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 August 2019

No.DHCC/2019/ 387 Dated: 19/09/19

Index

| S.N. | Particulars | | | Page No. |
|---|---|---|---|---|
| (a) | Final recommendations/ Review orders passed in the following cases:- | | | |
| | S.N. | Date | Name of the School | |
| | 1 | 19.08.2019 | Order in respect of **Mann Public School, Holambi Khurd (B-285)** recommending no intervention. | 01 to 14 |
| | 2 | 20.08.2019 | Order in respect of **Air Force Bal Bharati School, Lodi Road (B-437)** recommending refund of unjustified development fee arrears collected from students of Class UKG to XII alongwith 9% interest. | 15 to 30 |
| | 3 | 22.08.2019 | Order in respect of **Vandana International Sr. Sec. School, Dwarka (B-427)** recommending refund of unjustified fee hike **amounting to Rs.1,67,47,528** alongwith 9% interest. | 31 to 48 |
| | 4 | 23.08.2019 | Order in respect of **St. Mary's School, Safdarjung Enclave (B-137)** recommending refund of unjustified fee hike **amounting to Rs.33,41,477** alongwith 9% interest. | 49 to 74 |
| | 5 | 26.08.2019 | Order in respect of **St. Columbo Public School, Pitampura (B-632)** recommending refund of unjustified fee hike **amounting to Rs.89,71,300** alongwith 9% interest. | 75 to 94 |
| | 6 | 27.08.2019 | Order in respect of **BGS International Public School, Dwarka (B-389)** recommending refund of unjustified fee hike **amounting to Rs.1,45,56,900** alongwith 9% