63,320 as on 31/03/2010, which had not been considered while working out the deficit arising on implementation of the recommendations of VI Pay Commission, the Committee refrains from making any recommendations regarding refund of development fee charged by the school in 2009-10 and 2010-11.

Recommendations:

In view of the aforesaid findings, the Committee is of the view that no intervention is required to be made either with regard to the recovery of arrear fee by the school or with regard to the hike in regular tuition fee effected by it w.e.f. 01/09/2008 or with regard to charging of development fee in 2009-10 and 2010-11.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 17/01/2018



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

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

In the matter of:

S.M. Arya Public School, Punjabi Bagh West, New Delhi-110026 (B-69)

Recommendations of the Committee

Present: Sh. Surjeet Singh, Chartered Accountant with Sh. Arvind Nagpal, Manager 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.

The school in its reply dated 03/03/2012 stated that it had implemented the recommendations of VI Pay Commission and the salary of the staff was increased w.e.f. 01/04/2009. In evidence, it enclosed copies of the details of the monthly salary for the months of March & April 2009 showing that the total salary rose from Rs. 11,37,222 to Rs. 16,59,144 per month as a result of implementation of the recommendations of VI Pay Commission. Further, the school had paid a total amount of Rs. 74,30,910 as arrears on account of implementation of the recommendations of VI Pay Commission w.e.f. 01/01/2006.

S.M. Arya Public School, Punjabi Bagh West, New Delhi-110026 (B-69)

Page 1 of 16



TRUE COPY

[Handwritten Signature]
Secretary

The school also stated that it had increased the regular tuition fee w.e.f. 01/04/2009 in terms of order dated 11/02/2009 issued by the Director of Education and furnished the details of pre implementation and post implementation of tuition fee and also filed copy of the circular dated 04/03/2009 issued to the parents. As per the information furnished and the circular issued to the parents, the fee hike effected by the school w.e.f. 01/04/2009 for different classes is as follows:

Class	Monthly tuition fee 2008-09 (Rs.)	Monthly tuition fee 2009-10 (Rs.)	Increase with effect from 01/04/2009 (Rs.)
I to V	935	1135	200
VI to VIII	1110	1410	300
IX & X	1275	1575	300
XI & XII (Science)	1510	1910	400
XI & XII (Commerce)	1410	1710	300

Besides, the school also recovered arrears of tuition fee as well as arrears of development fee for the period 01/09/2008 to 31/03/2009 and the lump sum arrear fee for the period 01/01/2006 to 31/08/2008 at the rates prescribed by order dated 11/02/2009.

The calculations to examine the justifiability of hike in fee and collection of arrear fee were, in the first instance, made by the Chartered Accountants(CAs) deputed by the Directorate of Education to assist this Committee and they worked out that the school had apparently recovered more fee than was required for meeting the shortfall on



TRUE COPY

Secretary

account of implementation of the recommendations of VI Pay Commission. The calculations made by them showed that the school, prima facie, may be required to refund a sum of Rs. 90,34,050.

The calculations made by the CAs were examined by the Committee and was observed that the CAs had arrived at the aforesaid figure without taking into account the requirement of the school to keep funds in reserve for meeting its statutory liabilities of gratuity and leave encashment. Moreover, the impact of VI Pay Commission and the hike in fee were taken notionally by them by extrapolating the monthly differences for 12 months, without reconciling the same with the audited financials of the school. Therefore, the calculations made by them were not relied upon by the Committee.

The Committee issued a notice dated 08/05/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment. A second questionnaire specifically requiring the school to furnish information with regard to charging development fee, its utilisation and treatment in accounts and maintenance of earmarked development fund and depreciation reserve fund was also issued to the school along with this notice. This was



TRUE COPY

Hajil
Secretary

required to be done within 10 days. However, the school, vide letter dated 19/05/2015 sought an additional time of 30 days as the information sought was, in its opinion, quite extensive. Since, no information was received even upto 23/09/2015, the Committee issued a notice of hearing requiring the school to appear before it on 12/10/2015 along with all its books of accounts, fee and salary records, bank statements etc. for the years 2006-07 to 2010-11. The school again vide its letter 08/10/2015 sought more time as the school was preparing for the golden jubilee year celebrations on 17/10/2015. The Committee issued a fresh notice dated 21/10/2015 giving a final opportunity to the school to appear before it on 03/11/2015. On this date, Sh. Arvind Nagpal, Manager of the school appeared and sought to file the information which was required by the Committee. However, the Committee observed that the manner in which the information was prepared by the school did not accord with the format given by the Committee and would not have facilitated the relevant calculations and therefore was not taken on record. The school was given another opportunity to furnish the relevant information as per notices dated 08/05/2015 and 23/09/2015 within one week. The school filed the required information under cover of its letter dated 12/11/2015. However, no reply to the questionnaire regarding development fee was furnished by the school.



TRUE COPY
[Signature]
Secretary

In the meantime, there was a change in the constitution of this Committee on account of resignation of Justice Anil Dev Singh. The reconstituted Committee issued a fresh notice dated 30/08/2017, providing an opportunity of being heard to the school on 18/09/2017. The Committee observed that the school was also running nursery school, whose financials were not incorporated in the financials of the main school. Accordingly, by an email dated 05/09/2017, the Committee required the school to furnish the audited financials of the nursery school along with the other relevant information which had been sought from the senior school. The school again sought adjournment on grounds that there was a bereavement in the family of the Chairman and the Manager of the school was also indisposed. Accordingly, the matter was directed to be relisted on 10/10/2017.

On this date Sh. Surjeet Singh, Chartered Accountant appeared with Sh. Arvind Nagpal, Manager, Ms. Rashmi Bhatia and Ms. Priyanka Goel, support staff of the school.

The Committee perused copies of the circulars issued by the school to the parents regarding fee hike effected by it in pursuance of order dated 11/02/2009 which had been filed along with the written submission dated 12/09/2015 and also along with reply to the questionnaire submitted by the school in 2012. Surprisingly, in the written statement, the school claimed to have hiked the tuition fee only



TRUE COPY

[Handwritten Signature]
Secretary

to the tune of Rs. 200 per month in pursuance of order dated 11/02/2009. However, as noticed earlier, the school had hiked the tuition fee for classes I to V @ Rs. 200 per month, for classes VI to X @ Rs. 300 per month, for class XI, it was @ Rs. 400 per month for classes XI & XII. It was submitted on behalf of the school that it had implemented the recommendations of VI Pay Commission and paid the arrear salary in two installments, in 2009-10 and 2010-11. Small payments were made in the subsequent years also. It was further submitted that all the payments were made by crossed payee cheque and the school produced its bank statement in support thereof. The school filed details of fee and salary and other expenses incurred by it from 2008-09 to 2011-12. However, on examination of print outs of the relevant accounts as produced by the school, the Committee observed that there were some differences between the figures emanating from the books of accounts and those provided by the school in statement. Accordingly, the school was directed to produce the books of accounts for the years 2008-09 to 2011-12 which were reportedly to have been maintained in Tally software. The matter was directed to be relisted for further hearing on 30/11/2017. The school was also directed to furnish copies of the audited balance sheets of the nursery school on that date. However, the school again sought adjournment on the ground that the school had to do the necessary paper work for revision of salary and payment of arrears as per the recommendations of 7th pay commission.

S.M. Arya Public School, Punjabi Bagh West, New Delhi-110026 (B-69) Page 6 of 16



TRUE COPY

 Secretary

and the same is required to be submitted to the Director of Education also by that very evening. Another opportunity was given to the school to produce the books of accounts in a laptop on 6th December 2017.

On the aforesaid date, the school furnished audited financials of the nursery school as well as a revised statement of fee and salary for the years 2008-09 to 2011-12. The same was verified by the Committee with reference to the books of accounts of the school which were produced in a laptop. The figures which are relevant for the purposes of making the calculations to examine the justifiability of fee hike effected by the school pursuant to order dated 11.2.2009 issued by the Director of Education, were culled out from the books of accounts by the Committee. They are as follows:

Particulars	Main School	Nursery School	Total
Salary arrears paid to the staff in 2009-10	30,48,987	3,64,774	34,13,761
Salary arrears paid in 2011-12	29,96,558		29,96,558
Salary arrears paid in 2012-13	3,13,549		3,13,549
Salary arrears paid in 2014-15	2,90,193		2,90,193
Regular salary for the year 2008-09	1,65,90,428	16,91,199	1,82,81,627
Regular salary for the year 2009-10	2,31,43,033	26,44,154	2,57,87,187
Arrear fee received in 2008-09	14,48,224		14,48,224
Arrear fee received in 2009-10	55,11,909		55,11,909
Arrear fee received in 2010-11	2,68,475		2,68,475
Arrear fee received in 2011-12	3,825		3,825
Regular tuition fee for the year 2008-09	2,20,72,624	14,35,704	2,35,08,328
Regular tuition fee for the year 2009-10	2,98,90,561	20,41,265	3,19,31,826



TRUE COPY
 [Signature]
 Secretary

The Committee also observed that the school receives development fee from the students @ 15% of tuition fee. However, 50% of the same is treated as a revenue receipt in the books of the school. The remaining 50% is transferred to a separate building maintenance account and is spent chiefly on maintenance of building. The authorized representative of the school submitted that the amount that is retained in the school, though treated as a revenue receipt, was actually utilized for the purpose of additions to the school building which was in progress for the last number of years. He further submitted that no part of development fee was utilized for purchase or up gradation of furniture and fixture or fittings.

The total development fee received by the school in the years 2008-09, 2009-10 and 2010-11, as culled out from the books of the accounts of the school, is as follows:

Year	Development Fee Received	Transfer to building maintenance account	Additions to building
2008-09	30,45,355	15,22,678	61,95,036
2009-10	38,30,310	19,15,155	57,45,738
2010-11	39,13,856	19,58,100	36,44,812

Till this date, the school had not furnished the details of its accrued liabilities of gratuity and leave encashment as on 31.3.2010. The



TRUE COPY

 Secretary

authorized representatives submitted that they would file the details within two weeks.

The school filed details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 under cover of its letter dated 06/01/2018. As per the details filed, the accrued liabilities of gratuity of the school were Rs. 1,66,08,458 and those for leave encashment were Rs. 55,47,706. The calculations of gratuity were based on the number of years of service and the qualifying salary of the employees. The leave encashment liability was worked out on the basis of accumulated earned leave to the credit of the employees as on 31/03/2010. These were verified by the Committee and prima facie appeared to be correct.

The Committee is constrained to observe that the school was wholly uncooperative during the entire exercise of examination of justifiability of fee hike effected by it pursuant to order dated 11/02/2009. It not only dilly dallied in furnishing the information but also furnished misleading and incorrect information at times. This has resulted in waste of valuable time of this Committee. However, these factors do not weigh with this Committee which basis its decisions on objective considerations rather than the subjective inconvenience suffered by it.

The Committee also observed that while the school recovered the arrear fee almost entirely upto 2009-10 (Rs. 69,60,133 out of a total of S.M. Arya Public School, Purjabi Bagh West, New Delhi-110026 (B-69) Page 9 of 16



TRUE COPY
Secretary

Rs. 72,32,433) it did not wholly part with the arrear salary which was payable to the staff. Upto 2009-10, only a sum of Rs. 30,48,987 out of the total liability of Rs. 70,14,061, was paid. The balance 29,96,558 was paid only in the year 2011-12. In the meantime, the school diverted its collection of arrear fee to the construction of building. However, since the school has ultimately paid the arrears to the staff, the entire figure of arrear payment has been taken into consideration by us for the purpose of making the relevant calculations.

The school also was less than honest in presenting its financials as it did not reflect the full amount of development fee charged by it as its income. It transferred 50% to its parent society, purportedly for maintenance of building. Even the amount of 50% that was retained by the school was admittedly not utilised for purchase or upgradation of furniture and fixture and equipments for which the development fee is permitted to be recovered but it concededly utilised the same for making additions to its building. This aspect has been adversely commented upon by the Duggal Committee which was constituted by the Hon'ble Delhi High Court to examine the fee hike effected by the schools pursuant to implementation of the recommendations of V Pay Commission. It observed in its report as follows:



TRUE COPY

[Signature]
Secretary

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)*

In this case, even the fee that was specifically recovered for payment of arrear salary was utilised by the school for making additions to the building.

As the school was not complying any of the pre conditions laid down by the Duggal Committee for charging of development fee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, the Committee has included the development fee charged by the school in 2009-10 and 2010-11 in the revenues of the school.

However, this Committee is not swayed one way or the other on account of the less than honest presentation made by the school or the dilly dallying made by the school during the course of proceeding as ultimately it has been able to ferret out the correct information from the accounts of the school and the details furnished by the school and on that basis made the relevant calculations.



The Committee has determined that the school had available with it a sum of **Rs. 1,30,37,848** as on 31/03/2008, as per the following details:

Particulars	Secondary	Nursery	Total
<i>Current Assets + Investments</i>			
Cash in hand	14,689	2,070	16,759
Balance in Savings Bank account	1,875,097	327,496	2,202,593
Investments with accrued interest	6,148,607	3,543,558	9,692,165
Loans and advances	1,876,307	24,293	1,900,600
Total Current Assets + Investments	9,914,700	3,897,417	13,812,117
<i>Current Liabilities</i>			
Security Deposits refundable	422,452	42,950	465,402
Current liabilities and advances	279,123	29,744	308,867
Total Current Liabilities	701,575	72,694	774,269
Net Current Assets + Investments	9,213,125	3,824,723	13,037,848

The total financial impact of implementing the recommendations of VI Pay Commission was **Rs. 1,45,19,621** as per the following calculations:

Particulars	Secondary	Nursery	Total
Arrear of Salary as per 6th CPC	6,649,287	364,774	7,014,061
Incremental Salary for 2009-10 (as per calculation given below)*	6,552,605	952,955	7,505,560
Total	13,201,892	1,317,729	14,519,621



TRUE COPY

Secretary

*Calculation of Incremental salary for 2009-10

<u>Secondary Section</u>	2008-09	2009-10
Normal/ regular salary	<u>16,590,428</u>	23,143,033
Incremental salary in 2009-10	<u>6,552,605</u>	
<u>Nursery Section</u>	2008-09	2009-10
Normal/ regular salary	<u>1,691,199</u>	2,644,154
Incremental salary in 2009-10	<u>952,955</u>	

Thus, apparently the school had a shortfall of Rs.14,81,773 (1,30,37,848-1,45,19,621). Apparently the school needed to bridge this gap by hiking the fee or by recovering arrear fee. However, it will be observed that upto this stage, the Committee has not taken into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment and for future contingencies. The accrued liabilities of gratuity and leave encashment alone amounted to **Rs. 2,21,56,164** (1,66,08,458 + 55,47,706). If this is taken into consideration, the school required to raise its revenues by hiking fee and recovering arrear fee to the tune of **Rs. 2,36,37,937** (14,81,773 + 2,21,56,164). The additional revenue actually generated by the school by recovering arrear fee and hiking the regular fee amounted to **Rs. 1,56,55,931** as per the following calculations:



Particulars	Secondary	Nursery	Total
Arrear of tuition fee	7,232,433	-	7,232,433
*Incremental fee for 2009-10 (as per calculation given below)	7,817,937	605,561	8,423,498
Total	15,050,370	605,561	15,655,931

*Calculation for Increment fee in 2009-10

Secondary Section	2008-09	2009-10
Normal/ Regular Tuition fee	22,072,624	29,890,561
Incremental tuition fee in 2009-10	7,817,937	
Nursery Section	2008-09	2009-10
Normal/ Regular Tuition fee	1,435,704	2,041,265
Incremental tuition fee in 2009-10	605,561	

Thus keeping in view the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment, the Committee is of the view that no intervention is called for with regard to recovery of arrear fee or the hike in tuition fee effected by it in pursuance of order dated 11/02/2009. In fact, the school can be said to have incurred a deficit to the tune of Rs. 79,82,006 (2,36,37,937 - 1,56,55,931).

Development Fee:

We have already discussed above that the school was not fulfilling any of the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School S.M. Arya Public School, Punjabi Bagh West, New Delhi-110026 (B-69)



TRUE COPY

[Signature]
Secretary

(supra), the Committee, in normal course, would have recommended refund of the development fee charged by the school in the years 2009-10 and 2010-11. The total amount of development fee charged by the school in these two years amounts to Rs. 88,92,416 as per the following details:

Development fee	Secondary	Nursery	Total
For the year 2009-10	3,830,310	518,350	4,348,660
For the year 2010-11	3,913,856	629,900	4,543,756
Total	7,744,166	1,148,250	8,892,416

Noticeable from the above discussion is that the Committee has not taken into account the requirement of the school to keep funds in reserve for future contingencies. This Committee in the cases of all the schools has opined that the schools ought always to keep funds in reserve equivalent to four months salary for any future contingency. The total salary expenditure of the school for the year 2009-10 amounted to Rs. 2,57,87,187. Based on this, the requirement of the school to keep funds reserve for future contingencies amounts to Rs. 85,95,729 which is nearly equal to the development fee charged by the school in 2009-10 and 2010-11. Further, keeping in view that the school incurred a deficit of Rs. 79,82,006 on implementing the recommendations of VI Pay Commission, the Committee refrains from any recommendations regarding refund of development fee charged by the school in the years 2009-10 and 2010-11.

S.M. Arya Public School, Punjabi Bagh West, New Delhi-110026 (B-69)

Page 15 of 16

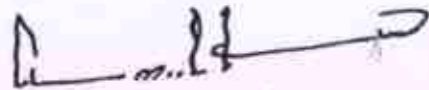


TRUE COPY


 Secretary

Recommendations:


In view of the above discussion, the Committee is of the view that no intervention is required in the matter of fee hike effected by the school or the arrear fee recovered by the school or the development fee charged by the school in the years 2009-10 and 2010-11 in pursuance of order dated 11/02/2009 issued by the Director of Education.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Date: 17/01/2018



TRUE COPY

 Secretary

**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:

Dev Samaj Modern School, Nehru Nagar, Delhi-110065 (B-633)

Order of the Committee

Present: Sh. Bhagat Singh, Office Asstt, Ms. Asha Batra, UDC & Sh. S.K. Sharma, 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, which was followed by a reminder dated 27/03/2012. However, the school did not respond to the questionnaire or to the reminder.

The Committee issued a notice dated 16/07/2012 requiring the school to produce its records as also reply to the questionnaire dated 27/02/2012, on 09/08/2012. Ms. Asha Batra, Office Assistant of the school appeared on the said date along with the records. She also filed reply to the questionnaire issued by the Committee. As per the reply submitted by the school, it had made part payment of arrears of salary to the staff. A list of such payments was filed showing payment of Rs. 36,73,058 as arrears to the staff on account of implementation of VI Pay



Dev Samaj Modern School, Nehru Nagar, Delhi-110065/B-633/Order

Page 1 of 13

TRUE COPY

Secretary

Commission recommendations. Further the school stated that it had increased the salary of staff as per the recommendations of VI Pay Commission w.e.f. April 2009. With regard to hike in fee, the school stated that the same had been done in terms of order dated 11/02/2009 of the Director of Education. It also furnished a copy of the circular purportedly issued to the parents, which was in fact the aforesaid order dated 11/02/2009 issued by the Director of Education. No details of fee hike or recovery of arrear fee were given in the reply to the questionnaire. The records were examined by one of the audit officer of the Committee and the school was advised to submit complete reply to the questionnaire. The school furnished a fresh reply under cover of its letter dated 30/08/2012 in which it gave definite figures of fee hike etc. It stated that the school hiked tuition fee by Rs. 200 per month for students of classes Nursery to VIII and by Rs. 300 per month for students of classes IX to XII and arrears for the period 01/09/2008 to 31/03/2009 were recovered accordingly. Further the school also recovered lump sum arrears for the period 01/01/2006 to 31/08/2008 @ Rs. 2,500 from students of classes Nursery to VIII and @ Rs. 3,000 from students of classes IX to XII. The school had recovered a sum of Rs. 62,09,220 as arrear fee but had paid only Rs. 37,54,167 as part of arrear salary. The audit officer of the Committee who examined the records recorded that the aforesaid amount of Rs. 37,54,167 was the



total payment made upto 2011-12. It was stated by the school that the rest of the amount would be paid as early as possible.

After records are verified by the audit officer, the preliminary calculations to examine the justifiability of the hike in fee effected by the school were made the Chartered Accountants (CAs) who had been deputed by the Directorate of Education to assist this Committee. The CAs worked out that the school had ample funds of its own and did not need to hike any fee for implementing the recommendations of VI Pay Commission. However, since the calculations made by the CAs were not found to be in agreement with the audited financials of the school, the Committee decided not to rely on the same.

The Committee issued a notice dated 29/06/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11 under different heads, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. The Committee also issued a questionnaire seeking specific replies of the school with regard to recovery of development fee, its utilisation and maintenance of earmarked development fund and depreciation reserve funds accounts. The school was also required to appear before



the Committee on 30/07/2015 to justify the fee hike effected by it. The school filed a letter dated 27/07/2015 expressing its inability to appear as the concerned person was on leave. Accordingly the school was asked to appear on 16/08/2015. However, the school filed its response only on 18/08/2015. On 28/08/2015, Ms. Asha Batra, appeared on behalf of the school along with Sh. Bhagat Singh and Sh. S.K. Sharma, Accountant. It was contended by them that while the arrears of salary for the period 01/09/2008 to 31/03/2009 were paid in 2010, only 50% of the arrears for the period 01/01/2006 to 31/08/2008 had been paid and that too on 17/08/2015 i.e. during the course of hearing before the Committee. She further stated that the balance 50% was also likely to be paid by 30/09/2015 as the matter was under active consideration of the Management. The hearing was accordingly adjourned to 08/10/2015 and the school was directed to file proof of payment of the balance 50%. However, on this date also, Ms. Asha Batra requested for further time, which request was declined by the Committee as the school had been persistently seeking adjournment. The Committee also noted that in respect of the payment of Rs. 30,94,483 which the school purportedly paid as arrear on 17/08/2015, the school had not filed copy of its bank statement to support its claim. The hearing in the matter was closed. However, the school was given liberty to file the bank statement in evidence of payment made on 17/08/2015. The school filed copy of Pass book of its account with Central Bank of India showing a transfer entry



for Rs. 30,94,483 on 17/08/2015, which the school claimed had been paid as part amount of arrears.

On account of reconstitution of the Committee, the final recommendations could not be made at that stage. Accordingly a fresh notice dated 09/10/2017 was issued by the reconstituted Committee in order to give the school an opportunity of being heard. On the date of hearing 14/11/2017, Ms. Asha Batra appeared and again requested for postponement of hearing by two weeks. Although the Committee was not inclined to give further time to the school, in the interest of justice, the school was granted one more opportunity to produce the necessary evidence of the payment of balance arrears of salary since a submission was made that the school had since paid the balance 50% of arrears to the staff after the matter was heard last. The matter was accordingly adjourned to 05/12/2017. The school was directed to produce the books of accounts, fee registers and salary registers for the years 2008-09 to 2010-11 and also for the years in which the balance payments had been made i.e. 2015-16 and 2016-17.

Despite clear directions to the school to produce its books of accounts, fee registers and salary registers, inter alia, for the years 2015-16 and 2016-17 in which the school claimed to have paid arrears of salary to the staff for the period 1.1.2006 to 31.8.2008, the school did not produce the same on 05/12/2017. It appeared to the



Committee that the school was avoiding scrutiny of its claim for payments of arrears in 2015-16 & 2016-17 and the sources of such payments. The Committee noticed that admittedly, the school had recovered a sum of Rs. 62,00,320 as arrear fee in the years 2008-09 and 2009-10 for the purpose of payment of arrear salary to the staff. Yet the school paid only a sum of Rs.36,73,677 towards arrears on 13/07/2010 and withheld the balance amount with itself. During the course of proceedings before this Committee, the school claimed to have paid a sum of Rs. 30,94,484 on 17.8.2015 i.e. 6 years after the amounts were collected. A further sum of Rs.32,79,628 was claimed to have been paid in 2016-17. The Committee felt that unless it examined the books of accounts, fee schedules, fee registers & salary registers for the years 2015-16 & 2016-17, the source of payment of these arrears could not be ascertained and also it could not be ascertained whether the school raised any further fee from the students in these two years for payment of balance arrears of salary. The Committee had noticed that the school had appropriated the excess amount of arrear fee recovered amounting to Rs. 25,35,543, which was the balance left with it after payment of arrears salary upto 31/03/2011, as its own income in the year 2010-11.

In the circumstances, the Committee drew an adverse inference against the school with regard to source of payment and arrears in 2015-16 and 2016-17. Calculation sheet was directed to be prepared



Dev Samaj Modern School, Nehru Nagar, Delhi-110065/B-633/Order

Page 6 of 13

TRUE COPY

[Signature]
Secretary

without taking into account the alleged payment of arrears in 2015-16 & 2016-17. The matter was posted for further hearing on 8th January 2018.

The Committee prepared the following calculation sheet in order to examine the justifiability of fee hike effected by the school for implementation of the recommendations of VI Pay Commission:

Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	Arrear fee w.e.f 01.09.08 to 31.03.09 recovered upto 31.3.2010		6,209,220
	Arrear of Salary as per 6th CPC w.e.f. 1.9.2008 to 31.03.2009 paid upto 31.3.2010		3,673,677
	Balance transferred to School's income in 2010-11 to be refunded to the students		2,535,543
	<u>Current Assets + Investments</u>		
	Cash in hand	4,798	
	Bank of Baroda	7,187,161	
	Central Bank of India	293,030	
	Syndicate Bank	11,564	
	FDRs	16,561,703	
	Loans & Advances	1,357,623	25,415,879
Less	<u>Current Liabilities</u>		
	Student Security	1,625,038	
	Scholarships	194,937	
	CBSE Centre Fee	7,481	
	Board Duty Fees to teachers	10,000	
	Dhingra Travels	63,733	1,901,189
Less	<u>Not Current Assets + Investments</u>		23,514,690
	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	7,296,168	
	for Gratuity as on 31.03.2010 (in r/o employees having at least 5 years of service)	10,471,459	
	for Leave Encashment as on 31.03.2010	2,414,512	20,182,139
Less	Funds available for implementation of 6th CPC		3,332,551
	Incremental Salary for 2009-10 (as per calculation below)		6,933,160
	Excess / (Short) Fund Before Fee Hike		(3,600,609)
Add	Incremental fee for 2009-10 (as per calculation below)		6,082,638
	Excess / (Short) Fund After Fee Hike		2,482,029



Summary of Fee refundable to students:

Excess Arrear fee appropriated as income of the school in 2010-11	2,535,543
Excess fee hike in 2009-10	2,482,029
Total	5,017,572

Working Notes:

	2008-09	2009-10
Normal/ regular salary	14,213,043	21,049,832
Provident Fund	690,538	770,798
PF Service charges	51,763	67,874
Total	14,955,344	21,888,504
Incremental salary 2009-10	6,933,160	
	2008-09	2009-10
Normal/ Regular Tuition fee	18,054,547	23,151,721
Annual Charges	1,589,100	2,403,000
Amalgamated Fee	1,032,525	1,197,309
Computer Fee	754,820	761,600
Total fees	21,430,992	27,513,630
Incremental fee in 2009-10	6,082,638	

A copy of the aforesaid calculation sheet was furnished to the school on 08/01/2018 for rebuttal.

The school, vide its written submission dated 31/01/2018 controverted the calculation sheet prepared by the Committee and contended that the implementation of the recommendations of VI Pay Commission resulted in a deficit of Rs. 34,04,239 as against a surplus of Rs. 50,17,572 calculated by the Committee. The school filed its own calculation sheet to this effect.



Dev Samaj Modern School, Nehru Nagar, Delhi-110065/B-633/Order

Page 8 of 13

TRUE COPY


Secretary

The matter was finally heard on 31/01/2018 when Ms. Asha Batra, Sh. Bhagat Singh and Sh. S.K. Sharma appeared on behalf of the school. The written submissions filed by the school were considered by the Committee.

The Committee noted that the difference between the calculation sheet prepared by the Committee and that filed by the school, amounted to Rs.84,21,811 i.e. 34,04,239 + 50,17,572. The same was explained by the school to be on account of the following three factors:

- a. The Committee had not recognized a sum of Rs.9,105 owed by the school to its parent society.
- b. The Committee had considered the arrear payment of salary to be Rs.36,73,677 as against Rs.1,11,00,919 actually paid by the school.
- c. The annual increase in tuition fee amounted to Rs.50,57,174 in 2009-10 as against Rs.60,82,638 determined by the Committee.

The various contention raised by the school have been carefully considered by the Committee and the following determinations are made with regard to them:



- (a) The issue raised by the school at serial (a) is a minor matter and would not materially affect the calculation.
- (b) As far as the payment of arrear salary to the staff is concerned, the school claims to have paid a total sum of Rs.1,11,00,919 to the staff as against Rs.36,73,677 taken by the Committee in its calculations. The Committee observes that the school collected a total sum of Rs.62,09,220 towards arrear fee, which the school does not dispute. It also observes that out of the aforesaid collection, it paid only a sum of Rs.36,73,677 as arrear salary up to 31.3.2010 and transferred the remaining amount of Rs.25,35,543 to its income in the year 2010-11. The school does not dispute this fact also. However, it claims that it paid a sum of Rs. 38,35,643 in 2015-16, Rs. 36,66,067 in 2016-17 and Rs.1,63,804 in 2017-18, which the Committee has omitted from its consideration.

In order to examine this contention of the school, the Committee has examined the audited financials of the school for the years 2015-16 & 2016-17 and observes that though the arrears of salary as claimed by the school were paid in these two years, they were paid out of the current year's revenues for those years.

In 2015-16 even after the payment of Rs. 38,35,643 towards arrear salary, the school had a net cash accrual (Cash Profit



i.e. net profit + depreciation, of Rs.14,87,161). Similarly in the year 2016-17, even after payment of Rs. 33,66,067 towards arrear salary, the school had a net cash accrual (Cash Profit of Rs.25,44,329). Obviously the arrear fee collected by the school was only partly utilized for payment of arrear salary and the balance which the school transferred as its own income in 2010-11 was not utilized for the payment of arrear salaries in 2015-16 & 2016-17. Accordingly, the Committee rejects the claim of the school that the arrear salary paid subsequent to 2010-11 ought to be considered in order to examine the justifiability of the collection of arrear fee by the school.

As per the documents and ledger accounts filed by the school today, the school paid further amount of Rs. 62,339 as arrear salary in the year 2010-11 itself in addition to Rs.36,73,058 paid by the school which the Committee has taken in its calculations. The balance appropriated as a income of the school was Rs. 24,73,823 instead of Rs, 25,35,543, taken by the Committee. The calculation sheet was prepared by the Committee on the basis of the information furnished by the school itself on 18.8.2015. However, in view of the documents filed by the school today the arrear paid upto 31.3.2010 would be considered as Rs. 37,35,357 instead of Rs.36,73,677 taken by the committee in its calculation. Accordingly, the refund



provisionally determined by the Committee would stand reduced by **Rs. 61,720.**

(c) With regard to the contention raised by the school at Sl. No. (c), the Committee observes that the school had not been mentioning annual charges in its fee schedules filed under Rule 180 of the Delhi School Education Rules 1973. However, the same cannot also be considered as part of tuition fee and the differential on this account will be excluded by the Committee from its calculations. With regard to the other component of fee taken by the Committee to work out the incremental fee in 2009-10 i.e. amalgamated fee and computer fee, the Committee considers the same as part of tuition fee recovered under different heads. The net effect of this would be that the incremental fee recovered by the school in the year 2009-10 would get reduced from Rs. 60,82,638 to Rs. 52,68,738. This would have an effect of reducing the amount of refund provisionally determined by the Committee by **Rs. 8,13,900.**

No other contention has been raised by the school. Accordingly, the Committee determines that the school ought to refund a sum of Rs. 41,41,952 (50,17,572 - 61,720 - 8,13,900) instead of Rs. 50,17,572 which was provisionally determined by the Committee. The aforesaid amount of Rs. 41,41,952 ought to be



Modern School, Nehru Nagar, Delhi-110065/B-633/Order

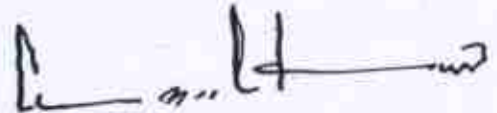
Page 12 of 13


TRUE COPY


Secretary

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

Ordered accordingly.


Justice Anil Kumar (R)
(Chairperson)


CA J.S. Kochar
(Member)


Dr. R.K. Sharma
(Member)

Date: 31/01/2018



TRUE COPY


Secretary

**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:

Dev Samaj Modern School, Okhla, New Delhi-110025 (B-378)

Order of the Committee

Present: Sh.S.K.Sharma, Accountant, Ms.Jayasree, Office Astd. & Sh. Bhagat Singh Office Staff 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, which was followed by a reminder dated 27/03/2012. However, the school did not respond to the questionnaire or to the reminder.

The Committee required a concerned Dy. Director of Education to direct this school to submit the documents to the Committee to enable it to examine the justifiability of fee hike effected by the school. The school submitted copies of annual returns for the years 2006-07 to 2010-11, copies of fee statements for the aforesaid years, detail of arrears of salary paid to the staff on account of implementation of the recommendations of VI Pay Commission as well as details of monthly salary payable to staff prior to implementation of VI Pay Commission and after its implementation. The school also furnished copy of the circular regarding fee hike issued to the parents. The document submitted



Dev Samaj Modern School, Sukhdev Vihar, Okhla, New Delhi-110025/B-378/Order

Page 1 of 7
TRUE COPY

[Signature]
Secretary

by the school to the Dy. Director of Education were forwarded to the office of the Committee.

The Committee issued a notice dated 22/05/2015 requiring the school to furnish the information regarding the aggregate amounts of fee and salaries for the years 2008-09 to 2010-11 under different heads, duly reconciled with the financials of the school. Besides, the school was also required to produce the statement of account of the parent society/Trust, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike. The Committee also issued a revised questionnaire incorporating therein the relevant queries with regard to recovery of development fee, its utilisation and maintenance of earmarked development fund and depreciation reserve funds accounts. The information was required to be furnished within 10 days. The school filed a letter dated 03/06/2015 requesting for more time as the school was closed for summer vacation. Accordingly the school was informed to submit the required information latest by 08/07/2015. However, on this date, another letter was received from the school seeking extension of time upto 18/07/2015 on account of the concerned person being on leave. Ultimately, the school submitted the required information under cover of a letter which was received in the office of Committee on 30/07/2015. The school also furnished a reply to the questionnaire, stating as follows:

- (a) The school had implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009, as a result of which its monthly

salary expenditure rose from Rs. 7,24,365 in March 2009 to Rs. 9,82,691 in April 2009.

- (b) The school paid a total sum of Rs. 47,72,148 as arrears of salary from 01/01/2006 till the date of actual implementation.
- (c) The school increased the fee w.e.f. 01/04/2009 in pursuance of order dated 11/02/2009 issued by the Director of Education and also recovered a sum of Rs. 58,07,740 on account of arrear fee.
- (d) The school was charging development fee in all the five years for which the information was sought. It was treated as a capital receipt and earmarked development fund and depreciation reserve fund accounts were maintained by it.

A notice of hearing dated 26/10/2015 was issued to the school to appear before the Committee on 10/11/2015 and made submissions with regard to justifiability of hike in fee effected by it pursuant to order dated 11/02/2009 issued by the Director of Education. On this date, Ms. Asha Batra and Sh. Bhagat Singh, Office Assistant appeared along with Sh. S.K. Sharma, Accountant.

The Committee examined the information filed by the school on 30/07/2015 in response to the Committee's notice dated 22/05/2015 and also partly heard the authorized representatives who appeared for the school. It emerged that the school had recovered a total sum of Rs. 58,07,740 upto 31/03/2010 as arrear fee from the students which was treated as a current liability in its balance sheet for payment of arrear salary to the staff. Out of this, only a sum of Rs. 23,63,795 was paid as arrear salary to the staff upto



31/03/2011. The balance collection of Rs. 34,61,153 was appropriated by the school as its income in the year 2010-11. However, the school claimed that it paid a further sum of Rs. 24,08,353 on 01/08/2015 and an amount of Rs. 24,08,348 was still payable.

On account of reconstitution of the Committee, the final determinations could not be made at that stage. Accordingly a fresh notice dated 09/10/2017 was issued by the reconstituted Committee in order to give the school an opportunity of being heard. On the date of hearing 14/11/2017, Ms. Asha Batra appeared and again requested for postponement of hearing by two weeks. In the interests of justice, the school was granted one more opportunity to produce the necessary evidence of the payment of balance arrears of salary since a submission was made that the school had since paid the balance 50% of arrears to the staff after the matter was heard last. The matter was accordingly adjourned to 05/12/2017. The school was directed to produce the books of accounts, fee registers and salary registers for the years 2008-09 to 2010-11 and also for the years in which the balance payments had been made i.e. 2015-16 and 2016-17.

Despite clear directions to the school to produce its books of accounts, fee registers and salary registers, inter alia, for the years 2015-16 and 2016-17 in which the school claimed to have paid arrears of salary to the staff for the period 1.1.2006 to 31.8.2008, the school did not produce the same on 05/12/2017. It appeared to the Committee that the school was avoiding scrutiny of its claim for payments of arrears in 2015-16 & 2016-17 and the sources of such payments. The Committee noticed that admittedly, the school



had recovered a sum of Rs. 58,07,740 as arrear fee in the years 2008-09 and 2009-10 for the purpose of payment of arrear salary to the staff. Yet the school paid only a sum of Rs.23,63,795 towards arrears on 09/07/2010 and withheld the balance amount with itself. During the course of proceedings before this Committee, the school claimed to have paid a sum of Rs. 24,08,353 on 01.08.2015 i.e. 6 years after the amounts were collected. A further sum of Rs.21,29,660 was claimed to have been paid in September 2016. The Committee felt that unless it examined the books of accounts, fee schedules, fee registers & salary registers for the years 2015-16 & 2016-17, the source of payment of these arrears could not be ascertained and also it could not be ascertained whether the school raised any further fee from the students in these two years for payment of balance arrears of salary. The Committee had noticed that the school had appropriated the excess amount of arrear fee recovered amounting to Rs. 34,61,153, which was the balance left with it after payment of arrears salary upto 31/03/2011, as its own income in the year 2010-11.

In the circumstances, the Committee drew an adverse inference against the school with regard to source of payment and arrears in 2015-16 and 2016-17. Calculation sheet was directed to be prepared without taking into account the alleged payment of arrears in 2015-16 & 2016-17. The matter was posted for further hearing on 8th January 2018.

The Committee prepared a calculation sheet in order to examine the justifiability of fee hike effected by the school for implementation of the recommendations of VI Pay Commission. So far as the hike in regular fee w.e.f



01/04/2009 is concerned, the Committee observed that on the face of it, it appeared that the school had surplus funds out of which it could have met its additional liabilities on account of increase in regular salary w.e.f. 01/04/2009, however, c considering the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment, no intervention was required to be made in respect of the regular fee hiked by the school w.e.f. 01/04/2009.

However, the Committee was prima facie of the view that the school had not utilised the full amount of arrear fee collected by it pursuant to order dated 11/02/2009 which was to the tune of Rs. 58,07,740 as the school paid only a sum of Rs. 23,63,795 out of that as arrear salaries to the staff and appropriated the remaining amount of Rs. 34,43,945 as its income in the year 2010-11. Accordingly the Committee required the school to make submissions in rebuttal on this aspect only.

The school, vide its written submissions dated 31/01/2018 contended that the school had paid a total sum of Rs. 70,71,476 as arrear salary upto 04/08/2017 and therefore, had utilised the entire arrear fee collected by it for the purpose of payment of arrear salaries. In support, the school filed copies of its audited financials for the years 2015-16 and 2016-17.

The Committee noticed that the school had not utilised the full amount of arrear fee collected by it for the purpose of arrear salary, as contended by it but had actually appropriated a sum of Rs. 34,43,945 as its own income in the year 2010-11. The contentions of the school that it paid a sum of Rs. 24,08,353 in 2015-16 , Rs. 21,29,660 in 2016-17 and Rs. 1,69,668 in 2017-18



were examined with reference to the audited financials of the school for these years which were filed by it. The Committee observes that the payments claimed to have been made in 2015-16, 2016-17 and 2017-18 have not been sourced from the arrear fee collected by the school in 2008-09 and 2009-10 but have been sourced from the current years fees for these years. This is apparent from the fact that in 2015-16 when the school paid a sum of Rs. 24,08,353 towards arrear salary which was charged to its Income & Expenditure Account for that year, the school had a net cash profit i.e. the net profit + depreciation amounting to Rs. 1,06,72,580 even after paying the arrear salary as aforesaid. Similar was the case in respect of the payment claimed to have been made in 2016-17. The school had a net cash profit of Rs. 61,51,460 even after paying the sum of Rs. 21,29,660 towards arrear salary.

In view of the foregoing discussion and findings, the Committee is of the view that the school ought to refund the amount of Rs. 34,43,945 which it appropriated as its own income out of the arrear fee collected specifically for the purpose of payment of arrear salary, along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Date: 31/01/2018



Dev Samrat Modern School, Sukhdev Vihar, Okhla, New Delhi-110025/B-378/Order

TRUE COPY

Page 7 of 7

Secretary

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

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

In the matter of:

**Bhai Joga Singh Public School, (B-116)
Karol Bagh,
Delhi.**

And in the matter of:

**Application for review dated
31st October, 2017 seeking
review of recommendations
dated 20.12.2012 in the
matter of school (B-116)
after dismissal of its earlier
review application by order
dated**

ORDER

Present : Shri Punit Batra Advocate with Ms. Kamal
Preet Arora, School Co-ordinator and
Nikhil Sharma, PRO of the School.

ORDER ON APPLICATION DATED 31.10.2017 FOR REVIEW.

1. Bhai Joga Singh Public School, hereinafter referred as 'The School' has again sought review of order dated 20th December, 2012 by present application dated 31st October, 2017 after dismissal of its first application for review dated 11th September, 2014 by order dated 4th July, 2017 passed by this Committee. On an earlier application filed by 'The School' the Committee had passed the following order dated 4th July, 2017 holding that the application of 'The School' was



TRUE COPY

[Signature]
Secretary

not maintainable and had disposed of the same as not maintainable. The Committee had passed the following order dated 4th July, 2017:

The matter pertaining to the applicant/school was disposed of by the order dated 20.12.2012. The committee had recommended by its order that the school may be liable for refund of a sum of Rs.451 to each student out of monthly fees hiked in 2009-10 along with interest @9% per annum. However, since the implementation of VI pay commission would have impact for the full 12 months w.e.f 2010-11, refund of fees for the subsequent years has not been recommended on account of ripple effect. Regarding the development fees, the committee had recommended refund of Rs.1100/- per annum charged for the year 2009-10 and refund of the actual development fee charged in the subsequent years along with interest @ 9% per annum.

By application dated 11. Sept. 2014 the applicant/school is seeking to dispose of the case though the case of the applicant has already been disposed of by order dated 20.12.2012. The school/applicant has also contended that the school has not hiked any fees in the years 2006-07; 2007-2008; or 2008-2009 prior to the implementation of the sixth pay commission report in the year 2009-10 and the fees hiked was in accordance with recommendation, as the school was in B category. According to the school/applicant this aspect has not been considered in the order dated 20.12.2012 and if found to be correct the refund of Rs.451 out of tuition fees be reconsidered. The applicant is thus seeking review of order dated 20 Dec. 2012.

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. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. It was held that there is difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Court or 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 is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble



TRUE COPY

Secretary

Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

Applying these principles it is apparent that where a Court or 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 Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 20.12.2012 it has not considered certain aspects and not on the ground 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 some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly and the school/applicant is seeking rehearing. Apparently the recall or review 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.

In the circumstances the application of the applicant is not maintainable and is disposed of as not maintainable.

2.. From the record it is also apparent that 'The School' had also filed a writ petition titled Bhai Joga Singh Public School Vs Director of Education being Writ Petition (C) NO. 7188 of 2017 seeking the following prayers:

- a. Issue a writ, order or direction in the nature of certiorari quashing the impugned recommendations of Justice Anil Dev Singh Committee dated 20th December, 2012 as contained in its 2nd Interim report, at pages 151 - 157, the petitioner the school, wherein recommendation for refund of Rs. 451 two each student with interest @9% per annum and development fee of ₹ 1100 for the year 2009 - 10 and subsequent years with interest @9% per annum has been passed against the school and
- b. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 29th May, 2017, inter-alia directing the petitioner to comply with the recommendation of JADSE and refund the amount mentioned therein; and
- c. Pass such other and further orders which as this Court may deem fit and proper in the facts and circumstances of the case.



TRUE COPY

[Signature]
Secretary

3. It appears that in the writ petition filed by 'The School' the fact pertaining to filing a review petition and its dismissal by the Committee as detailed hereinabove was not disclosed.
4. By the present application dated 31st October, 2017, 'The School' has again sought review of order dated 20th December, 2012 passed by the Committee. 'The School' has contended that the reading and interpretation of the judgement, Modern School Vs Union of India, (2004) 5 SCC 583 by the Committee is not correct and it is also contrary to the statutory mandate contained in Rule 177 of Delhi School Education Rules. According to 'The School' the said rule even permits the transfer of savings from fee, by a particular school to any other school or educational institution under the management of same society or Trust. 'The School' has also alleged that it can purchase assets from its saving from the fee collected by and there is no prohibition against the school acquiring fixed assets from the amounts standing in the credit of Depreciation Reserve Fund. 'The School' has also alleged that the order dated 20th December, 2012 is in violation of Rule 175 of DSEAR and the Committee has limited jurisdiction and the Committee did not have jurisdiction to check the basic fee structure of the school and consequently the Committee could not direct refund of fees and the errors in the impugned order of the committee dated 20th December, 2012 are apparent and the order is liable to be reviewed. It is alleged that the impugned order dated 20th December, 2012 is based on technicalities. The review of impugned order of the Committee is also sought on the ground that the Committee did not consider the statutory liability of 'The School' to pay gratuity and earned leave to staff nor has considered for reserve funds for future contingencies.
5. During the hearing on the application for review dated 31st October, 2017 it was also emphasized by the learned counsel for 'The School' that it is a minority institution and therefore, the order is not applicable and the school is not liable to comply with the same.



Though this ground has not been taken for review, however, it is apparent that the alleged ground is contrary to the decision of the Hon'ble Supreme Court in Modern School (supra).

6. Apparently the present application for review dated 31st October, 2017 after dismissal of their earlier application for review dated 11th September, 2014 by order dated 4th July, 2017 is not maintainable and is also an abuse of process of law as even this fact has not been disclosed by 'The School' in its second application for review.
7. It is also apparent that 'The School' has also challenged the Order of the committee dated 20th December, 2012 in the Civil Writ Petition as stated here in above and in the circumstances, how the second application for review shall be maintainable has not been explained. The application for review dated 31st October, 2017 is a sheer abuse of process of law and is liable to be dismissed in the facts and circumstances.
8. The application for review dated 31st October, 2017 is therefore dismissed.


Justice Anil Kumar (R)

(Chairperson)


J.S. Kochhar

(Member)


R.K. Sharma

(Member)

12.01.2018



TRUE COPY


Secretary

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

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

In the matter of:

Jeevan Public School(A-045),

Pratap Vihar, Part III

Kirari Extension,

New Delhi 110086

And in the matter of

**Application/representations dated
8th December,2017 seeking review of
Order Dated 12th May,2014
passed by the Committee in
respect of the School.**

Present: Shri Jugbir Singh, Manager, Sh. Rajeev Mahajan, Manager and
Shri Brij Pal Sharma, Executive Member.

ORDER ON THE APPLICATION OF REVIEW

1. The Committee recommended/ordered by recommendation dated 12th May, 2014 that increase in fee in excess of the tolerance limit of 10% was unjustified as the fees was increased without fully implementing the recommendations of 6th pay commission and directed the school that the fee hiked by the 'The School' in excess of 10% be refunded along with



TRUE COPY

Secretary

interest @9% per annum from the date of its collection to the date of its refund. The Jeevan Public School, Pratap Vihar, Part II, Kirari Extension, New Delhi 110086r is referred to as 'The School'.

2. Before passing the recommendation/order dated 12th May, 2014a questionnaire was issued on 27th February, 2012 to the School and it was directed that the information be furnished to the Committee as detailed in the questionnaire within seven days. Since the school did not respond to the questionnaire issued by the Committee, the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973 were requisitioned from the concerned Deputy Director of education along with a copy of fee schedule. On perusal of this record, prima facie it appeared that the school had hiked the fee in terms of the order dated 11th February, 2009 of the Director of Education and had not implemented the recommendations of the Vith pay commission. The School' was given a notice dated 16th July, 2012 to appear on 25th July, 2012 and to produce the entire accounts, fee and salary records for the years 2008 - 09 to 2010 - 11. On 3rd August, 2012, the Manager of 'The School' appeared and produced the record and submit the information which was sought for determination of queries raised in the questionnaire. The audit officer of the Committee had perused the records and observed that during 2010 - 11 the hike was to the extent of 10%. Though 'The School' claimed to have implemented the recommendations of the Vith pay commission but D.A and H.R.A had not been paid in compliance with order dated 11th February, 2009. On 29th April, 2014 the manager of the school had appeared with the relevant records along with its Chartered Accountant. After the scrutiny of the records of 'The School' it transpired that after alleged implementation of the recommendation of the Pay Commission about 20% to 25% teachers were shown on leave without pay. It also transpired that the salary was paid to the staff in cash. In the circumstances it was inferred on the



TRUE COPY

Secretary

preponderance of probabilities that the claim of the school that it had fully implemented the recommendations of the VIth Pay Commission cannot be accepted and believed. It had also transpired that 'The School' had not charged the Development Fees from the students. Consequently the order dated 12th May, 2014 was passed by the Committee.

3. 'The School' almost after three years of the order passed by the Committee by an application dated 8th December, 2017 has sought review of Committee's order dated 12th May, 2014 by alleging that on account of an inadvertent error it was submitted before the Committee that the recommendation of the VI Pay Commission were implemented from 1st March, 2010. The plea of the school is that the salary to the staff and other employees was paid in cash even before the implementation of the recommendation of VI Pay Commission. It is contended that the school had impressed upon their employees including the staff to open their accounts in the same bank as of the school so that the salary could be transferred to their relevant bank accounts. The bank accounts were allegedly open in March, 2015 and since April, 2015 the salary was paid through bank. The plea of the school is that 'The School' had not gained anything substantial and the entire amount received on hiking the fees was paid for the increased salary. The School' also alleged that it has made refund during the year 2015 - 16 and during the year 2016 - 17. On the basis of these allegations it is prayed that the order dated 12th May, 2014 be reviewed.

4. Apparently the school has sought review of the order/recommendation of the committee dated 12th May, 2014 on merits of the order/recommendations passed by the Committee. Whether the committee has such powers or not which are invoked by the School to review/reconsider its order dated 12th May, 2014 on merits. It is



TRUE COPY

[Signature]
Secretary

apparent that the Committee has become functus officio after it passed the order dated 12th May, 2014 .

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

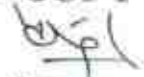
"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."

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 dated 12th May, 2014 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.

TRUE COPY


Secretary



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"

TRUE COPY

[Signature]
Secretary



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

8. From the perusal of the applications/representation dated 8th December, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel Narshi Thakershi and Ors. v. Pradyuman Singh ji Arjunsingji* MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. It is no more Res Integra that there is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural



defect, the inadvertent error committed by the Tribunal must be corrected *ex debito 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 quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing is taken, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the quasi-judicial authority suffered from such illegality that vitiates the proceeding and invalidates the order made therein, as the party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidates the entire proceeding. The school was issued notices and was given ample opportunities and the representative



TRUE COPY

Secretary

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 12th May, 2014.

10. In the facts and circumstances, it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.
11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 12th May, 2014 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts have not been referred to at all and the recommendations of the VI Pay Commission were complied in the subsequent years. 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.


TRUE COPY


Secretary

12. The applications/representation dated 8th December, 2017 seeking recalling/revoking of the order dated 12th May, 2014 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by the School. The applications/representation dated 8th December, 2017 by the school seeking review of the order/recommendation dated 12th May, 2014, therefore, not maintainable and it is disposed of as not maintainable




JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



J.S. KOCHAR

MEMBER



R.K. SHARMA

MEMBER

Date: 12.01.2018

TRUE COPY



Secretary



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

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

In the matter of:

**MAXFORT SCHOOL(B-0615),
PARWANA ROAD, PITAMPURA,
Delhi 110034**

And in the matter of

**Application/representation dated
8th November, 2016 to review the order
Dated 19th October, 2015 passed by the
Committee in respect of the School.**

Present: Shri Kamal Gupta Advocate & Shri Manish Hasija, Accountant of the School.

ORDER

1. The Committee passed the order/recommendation dated 19th October, 2015 in respect of Maxfort School, Pitam Pura, Delhi 110034, hereinafter, referred to as 'The School' directing the school to refund the Development Fee of Rs.29,33,805 charged in 2009-10 and Rs.43,32,302 charged in 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund.
2. The Committee had issued a questionnaire dated 27th February, 2012 followed by a reminder dated 27th March, 2012 requiring the school to furnish the information as sought in the questionnaire. Despite the

notice issued to the school no information as sought was furnished by 'The School'. The Committee had, therefore, requisitioned the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973 from the office of the concerned Deputy Director of Education. In order to consider the pleas and contentions of the school in respect of its annual returns, the committee had given another notice dated 13th July, 2012 directing the school to produce copies of fee receipts and salary payment registers. The school was again directed to furnish its reply to the questionnaire issued by the Committee. An office Asst of the school had appeared on 23rd July, 2012 and had produced some of the records and some of the information. More time was, therefore, given to 'The School' to produce the entire record as was demanded by the Committee. It had transpired that 'The School' had increased the tuition fee with effect from 1st September, 2008 and recovered arrears of tuition fee for the period 1st September, 2008 to 31st March, 2009 amounting to ₹ 2,404,887. The school had also paid arrears of salary amounting to ₹ 1,222,761. A complaint was also received from the Parent's Association that the school was acting in high-handed manner. The Committee had specifically sought information from 'The School' about utilization of development fee and maintenance of the earmarked depreciation reserve and development fund. The school had given conflicting replies regarding hiking the fees in terms of order dated 11th February, 2009 of the Director of Education. The Committee was, however, of the view that an annual hike of up to 10% was not to be interfered with. The Committee did not accept the contentions of parent's Association and held that no interference was required in the matter of tuition fee hike effected by the school in the year 2009 - 10.

3. 'The School' had alleged before the Committee that the development fee was treated as a capital receipt in its accounts. However, the allegation of the school was belied by the audited financials of the school. The

development fee was credited to income and expenditure account and thus it was treated as a revenue receipt and not as a capital receipt. 'The School' had conceded that earmarked depreciation reserved fund was not maintained as contemplated under law and therefore, the pre-conditions for charging the development fee were not fulfilled by 'The School'. A notice dated 20th August, 2015 was issued to the school to provide an opportunity of being heard on 10th September, 2015 and the notice sent by speed Post was delivered to the school on 25th August, 2015 as per the speed Post tracking report, but no one appeared on behalf of the school on the date fixed by the Committee and therefore, the order/recommendation dated 19th October, 2015 was passed by the Committee.

4. The school has filed the application dated 8th November, 2016 seeking review of order dated 19th October, 2015 contending inter-alia that the order of the Committee suffer from non-observance of principles of natural justice as the school was never served with any notice of hearing and was deprived of presenting its pleas and contentions regarding the development fee and its collection, treatment and utilization. The school/applicant categorically contended that it never received any notice dated 20th August, 2015 for hearing on 10th September, 2015. The school denied the speed tracking report and emphasized that it has been deprived of a valuable opportunity of hearing. According to 'The School' this is a procedural lapse and the order has been passed by the Committee under mistaken impression that the notice had in fact been served on 'The School'. Thus it is contended that the procedure followed by the Committee suffers from such illegality which vitiates the proceeding and invalidates the order passed. The school without prejudice to its plea seeking review on account of procedural defect also contended on merits of the order passed dated 19th October, 2015 by the Committee stating that the school had utilized the development fee and also treated the depreciation in accordance with



the Rules. It is also alleged that 'The School' was never communicated the order dated 19th October, 2015 and it has come to know about the order of the Committee by letter dated 2nd November, 2016 sent by Department of Education.

5. 'The School' also filed an affidavit dated 15th December, 2016 along with photo copies of pages of incoming/letter received by the school for the month of August, 2015. The manager of the school in his affidavit categorically contended that the notice of hearing was not received by the School which is also apparent from the register of the School. It was also asserted specifically in the affidavit that the review petition of the school is not on merits and it is entirely on account of procedural defect.
5. It is settled law that where a notice is properly addressed, prepaid and duly sent by registered post with acknowledgement due, notwithstanding the fact that the acknowledgement having been lost or misled, or for any other reason has not been received by the sender, it is to be presumed under section 27 of the General Clauses Act, 1897 that the article sent by post was served. The presumption, however, is rebuttable. It is for the addressee to rebut the presumption by leading convincing and cogent evidence.
6. This cannot be disputed that the procedural review belongs to a different category of review compared to review on merits of the case. 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 or irregularity which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed



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

6. It is pertinent to notice that the Committee while passing the order/recommendation dated 19th October, 2015 has categorically held that a notice dated 20th August, 2015 was issued to the school to provide an opportunity of being heard on 10th September, 2015 and the notice sent by speed Post was delivered to the school on 25th August, 2015 as per the speed Post tracking report, but no one appeared on behalf of the school on the date fixed by the Committee and therefore, the order/recommendation dated 19th October, 2015 were passed by the Committee. This presumption that the notice was served on the school is, however, rebuttable. The point

for determination now is whether 'The School' has rebutted the presumption of service by filing the affidavit of its Manager and the photocopies of the receipt registered of 'The School' for the August 2015 in which there is no entry of the notice dated 20th August, 2015. If the school is maintaining a proper record of letters, notices, communications received by it and in case the notice dated 20th August, 2015 does not have an entry in the record of the school, it will be sufficient to hold on the basis of preponderance of probabilities that the school has rebutted the presumption of service of notice on it. The Committee had proceeded against the school without hearing the pleas and contentions of the school in respect of the development fee utilized, received and its maintenance. In the entirety of the facts and circumstances it is inevitable to infer that the presumption of service of notice stood rebutted by the school and consequently, it is to be held that the school was not served with the notice dated 20th August, 2015 for hearing on 10th September, 2015

9. Consequently it is to be accepted that the order/recommendation dated 19th October, 2015 had been passed by the committee without hearing the school and without giving a reasonable opportunity of being heard to the applicants/school. In the circumstances the order/recommendation of the Committee dated 19th October, 2015 suffers from procedural illegality and irregularity which goes to the root of the matter. Consequently the recommendation/order of the Committee is liable for reconsideration. The school in the circumstances has also become entitled to produce any other relevant information in support of its pleas and contentions regarding the development fee.

10. In the circumstances the order dated 19th October, 2015 passed by the committee is recalled for fresh consideration after considering any

fresh material, if produced by the School and the application of the school dated 8th November, 2016 is allowed. A copy of this order be sent to the school forthwith. The school shall be entitled to file any relevant material in respect of the development fee charged by the school and its utilization and its maintenance within two weeks from the receipt of the copy of this order. The pleas and contentions of the school in respect of development fee shall be heard by this Committee on a date which will be intimated to the school after the school files any other relevant information in respect of development fee within the time as granted by this order. Order accordingly.

JUSTICE ANIL KUMAR (R)
CHAIRPERSON

J.S. KOCHAR
MEMBER

R.K. SHARMA
MEMBER

Date: 18.01.2018

TRUE COPY

Secretary



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

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

In the matter of:

SALWAN PUBLIC SCHOOL (B-004),
Mayur Vihar, Phase III,
Delhi 110 096

And in the matter of

Applications/representations dated
20.05.2016 & 27th June, 2017
seeking review of order Dated
28th August, 2015 passed by the
Committee in respect of the School.

Present: Ms. Manmeet Arora Advocate, Mr. Derashish Chauhan Advocate,
Mr. S.N.Dixit, Director, Mr.J.N.Chopra, Financial Advisor, Mr.
R.N.Dutta, Accountant and Mr. Vivek Kumar, Accounts Assistant.

ORDER

1. The applicant has sought review of order/recommendation dated 28th August, 2015 ordering refund of a sum of Rs.85,48,631/-out of the



development fee charged by it for the years 2009 - 10 and 2010 - 11 along with interest @ 9% per annum from the date of collection to the date of refund. The Committee also observed that Director of Education to take appropriate view, in accordance with law, in respect of development fee charged by the school for the years prior to 2009 - 10.

2. Before passing its recommendation/order dated 28th August, 2015 the committee had issued a questionnaire dated 27th February, 2012. The school had provided the information asked for by letter dated 27th March, 2012. The information provided by the school certain material aspects and the Committee had also not received copies of complete returns filed by the school under Rule 180 of Delhi School Education Rules, 1973. Consequently another questionnaire was issued to the school pursuant to which the school furnished copies of its annual returns. On perusal and analysis of the record produced by the school it transpired that the Development fee was treated as a revenue receipt and it was utilised for payments of, additional teachers, extra co-curricular activities, innovations in teaching and for teacher training program. It also transpired that the school had fully implemented VI Pay Commission. On the basis of information provided a calculation sheet was got prepared by the Committee. The committee did not agree with the plea of the school that it may need to keep funds in reserve for additional expenditure to be incurred for getting completion certificate because expenditure on completion certificate and for provision of water and sewerage connected to the building of the school for which recovery cannot be made from the students and also because estimate cost of additional cost to be incurred were provided by the School to the Committee. Regarding the development fee it was inferred by the committee that it did not fulfill any of the preconditions laid down by the Duggal Committee which were affirmed in case of Modern School Vs UOI,



(2004) 5 SCC 583. The school was not treating the development fee as a capital receipt nor utilized for purchase or upgradation of furniture and fixture and equipment nor the school was maintaining any earmarked accounts for development fund and depreciation reserved fund. Reliance of the school on Rule 151 of Delhi School Education Rules, 1973 was found to be not sustainable as the said rule is applicable only to the aided schools. It was also held that the concept of development fee in respect of a new unaided school are different. It was observed that the school was in default of the parameters approved by the Hon'ble Supreme Court in the year prior to 2009 - 10 but the committee restricted itself in respect of development fee charged by the school in the year 2009 - 10 and 2010 - 11 only. The school was provided with the copy of calculation sheet got prepared by the committee and the date for hearing was also fixed. The school had sought two month time to respond to the calculation sheet provided by the Committee which was declined and thereafter the order/recommendation dated 28th August, 2015 was given.

3. The school filed application/representation dated 20th October, 2015 after the order/recommendation dated 28th August, 2015 was passed giving more facts and figures and sought consideration of them. Thereafter, the school filed applications/representations dated 20th May, 2016 & 27th June, 2017 seeking review of order/recommendations dated 28th August, 2015. The School relied on the order of High Court in the case of Rukmani Devi Public School to contend that the Committee has the power to review its order/recommendation. According to the School the Hon'ble Court is creating a precedent in law for natural justice and has provided limited empowerment to the Committee which should be extended to the applicant/School also. It has been contended that the School is seeking to add to/amend what has already been submitted to



the Committee. The School has placed reliance on Section 21 of the General Clauses act and has also relied on Bakshi SBP Sinha vs Bihar State Bar Council, AIR 1980 Patna 189 in support of its contention that the committee has the power to review its order/recommendation. The submission of the School is that some of the points raised by the School were omitted on account of oversight. It is contended that the School did not have surplus of funds available with the School. The school has also relied on the accounting principle to seek the review of the order/recommendation dated 5th May, 2014 passed by the Committee. The plea of the school is that the principle followed by the school is correct and consequently the order of the Committee is liable to be reviewed.

4. Apparently the school has sought review of the order/recommendation of the committee dated 5th May, 2014 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 5th May, 2014. It is apparent that the Committee has become functus officio after it passed the order dated 5th May, 2014. The provision and the ratio of precedent relied by the School is distinguishable and does not hold that the Committee has the power 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



TRUE COPY

[Signature]
Secretary

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 (6thEdn., p 673) gives the meaning of functus officio as follows:

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

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

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"

7. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee in the case of Rukmani Devi Public School and consequently the School cannot contend on the basis of the order passed in the said case that the Committee has the power to review its order/recommendation and the power was given by the Hon'ble Court.

8. From the perusal of the applications/representations dated 20th May, 2016 and 27th June, 2017 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on



Secretary

account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. It is also well established that no review lies on merits unless a statute specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors .v. Pradyuman singh ji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal. The plea of the School that it is not seeking review and is only seeking to add to/ amend what has already been submitted by the School cannot be accepted.

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



TRUE COPY

Secretary

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 23rd November, 2014.

10. In *Bakshi S.B.P. Sinha and Ors. vs. The Bihar State Bar Council and ors.* (11.01.1980 - PATNAHC) : MANU/BH/0043/1980 relied on by the Applicant it was rather held that Bar Council did not have powers to change or alter the election program after it was once published under the purported authority under Section 21 of the General Clauses Act.



COPY
 Secretary

*8. After the elections of the Bar Council were held the petitioner challenged the election, leading to the next case. The challenge was on the ground that the electoral roll was not prepared within 120 days of the expiry of the term of the elected members of the Bar Council and since the electoral roll itself was defective, the entire election was rendered void. The earlier decision of the learned single Judge that the Bar Council has power to alter the dates of poll was affirmed this time by the Division Bench. **Neither of these authorities, in my considered opinion, lay down any principle that the Bar Council has got any power to change or alter the election programme after it is once published, under its purported general authority under Section 21 of the General Clauses Act.** In all the cases which have been cited and relied upon there was some such emergent circumstance of the nature contemplated under Rule 32 of the Rules framed by respondent No. 1 and, therefore, they are not of any help to Mr. Basudeva Prasad. But that apart, here respondent No. 1 by the impugned resolution has purported to cancel the polling already held under a supposed authority to alter or amend the election programme.

11. The applicant has relied on a decision of a division bench of Hon'ble High Court in the matter of Google In. & ors. vs Competition Commission of India, 2015 (150) DRJ 192 (DB) to contend that the work of the committee is purely administrative and it has power to review its order. In Google (supra) the CCI had ordered investigation without hearing the person who had applied for review. The Court had held that CCI has the power to recall/review the order under section 26 (1) of the Act. The precedent relied on by the applicant is completely distinguishable in as much as the applicant had been heard in detail and the pleas and contentions of the applicant and the documents produced by the applicants were considered before passing the order. The recommendation/order of the committee which was constituted pursuant to the directions of the Hon'ble Court cannot be termed as purely administrative in the facts and circumstances of the case. In any case the hearing in detail was given to the school/applicant and the order was passed only after that. There is no specific provision in the case of the Committee to review its own order. The ratio of precedent relied on by the applicant is not applicable in the facts and circumstances of the case of



TRUE COPY

Secretary

the applicant. In Google (supra) in paragraph 18 it was categorically held that the order of the CCI/direction to the DG, CCR in exercise of power under section 26 (1) of the act, to cause investigation, is capable of review/recall. No precedent has been cited by the applicant that the Committee has the power to review its orders/recommendation.

12. In State of M.P Vs Raja Mahendra Pal &ors, (1999) 4 SCC 43, the pricing committee was constituted by the Government not under any statutory or plenary administrative power, to determine price and terms and condition for supply of forest produce to be sold to the State Forest Corporation. It was held that such a committee is not quasi-judicial and its decision is not binding. It was held that quasi-judicial acts are such acts which mandate an officer the duty of looking into certain facts not in a way which it especially directs but after a discussion, in its nature judicial. The exercise of power by such an authority contemplates the adjudication of rival claims of the persons by an act of the mind or judgment upon the proposed course of official action as to an object of corporate power, for the consequence of which the official will not be liable, although his act was not well judged. A quasi-judicial function has been termed to be one which stands midway between the judicial and an administrative function. The primary test is as to whether the authority are latched to be a quasi-judicial one has any express statutory duty to act judicially in arriving at the decision in question. If the reply is in the affirmative, the authority would be deemed to be quasi-judicial and if the reply is in the negative, it would not be. Thus an authority is described as quasi-judicial when it has some of the attributes or trappings of judicial functions, but not all. Applying this principle it is to be inferred, that the committee which was constituted by the Hon'ble Court which has to decide whether the tuition fee and/or Development fee collected by the schools are in consonance with the order of the Director of



TRUE COPY

[Signature]
Secretary

Education after giving a reasonable opportunity to all the schools and after considering their pleas and contentions and the documents produced by them, is not doing a purely administrative work. Applying these principles stated hereinabove it is apparent that the Committee discharges quasi-judicial function in recommending/ordering the schools for refund of fees with interest which is not in consonance with the order of the Director of Education dated 11 February, 2009. On these principles in absence of specific power of review, the applicant cannot contend that his applications for review should be considered and disposed of by the Committee on merits.

13. In Power Grid Corporation of India Ltd versus Electrical Manufacturing Co Ltd. 153 (2008) DLT 440, the arbitrators had rushed through matter to conclude proceedings without affording adequate opportunity to a party to present its case. It was held that to serve interest of justice in best way, the matter should be referred to Sole Arbitrator to adjudicate dispute between the parties after giving due opportunity to both the parties. The ratio of the said precedent does not help the applicant/school in any manner. In case of the applicant/school reasonable opportunity was given to produce the documents and its pleas and contentions that the school had complied with the directions of the Department of Education regarding enhancement of tuition fee and Development fee to meet the liability arising out of recommendations of VI pay commission. The applicant has also relied on a decision of The Division Bench of the Court in W.P (c) 4489 of 1995 titled Samir Kohli & ors Vs Union of India & ors in which the Court relying on Indian National Congress Vs Institute of Social Welfare, (2002) 5 SCC 685 had held that where two or more parties contest each other claims and the statutory authority is required to adjudicate the rival claims between the parties, such a statutory authority was held to be quasi-judicial and decision



rendered by it as a quasi-judicial order. It was observed that a judicial act seems to be an act done by competent authority upon consideration of facts and circumstances and imposing liability or affecting the rights. If a body is empowered to enquire into facts, make estimates to impose conditions, the acts of such a body involving such consequences would be judicial acts. Applying these principles and referred in various precedents relied on by the applicant it is apparent that the pleas of the applicant that the orders/recommendation of the Committee are purely administrative and can be reviewed by the Committee without any specific powers cannot be accepted and sustained in the facts and circumstances.

14. The provision and precedent relied on by the school rather negates the plea of the School that the Committee has the power to review its order under section 21 of General Clauses Act and the precedent is distinguishable. Section 21 of the General Clauses Act is as under:

Section 21 - Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws

Where, by any¹[Central Act] or Regulations a power to²[issue notifications,] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any³[notifications,] orders, rules or bye-laws so⁴[issued].

1. Substituted by A.O. 1937, for "Act of the Governor General in Council".
2. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".
3. Inserted by Act 1 of 1903, Section 3 and Schedule II.
4. Substituted by Act 1 of 1903, Section 3 and Schedule II, for "make".

15. This is no more res integra that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio



TRUE COPY

[Signature]
Secretary

and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. The Supreme Court in *Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr.*, AIR 2004 SC 778 had observed:-

" Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

16. A case is only an authority for what it decides. As observed by the Supreme Court in *State of Orissa v. Sudhansu Sekhar Misra* MANU/SC/0047/1967:-

"A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of Halsbury, LC said in *Quinn v. Leatham*, 1901 AC 495:

"Now before discussing the case of *Allen v. Flood* (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found.



The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically Page 2009 from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."

In *Ambica Quarry Works v. State of Gujarat and Ors.* MANU/SC/0049/1986 the Supreme Court observed:-

"The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it."

Similarly in *Bhavnagar University v. Palitana Sugar Mills Pvt Ltd* (2003) 2 SC 111 (vide para 59), the Supreme observed:-

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

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

17. Precedent should be followed only so far as it marks the path of justice, but one must cut the dead wood and trim off the side branches else one will find oneself lost in thickets and branches, the precedents relied on by the applicant in the facts and circumstances does not require elaborate consideration. The Committee was appointed by the Hon'ble High Court and cannot be equated to the Court. The power to



reconsider and review was restricted by the Hon'ble High Court in Rukhmani Devi Public School, in that case only.

18. 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.
19. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 5th May, 2014 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and/or some of the facts were not disclosed on account of oversight and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing the Committee to review its orders/recommendations either expressly or by necessary implication.
20. The applications/representations dated 20th May, 2016 and 27th June, 2017 seeking recalling/revoking of the order dated 28th August, 2015 and passing the order/recommendation again is not maintainable, as this Committee does not have such powers as has been invoked by

the School. The applications/representation dated 20th May, 2016 and 27th June, 2017 by the school seeking review of the order/recommendation dated 28th August, 2015 are, therefore, not maintainable and they are disposed of as not maintainable

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

J.S.KOCHAR
MEMBER

Dr.R.K. SHARMA
MEMBER

Date: 19.01.2018

TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee
(Formerly Justice Anil Dev Singh Committee for Review of School Fee)
CAUSE LIST FOR JANUARY 2018

Cause List for Monday, 8th January 2018

S. No.	Cat. No.	School Name & Address
1	B-63	Tagore School, Maya Puri
2	B-378	Dev Samaj Modern School-2, Sukhdev Vihar
3	B-633	Dev Samaj Modern School, Nehru Nagar
4	B-604	Lal Bahadur Shastri Smarak School, R.K. Puram

Cause List for Wednesday, 10th January 2018

S. No.	Cat. No.	School Name & Address
1	B-544	Queen Mary's School, Model Town-III
2	B-109	Dr. Radha Krishnan International School, Defence Colony
3	B-335	Bhai Parmanand Vidya Mandir, Surya Niketan
4	B-340	Preet Public School, Preet Vihar

Cause List for Friday, 12th January 2018

S. No.	Cat. No.	School Name & Address
1	B-116	Review- Bhai Joga Singh Public School, Karol Bagh
2	A-45	Review - Jeevan Public School, Pratap Vihar
3	B-286	Mount Abu Public School, Sect.5, Rohini
4	B-294	Mount Abu Sr. Sec. School, Sect.18, Rohini
5	B-235	Crescent Public School, Pitampura
6	C-189	Vivekanand Convent School, Shahdara

Cause List for Wednesday, 17th January 2018

S. No.	Cat. No.	School Name & Address
1	B-60	The Heritage School, Sector-23, Rohini
2	B-69	S.M. Arya Public School, West Punjabi Bagh
3	B-184	Mira Model School, Janakpuri
4	B-56	St. Angel's School, Sector-15, Rohini

Cause List for Thursday, 18th January 2018

S. No.	Cat. No.	School Name & Address
1	B-407	Saraswati Vidyalaya Sr. Sec. School for Girls, Darya Ganj
2	B-172	Ganga International School, Saavda Ghevra
3	B-677	Ganga International School, Hiran Kudna
4	B-544	Queen Mary's School, Model Town-III

Review orders for pronouncement of Judgment

1	B-615	Maxfort School, Pitampura
---	-------	---------------------------



TRUE COPY

 Secretary

Cause List for Friday, 19th January 2018

S. No.	Cat. No.	School Name & Address
1	B-623	Col. Satsangi's Kiran Memorial School, Chhatarpur
2	B-90	Masonic Public School, Vasant Kunj
3	B-295	Lions Public School, Ashok Vihar

Review orders for pronouncement of Judgment

1	B-4	Salwan Public School, Mayur Vihar, Ph-III
---	-----	---

Cause List for Monday, 22nd January 2018

S. No.	Cat. No.	School Name & Address
1	B-277	Hans Raj Smarak School, Dilshad Garden
2	B-368	Hans Raj Smarak School, Krishna Nagar

Cause List for Wednesday, 31st January 2018

S. No.	Cat. No.	School Name & Address
1	B-604	Lal Bahadur Shastri Smarak School, R.K. Puram
2	B-378	Dev Samaj Modern School-2, Sukhdev Vihar
3	B-633	Dev Samaj Modern School, Nehru Nagar



TRUE COPY

 Secretary

08.01.2018B-63Tagore School, Maya Puri, Delhi

Present: Sh.Kamal Kishore, A.O. & Sh. Vasu Dev Sharma, P/T Accountant of the school.

The school has filed two certificates from Oriental Bank of Commerce vide which it has certified that whatever salary cheques that had been paid from the bank were paid either through bank transfer or through account payee cheques. The school has however not filed the balance sheet of its nursery branch as on 31.3.2008 despite directions given to it earlier. The authorized representative appearing for the school submits that it will file the same in a couple of days.

The Committee has perused and verified the fee and salary statement of the main school which was filed by the school vide its submissions dated 4.6.2015. It is observed that the same shows the arrears of tuition fee that were collected in 2008-09 to be Rs.8,38,760 and Rs.8,32,170 in 2009-10, totaling Rs.16,70,930. Although the school has shown the same as have been paid in the years 2008-09 and 2009-10, the Committee observes that the same were not actually paid in these years or even in 2010-11 but the liability to pay the same was reflected in the balance sheet as on 31.3.2011. The school has filed a statement of payment of Rs.16,70,930 which it claims was paid in 2011-12. However, perusal of the same shows that seven cheques aggregating Rs. 2,86,156 were not paid. The authorized representative also submits to this fact. After this payment, the balance liability that should have been reflected in the balance sheet as on 31.3.2012 ought to have been Rs.2,86,156 but the same shown in the balance sheet is Rs.3,35,924. On perusal of the books of accounts of the school the Committee observes that one cheque of Rs.49,768 was incorrectly debited to the tuition fee account instead of arrear payable account. The school submits that no arrear payments were made after 31.3.2012 and no arrear fee was received after 31.3.2009. However on perusal of the latest balance sheet of the school as on 31.3.2017 the Committee observes that the balance in the fee arrear payable account has risen from Rs.3,35,924 to Rs. 4,85,608 indicating that at least a sum of Rs.1,49,684 would have been collected towards arrear fee between 1.4.2012 and 31.3.2017. In view of this inconsistency the school is directed to furnish an year wise account of arrear fee payable vis a vis arrear salary paid from 1.4.2008 to 31.3.2017. This may be done within 3 days.

Since the school is retaining with it the arrear fee collected from the students which has not been paid to the staff, the school may also show cause as to why the same ought not be ordered to be refunded alongwith interest @9% per annum from the date of collection to the date of refund.

With regard to the development fee, the school in its reply to questionnaire has conceded that the same was treated as a revenue receipt and no earmarked development fund or depreciation reserve fund accounts were maintained.

TRUE COPY


Secretary



08.01.2018


After submissions of the requisite details by the school, calculation sheet to be prepared. Matter will come up for further hearing on 07.02.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY



Secretary


08.01.2018


B-378

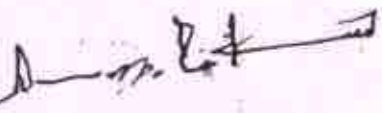
Dev Samaj Modern School, Sukhdev Vihar, Delhi

Present : Ms. Jayasree, Office Assistant, Sh. S.K. Sharma, P/T Accountant & Sh. Bhagat Singh, Office Asstt. staff of the school.

A copy the of the calculation sheet is furnished to the authorized representative appearing for the school. It appears that the school did not pay the arrears of salary to the staff to the extent it collected the arrear fee from the students and appropriate the excess amounts as its income in the year 2010-11. The school may file its rebuttal before the next date of hearing. Matter is posted for further hearing on 23rd January 2018 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

08.01.2018B-633Dev Samaj Modern School, Nehru Nagar, Delhi

Present: Sh. S.K.Sharma, P/T Accountant, Ms. Asha Batra, UDC & Sh. Bhagat Singh, Office Asstt. of the school.

A copy the of the calculation sheet is furnished to the authorized representatives appearing for the school. It appears that the school did not pay the arrears of salary to the staff to the extent it collected the arrear fee from the students and appropriated the excess amounts as its income in the year 2010-11. In addition, even the normal fee recovered by the school in the year 2009-10 which was at the increased rates as per order dated 11.2.2009 of the Director of Education, was apparently more than what was required to offset the financial impact of implementing the recommendations of the 6th pay commission. The school may file its rebuttal before the next date of hearing. Matter is posted for further hearing on 23rd January 2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

08.01.2018

B-604

Lal Bahadur Shastri School, R.K. Puram, Delhi

Present: Sh.Devender Kumar, Accountant, Sh.A.Ghosh, Admn. Officer & Sh.K.K.Arora, Consultant of the school.

The school has furnished a revised reply to the notice issued by the Committee. It is mentioned that certain submissions made by Mr. A.Ghosh during the course of hearing held on 29.11.2017 were incorrect as he had not properly understood the question regarding implementation of the recommendations of the 5th pay commission. It is further mentioned that the school collected a total amount of Rs.38,59,446 as arrear fee for the period 1.01.2006 to 31.03.2009 and out of that it made payment of Rs.37,59,840 as arrear salary to the staff, although the full amount of the arrears payable to the staff were Rs.1,18,62,598. The school has furnished the details of arrears due vis a vis the arrears paid and the balance outstanding which is still payable. The entries in the books of accounts have been made only in respect of the amount actually paid. The school has filed detail of payments made to the staff alongwith copies of bank statements and payment instruction sheets given to the bank for credit of the amount of arrears to the accounts of the staff members. The Committee has perused the same and is satisfied that the school did made the payment of arrears to the extent it claims to have made.

On perusal of revised fee and salary statement filed by the school it appears that besides increasing the tuition fee by Rs.200 p.m. w.e.f. 1.04.2009, the school also substantially hiked fee covered under the head activity charges and computer fee which ordinarily should be part of the tuition fee. The activity charges were hiked from Rs. 1000 annually (which were charged only from the students of Nursery and KG in 2008-09) to Rs. 2400 per annum (Rs.200 p.m.) and recovered from all the students of the school. Likewise there was substantial hike in the computer fee for all the classes in 2009-10. In 2008-09 the computer fee charged from the students of classes 1st to 5th was Rs.60 per month but the same was hiked to Rs.100 p.m.. For the students of classes 6th to 10th, the same was hiked from Rs.70 per month to Rs.120 per month and for students of classes 11th and 12th it was hiked from Rs.110 p.m. to Rs.150 per month. In addition the school is also recovering internet charges @ Rs.10 per month from all the students although the same is not reflected in the fee schedules filed by the school with the Directorate of Education.

The Committee has verified the revised fee and salary statement filed by the school during the course of hearing with reference to its audited financials and books of accounts and the same appears to be in order. The school has also furnished the balance of the development fee left to the society which was transferred to the school in the year 2012-13.

Calculation sheet to be prepared. Matter to come up for further hearing 23.01.2018 at 11.A.M.



Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY
Secretary

10.01.2018

B-544

000111

Queen Mary's School, Model Town-III, Delhi

Present: Sandeep Masih, Admn.Accounts Officer, Sh.Pradeep Kumar Verma, UDC of the school and

Sh.Rohit Handa, Ms.Vanita Handa, Ms.Anu Dewan & Ms.Ruchi Jain parents of the students

The authorized representative appearing for the school seeks to file statement showing particulars of miscellaneous income for the years 2006-07 to 2010-11 giving breakup of the income having been accounted for in the books of the school and the income that has been transferred to the society after being received by the school. The Committee has examined the books of accounts produced by the school in a lap top and finds that the statement which is sought to be filed does not agree with the entries in the books of accounts. The authorized representative of the schools seeks to file a revised statement. The same may be done on or before the next date of hearing which is fixed for 18.01.2018 at 11.00.A.M.

The complainant has also filed copy of vehicle particulars downloaded from the website of transport department of Government of Delhi which shows that the school purchased a bus in April 2010 and the same was being used for ferrying the students from home. Transport fee has been received but not reflected in the books of accounts. The school may respond to this issue also on the next date of hearing.

Dr. R.K. Sharma

Dr. R.K. SHARMA
MEMBER

J.S. Kochhar

J.S.KOCHAR
MEMBER

Justice Anil Kumar

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY

Secretary
Secretary

10.01.2018

000112

B-109

Dr.Radha Krishnan International School, Defence Colony,Delhi

Present : Sh.Bal Krishan Sharma, Accountant of the school.

In compliance with the directions given by the Committee on 12.12.2017, the school submits the calculation regarding development fee which was purportedly recovered by it in pursuance of order dated 11.2.2009. The authorized representative appearing for the school submits that, though it appears that the school recovered arrears of development fee at the rate which was higher than 15% of the arrears of tuition fee, the apparent anomaly is on account of the fact that the school had not fully recovered the development fee for the whole year based on its original fee schedule of 2008-09. The balance of development fee which was remaining out of the development fee originally recoverable was also clubbed with the arrears of development fee as permitted vide order dated 11.2.2009.

The Committee has examined the relevant calculations and is satisfied that the fee hike effected by the school to the extent it was done in pursuance of order dated 11.2.2009 was justified after taking into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment.

Detailed order to be passed separately.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

10.01.2018

000113

B-335

Bhai Parmanand Vidya School, Surya Niketan, Delhi

Present: Sh. Rahul Jain, C.A. & Sh. Brij Bhushan Ojha, Accounts Officer of the school.

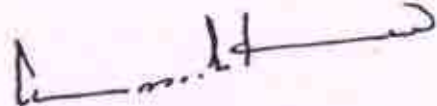
The authorized representative appearing for the school submits that it is not possible to pin point the exact entries of annual charges which were wrongly credited to tuition fee or vice versa in 2008-09 and 2009-10. In the circumstances, for the purpose of making relevant calculation the Committee will club the tuition fee and annual charges and other miscellaneous fees received by the school in 2008-09 and 2009-10 and also club the expenditure incurred by the school and on salaries and other normal over heads. Calculation sheet to be prepared on these facts. Matter to come up for further hearing on 7th February 2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



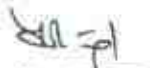
J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

10.01.2018

000114

B-340

Preet Public School, Preet Vihar, Delhi

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

The school has furnished updated information with regard to refund of arrear fee cheques which the school made to some students whose arrear fee had not been adjusted against the regular fee. The refund was occasioned as the school had collected arrear fee from the students but not paid the arrear salary to the staff. Out of the total sum of Rs.1,81,891, the school submits that cheques worth of Rs.78,895 have since been encashed while cheques worth Rs.65,482 have been returned undelivered to the school. The balance cheques amounting to Rs. 37,514 have neither been encashed yet nor been returned to the school. The authorized representative appearing for the school offers to have public notice issued in two newspapers one in English and one in Hindi, to the effect that the parents may collect the returned cheques from the school. The same may be filed on the next date of hearing.

The Committee has examined that the fee and salary information as furnished by the school under cover of its letter dated 28.5.2015 with reference to the books of accounts of the school. The same appears to be in order. With regard to the development fee the Committee observes that the school collected a sum of Rs.10,18,475 in 2009-10 and Rs.13,45,800 in 2010-11. Part of the total collection was utilized by the school for purchase of furniture fixtures and office equipments (Rs.4,06,674 in 2009-10 and Rs.7,11,002 in 2010-11). In the previous years also the utilization on eligible fixed assets has been less than the amount of the development fee recovered by the school. It is conceded during the course of hearing that the school did not maintain any earmarked bank accounts or investments to park its unutilized development fee or depreciation reserve fund in respect of depreciation charged to the revenue accounts.

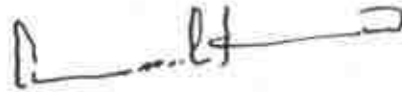
Calculation sheet to be prepared. Matter to come up for further hearing on 7.2.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

12.01.2018B-286Mount Abu Public School, Sector-5, Rohini, Delhi

Present: Sh.Puneet Batra, Advocate, Sh.Bharat Arora, Treasurer, of the school.

The school has produced its books of accounts of 2008-09 in a laptop which are maintained in tally software. However the accounts for the year 2009-10 and 2010-11 have not been produced. The school has also not filed the split balance sheet of the society giving break up of figures of all the institutions run by it for the years 2007-08 to 2010-11 as required by the Committee vide order dated 11.10.2017.

The Committee has verified the fee and salary figures as given by the school in response to the notice issued by the Committee, for the year 2008-09 with reference to its books of accounts. It observes that the school provided for a total sum of Rs.87,32,856 as its liability for payment of arrears to the staff consequent to implementation of the recommendations of the 6th pay commission. However, no payments have been made upto 31.3.2009. As per the copy of ledger account filed by the school for the year 2009-10, the school paid a sum of Rs.25,50,021 in that year. Further, as per the statement of account for the year 2010-11, the school paid a further sum of Rs.32,00,154 in that year, leaving a balance of Rs.29,82,681. The authorized representative appearing for the school submits that further payment of about Rs.4 lacs have been made in the subsequent years but the balance of Rs.25 lacs approximately is still outstanding on account of the fact that the teachers have since left the school. During the course of hearing, Sh. Bharat Arora, treasurer of the parent society running the school submits that the cheques of balance amount of arrear shall be sent to the respective employees by speed post and proof of their dispatch as well as encashment from the bank shall be filed on the next date of hearing. The school will also furnish an updated statement of arrear salary payable account after making such payments for the years 2011-12 to till date. The school will also furnish the latest audited balance sheet as on 31.3.2017. The committee also observes that the school has not yet filed the statement showing mode of payment of salaries to the staff in the years 2008-09 and 2009-10 as per web notice issued by the committee in 2015. The school will also furnish this statement on the next date of hearing. The committee also notices from the books of accounts of the school that the fee is shown on gross basis without any breakup of fee collected under different heads. However the school has given the breakup in the information regarding fee and salary filed with this committee. The school will also file the basis of such break up alongwith the fee schedules for the years 08-09 and 2009-10. The books of accounts for 2009-10 shall also be produced on



TRUE COPY

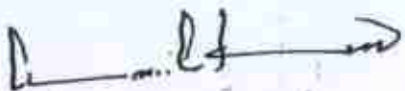
Secretary

12.01.2018

the next date of hearing in a laptop for verification by the committee. The school will also file split balance sheet of the parent society for 2007-08 to 2010-11 alongwith consolidated audited balance sheet. The next date of hearing is 21.2.2017.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

12.01.2018

B-294

Mount Abu S.S. School, Sector-18, Rohini, Delhi

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

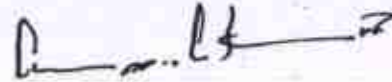
An oral request has been made for adjournment by the authorized representative appearing for the school. As requested the matter will be listed on 21.2.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY




Secretary

12.01.2018B-235Crescent Public School, Pitampura, Delhi

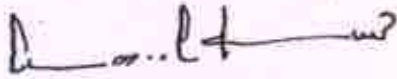
Present : Sh.Puneet Batra, Advocate of the school.

The school has filed a letter dated 12.01.2018 giving the comparative statement of salaries paid to individual employees in the years 2008-09 and 2009-10. The school has also justified that the deduction in number of teachers from April 2009 to March 2010 on the ground that after the admission process completed in August, one section from class 7 and one section from class 10 was reduced on account of lesser number of students. School has also furnished a list of teachers who left the school after which no replacement/recruitment was made.

Calculation sheet to be prepared. Matter to come up for further hearing on 21st February 2018 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

12.01.2018C-189Vivekanand Convent School, Shahdara, Delhi

Present: Sh.R.P.Sharma, Manager & Sh.Kapil Upadhayay, Accountant of the school.

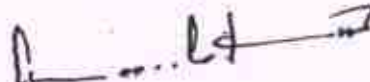
In this case the application for review filed by the school has been allowed by the Committee on the ground that the matter involved a procedural review as the school had not been served with the notice of hearing before making the original recommendations. The office will issue a fresh notice of hearing in the prescribed format calling for the information as mentioned thereon. Matter will come up for hearing on 12th February 2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

17.01.2018

000120

B-60

The Haritage School, Sec.23, Rohini, Delhi

Present: Ms.Namitha Mathews, Advocate & Sh.Pulkit Malhotra,
Advocate of the school and

Sh.Ajay Kumar, Advocate of the complainant.

The counsel of the complainant has filed certain documents vide letter dated 17.1.2018 copy of which has been given to the counsel appearing for the school. The school may file its reply to the same within two weeks. Certain documents have also been filed on behalf of the school which are mainly orders of the Hon'ble Delhi High Court in WPC No.4754/2017 in the case of Sunil Mittal and Anr Vs. the Dy. Director of Education and Ors. A copy of the documents has been given to the counsel of the complainant.

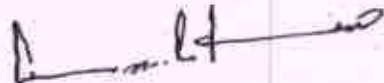
With regard to the hearing on the objections filed by the school to the calculation sheet, the counsel seeks 4 weeks time. At the request of the school, mater is adjourned to 23rd Feb.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



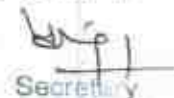
J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

17.01.2018

000121

B69

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

Present : Sh.Arvind Nagpal, Manager & Sh.Surjeet Singh, C.A. of the school.

The Committee has prepared the calculation sheet in order to examine the justifiability of fee hike effected by the school pursuant to order dated 11.2.2009 issued by the Director of Education. The calculation sheet reveals that the school did not have adequate funds to maintain reserves to meet its accrued liability of gratuity and leave encashment and if such liabilities are taken into account, the school is found to have suffered a deficit after implementing the recommendations of the 6th pay commission. With regard to development fee, although the school was not complying with the pre-conditions laid down by the Hon'ble Supreme Court in the case of Modern school, the Committee observes that the deficit incurred by the school on implementation of the recommendations of the 6th pay commission is more than the total development fee recovered from the students in the years 2009-10 & 2010-11, with which this committee is concerned. Accordingly the Committee is of the view that no intervention is required in respect of hike in tuition fee or charging of development fee pursuant to order dated 11.2.2009.

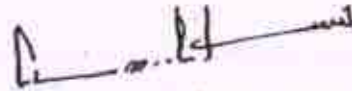
Detailed order to be passed separately.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

17.01.2018

000122

B-184

Mira Public School, Janakpuri, Delhi

Present: Nemo.

The Committee has perused the calculation sheet prepared by it in order to examine the justifiability of hike in tuition fee and charging of development fee pursuant to order dated 11.2.2009 issued by the Director of Education. The Committee observes that the school actually incurred a deficit on implementation of the recommendations of the 6th pay commission after considering the funds available with it at the threshold of the fee hike effected by it pursuant to order dated 11.2.2009. The deficit would only increase if the requirements of the school to keep funds in reserve for meeting its accrued liability of gratuity and leave encashment are considered and such deficit would be more than the development fee charged by the school in 2009-10 & 2010-11 pursuant to order dated 11.2.2009.

In view of the above findings, the Committee is of the view that no intervention is required to be made either with regard to hike in tuition fee or with regard to recovery of development fee in the years 2009-10 & 2010-11.

Detailed order to be passed separately.

26

Dr. R.K. SHARMA
MEMBER

J.S. KOCHAR

J.S. KOCHAR
MEMBER

Justice Anil Kumar

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY

Secretary

17.01.2018

000123

B-56

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

Present: Sh.Archit Bhardwaj, Director & Sh.Archit Bhargava, C.A. of the school.

The Committee has perused the calculation sheet prepared in order to examine the justifiability of hike in tuition fee and charging of development fee in pursuant to order dated 11.2.2009 issued by the Director of Education.

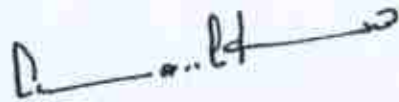
Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

18.01.2018B-407Saraswati Vidyalaya Sr.Sec.School for Girls,Darya Ganj, Delhi

Present: Ms.Geeta K.Pruthi, Administrator & Sh.M.D.Sanwal, Chief Accountant of the school.

The school had filed a letter dated 8.1.2018 vide which it has stated that it does not have any objection to the calculation sheet prepared by the Committee and has accordingly decided to refund the excess fee to the individual student. The Administrator of the school Ms.Geeta A Pruthi who is present at the time of hearing submits that the list of the students who have to be refunded the fee has already been prepared and place a copy thereof on record, she submits that the school will take about one a month to complete the process of refund.

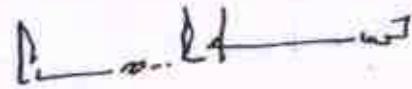
Accordingly the matter will come up for further hearing on 20th February 2017 at 11.00 A.M. on which date the school will produce evidence of refunded fee which would include copies of letter sent to the individual students, copies of cheques and copy of bank statement showing therein encashment.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

18.01.2018B-172Ganga International School, Saavda Ghevra, Delhi

Present : Dr.B.K.Yadav, Principal, Sh.Agasti Kr. Behra, Accountant & Sh.Vipul Accountant of the school.

The Committee has examined fee and salary record of the school as also the bank statements alongwith the books of accounts maintained in tally software for the years 2008-09 and 2009-10.

The school claims to have its monthly salary bill which was Rs.6,39,108 in March 2009 close to Rs.9,68,485 in April 2009 as a result of implementation of the recommendations of the 6th pay commission w.e.f. 1.4.2009.

On examination of the salary register and salary ledger of the school it emerges that while there were 44 staff members in April 2009 who were purportedly paid a total sum of Rs.9,68,485 as salary for that month, the number of staff members drastically reduced to 27 in the months of May and June 2009 and accordingly the total monthly salary expense also reduced to Rs.5,92,517 from Rs.9,68,485. The authorized representative appearing for the school submits that many teachers had left the school in May 2009 for better employment prospects as the school is situated at a remote place in a rural area of Delhi. However, on examination of the salary register of July 2009 the Committee observes that all the staff members who had purportedly left the school after April 2009 are shown to have rejoined in July 2009.


The school has not filed a comparative statement of salary for the years 2008-09 and 2009-10 showing that the number of staff members who were paid salary by cheque or bank transfer or cash in 2008-09 and 2009-10 month wise. The said statement was required to be filed vide a web notice issued by the Committee on the website of the Director of Education in 2015. The authorized representative submits that it probably escape their attention and undertake to file the same within one week. They have been provided a proforma of statement that is required to be filed. The same be done within one week and the school is also required to explain as to how as many as 17 staff members went off the role in May & June 2009 when their salary was placed w.e.f. April 2009 as a result of implementation of the recommendations of the 6th pay commission.

Matter is relisted for further hearing on 13th February 2018 at 11.00 A.M.

TRUE COPY



Secretary



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



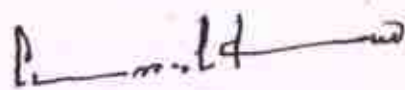
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


18.01.2018B-677Ganga International School, Hiran Kunda, Delhi

A request letter has been received on behalf of the chairman of the school requesting for adjournment on account of non availability of the concerned person dealing with this matter. The Committee notices that the school had not been filing Receipt and Payments account as part of the annual returns filed under Rule 180 of the Delhi School Education Rules 1973. The same be filed for the years 2006-07 to 2010-11 within one week. Mr. Rohit Arora who has been deputed by the school for taking adjournment will inform the school authority accordingly. Matter will come up for hearing for 13th February 2018 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secre

18.01.2018B-544Queen Mary's School, Model Town-III, Delhi

Present: Sh.Sandeep Masih, Admn. & Accounts Officer of the school and
Ms.Ruchi Jain and Ms.Vanita Handa -complainant.

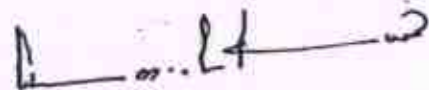
The school has filed a statement showing the amount transferred to the management out of the collections under various miscellaneous head. As per the statement filed, the school has transferred a total sum of Rs.3,05,315 in the years 2008-09 and 2009-10 to the management. A copy of the statement has been given to Mrs. Ruchi Jain one of the complainants. Comments on the statement if any may be filed within one week with a copy to the school. In the meantime, the Audit Officer will prepare the Calculation Sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11.2.2009. Matter will come up for further hearing on 16th February 2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

19.01.2018B- 623Col.Satsangi's Kiran Memorial School, Chhatarpur, Delhi

Present: Dr.(Mrs.)S.S.Jaiman, Principal, Sh.S.Krishna, Consultant, Sh.Ram Lal Pandit, Sr. Accountant, Sh.Sunil Kohli, A/c. Supervisor & Sh.Surendra Prasad, Asstt. Manager of the school.

In compliance with the direction given by the Committee on 12.12.2017, the school has filed a revised reply dated 26.12.2017 to the notice dated 26.5.2013 issued by the Committee. The school has also filed the split as well as consolidated Balance Sheet of the parent Society(AIPECCS).

The Committee had noticed during the course of hearing on 10.4.2017 that the school had hiked the tuition fee which was much in excess of the hike that was permitted to the school by order dated 11.2.2008 issued by the Director of Education. Further the recovery of arrear fee was also much in excess of that was permitted by order dated 11.2.2008. The school had tried to furnish an explanation vide letters dated 3.5.2017 and 18.5.2017 stating that the school could not have discharged its liability of payment of arrear salary as well as the incremental salary as per the recommendations of the 6th Pay Commission out of the fee hike which was permitted by the Directorate of Education and hence it hiked the fee to the extent it was necessary to cover the additional liabilities on account of implementation of 6th Pay Commission Report. The principal of the school is present at the time of hearing and concedes that the school did not avail of the grievance redressal machinery provided by the aforesaid circular dated 11.2.2009 and chose to hike the fee in excess of what was permitted to it on its own.

The Committee also notices that the development fee charged by the school in 2009-10 was also in excess of 15% of even the excessive tuition fee charged by the school as the school also recovered development fee on a portion of day boarding fee and hostel fee. The Committee also notices that the school was not filing its true fee structures as part of its annual returns under Rule 180 of the Delhi School Education Rules, 1973 in the fee schedules filed as part of the Return. The school showed only the tuition fee charged by school, which is a miniscule portion of the total fee charged by the school. The fee charged under various other heads like annual charges, outside hospitalization charges, PTA meeting, magazines, school letter charges, annual charges, Mess and long hour day boarding fee, hostel joining fee, annual charges for hostel, hostel fee were never reported to the Directorate of Education. Similarly, the staff statement filed by the school as part of its annual returns shows only about 60 staff members by the school concededly has more than 260 staff members. It is submitted by the principal of the school that only the staff members which are in accordance with the permitted staff strength as per the Delhi School Education Rules are shown in the staff statement filed by



TRUE COPY

[Signature]
Secretary

19.01.2018


So far as the financials are concerned, the school has filed a revised statement of fee and salary as per the format prescribed by this committee vide its notice dated 26/05/2015. The school claims to have paid a total sum of Rs. 2,73,88,783 as arrears to staff for the period 01/01/2006 to 31/03/2009 in the years 2009-10, 2010-11 and 2011-12. However, as per the records of arrear salary produced by the school along with the bank statements, the committee finds that the school paid only 2,58,85,973 as arrear salary.

The school has submitted that it has taken a group gratuity also from Life Insurance Corpn. and is paying annual contribution to the group gratuity fund maintained by LIC. However, the past service liability of the staff member is not fully covered by the LIC policy. The school has filed copy of the premium notice of LIC as on 31/03/2010 as per which the LIC has demanded a total sum of Rs. 45,45,607 which includes the contribution for past service liability also. Accordingly the committee is of the view that the accrued liability of gratuity as on 31/03/2010 amounted to Rs. 45,45,607. With regard to accrued liability for leave encashment, the school has filed an actuarial valuation report which estimates the liability to be R. 1,22,74,570 as on 31/03/2010.

The school has not furnished the statement of account of the parent society as appearing in the books of accounts of the school for the period 01/04/2006 to 31/03/2011. In its place, the school has filed copies of the balance sheet of the parent society. The school is required to file the ledger account of the parent society in its books of accounts for the period 01/04/2006 to 31/03/2011.

Calculation sheet to be prepared on the basis of the consolidated balance sheet of the parent society after excluding the figures relating to the two schools situated outside Delhi.

The statement of account of the society may be filed within one week. Matter will come up for further hearing on 16/02/2018.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

19.01.2018B-90Masonic Public School, Vasant Kunj, Delhi

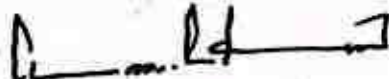
Present : Sh. Baljit Singh, Admn. Officer & Sh. Ravi Prakash,
Accountant of the school.

The Committee has prepared a calculation sheet to examine the justifiability of hike in tuition fee w.e.f. 1.4.2009, the recovery of arrear fee and the development fee charged by the school in 2009-10 and 2010-11. The Committee observes that after taking into consideration the funds available with the school at the threshold additional revenue generated by way of recovery of arrear fee and increase in fee for the year 2009-10 the school did not have sufficient funds for implementing the recommendations of the 6th pay commission after taking into account the requirement of the school to keep funds in reserve for meeting its accrued liability of gratuity leave encashment and a provision for future contingencies. Accordingly the Committee is of the view that no intervention is called for with regard to any of the aforesaid item of fee charged by the school in pursuance of order dated 11.2.2.009 issued by the Director of Education.

Detailed order to be passed separately.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

19.01.2018

B-295

Lions Public School, Ashok Vihar, Delhi

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

An oral request has been made on behalf of the school for adjournment of hearing as the Manager of the school who is present submits that he has not fully understood what was required to be filed by the school during the course of hearing on 19/12/2017. A copy of the order sheet of 19/12/2017 has been furnished to him. The directions contained therein may be complied within 10 days. Matter to come up for further hearing on 07/02/2018.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secret

22.01.2018Hans Raj Smarak School, Dilshad Garden, Delhi. (B-277)Hans Raj Smarak School, Krishna Nagar, Delhi. (B-368)

Present: Sh. Rajiv Gupta, Accountant of the school.

In compliance with the order of this Committee dated 18.12.2017, the school produced before the Audit Officer the books of accounts of nursery school for the years 2008-09 & 2009-10. It is the contention of the authorized representative appearing for the school that upto 2008-09 the nursery school was preparing independent balance sheet but in the year 2009-10 the revenues and expenditure of the nursery school were merged in the income and expenditure account of the senior school at Dishad Garden. However the assets and liabilities continued to be reflected in the balance sheet of the nursery school. They were transferred to the balance sheet of the senior school at Dishad garden in 2010-11.

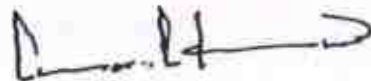
Accordingly, for the purpose of making relevant calculations the nursery school in its entirety will be treated as a branch of the senior school at Dilshad Garden while the middle school at Krishna Nagar will be treated on standalone basis. Relevant calculations to be prepared keeping the above observations only. Matter to come up for further hearing on 21st February 2018 At 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY



Secretary

31.01.2018B-184Lal Bahadur Shastri Smarak, R.K. Puram, Delhi

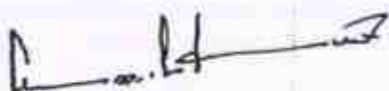
Present : Sh.Devender Kumar, Accountant, Sh.A.Ghosh, Admn.Officer
& Sh.K.K. Arora, Consultant of the school.

The school has today furnished a statement showing its accrued liability of gratuity and leave encashment as on 31.3.2010. As per the statement filed by the school, it had accrued liabilities of Rs.52,71,873 towards gratuity and Rs.38,51,832 towards leave encashment in respect of its teaching staff . The corresponding figures in respect of the other administrative staff were Rs.4,60,004 towards gratuity and 6,36,491 towards leave encashment.

On perusal of these statements, they appeared to be ex-facie erroneous. In some of the cases the school has shown the qualifying service to be 59, years 45 years even 60 years which is an impossibility. Likewise for two years of service the school has shown accumulated leave to be 84 days which again is an impossibility . The school has not given the date of appointment of the staff and as such its calculations are not verified . The authorized representative appearing for the school admit that these statements are erroneous and undertake to file revised statements by tomorrow. Matter to come up for further hearing is 7th February 2018.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

31.01.2018B-378Dev Samaj Modern School No.2, Sukhdev Vihar, New Delhi

Present: Sh.S.K.Sharma, Accountant, Ms.Jayasree, Office Astt. & Sh. Bhagat Singh Office Staff of the school.

The school has filed written submissions dated 31.1.2018 in rebuttal of the calculation sheet prepared by the Committee which shows that out of the recovery towards arrear fee amounting to Rs.58,07,740 upto 31.3.2010, the school had paid arrear salary only to the extent to Rs.23,63,795 up to that date. The balance arrear fee recovered by the school amounting to Rs.34,43,945 was appropriated by the school as its income in the year 2010-11.

In the written submissions which the school has filed today it has contended that it paid a further sum of Rs.24,08,353 in 2015-16, Rs.21,29,660 in 2016-17 and Rs.1,69,568 in 2017-18. Thus it is claimed that the school paid the total sum of Rs.17,71,476 as arrear salary.

The Committee has perused the audited financials of the school as well as the annual returns filed by it under Rule 180 for the years 2015-16 and 2016-17 in which the school claims to have paid the balance amount of arrear salary. It observes that the arrears paid in these two years have been sourced out of the current fee of those two years. In the year 2015-16 when the school paid a sum of Rs.24,08,353 towards arrear salary, the school had a net profit of cash accrual (profit of Rs.1,06,72,580, even after paying the arrear amount of Rs. 24.08 lacs.) Likewise in 2016-17 the school had a net cash accrual (profit amounting to Rs.61,51,460 even after paying the sum of Rs.21,29,660 towards arrear salary).

It is obvious that the arrear fee collected by the school to the extent of Rs.34,43,945, which the school appropriated as its income in 2010-11 was not utilized for payment of arrear salary.

In view of the forgoing findings of the Committee, Committee is of the view that the school ought to refund the amount of Rs.34,43,945 which it appropriated as its income out of the arrear fee collected from the students and did not utilize the same for payment of arrear salary to the staff. This ought to be done alongwith interest @ 9% per annum from the date of collection to the date of refund.

Detailed order to be passed separately.



Sh
Dr. R.K. SHARMA
MEMBER

J.S.
J.S.KOCHAR
MEMBER

Anil Kumar
JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

TRUE COPY

Secretary
Secretary

31.01.2018B-633Dev Samaj Modern School, Nehru Nagar, Delhi

Present : Sh.Bhagat Singh, Office Asstt, Ms. Asha Batra, UDC & Sh. S.K. Sharma, Accountant of the school.

The school has filed written submissions dated 31.1.2018 controverting the calculation sheet prepared by the Committee. It has filed its own calculation sheet to the effect that the school incurred a deficit of Rs.34,04,239 after implementation of recommendation of the 6th pay commission as against a surplus of Rs.50,17,572 determined by the Committee. The difference between the two calculation sheets amounting to Rs.84,21,811 is explained by the school to be on account of the following three factors:

- The Committee has not recognized a sum of Rs.9,105 owed by the school to its parent society.
- The Committee has considered the arrear payment of salary to be Rs.36,73,677 as against Rs.1,11,00,919 paid by the school.
- The annual increase in tuition fee amounts to Rs.50,57,174 in 2009-10 as against Rs.60,82,638 taken by the Committee.

The issue raised by the school at serial(a) is a minor matter and would not materially affect the calculation. As far as the payment of arrear salary to the staff is concerned, the school claims to have paid a total sum of Rs.1,11,00,919 to the staff as against Rs.36,73,677 taken by the Committee in its calculations. The Committee had observed that the school collected a total sum of Rs.62,09,220 towards arrear fee, which the school does not dispute. It had also observed that out of the aforesaid collection, it paid only a sum of Rs.36,73,677 as arrear salary up to 31.3.2010 and transferred the remaining amount of Rs.25,35,543 to its income in the year 2010-11. The school does not dispute this fact also. However, it claims that it paid a sum of Rs.38,35,643 in 2015-16, Rs.36,66,067 in 2016-17 and Rs.1,63,804 in 2017-18.

The Committee has examined the audited financials of the school for the years 2015-16 & 2016-17 and observes that though the arrears of salary as claimed by the school were paid in these two years, they were paid out of the current years revenues for these years. In 2015-16 even after the payment of Rs.38,35,643 towards arrear salary, the school had a net cash accrual (Profit of Rs.14,87,161). Similarly in the year 2016-17, even after payment of Rs.36,66,067, the school had a net cash accrual (profit of Rs.25,44,329). Obviously the arrear fee collected by the school was only partly utilized for payment of arrear salary and the balance which the school transferred as its own income in 2010-11 was not utilized for the payment of arrear salaries in 2015-16 & 2016-17. Accordingly, the Committee rejects the claim of the school that the arrear salary paid subsequent to 2010-11 ought to be considered in order to examine the justifiability of the collection of arrear fee by the school.



TRUE COPY
Secretary

31.01.2018

As per the documents and ledger accounts filed by the school today, the school paid further amount of Rs.62,339 as arrear salary in the year 2010-11 itself in addition to Rs.36,73,058 paid by the school which the Committee has taken in its calculations. The balance appropriated as a income of the school was Rs.24,73,823 instead of Rs.25,35,543. The calculation sheet prepared by the Committee is on the basis of the information furnished by the school itself on 18.8.2015. However, in view of the documents filed by the school today the arrear paid upto 31.3.2010 would be considered as Rs.37,35,357 instead of Rs.36,73,677 taken by the committee in its calculation.

With regard to the contention raised by the school at Sl No. C, the Committee observes that the school had not been mentioning annual charges in its fee schedules filed under Rule 180 of the Delhi School Education Rules 1973 . However, the same cannot also be considered as part of tuition fee and the differential on this account will be excluded by the Committee from its calculations. With regard to the other component of fee taken by the Committee to work out the incremental fee in 2009-10 i.e. amalgamated fee and computer fee, the Committee considers the same as part of tuition fee recovered under different heads. No other contention has been raised by the school.

Recommendations reserved.



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



TRUE COPY


Secretary

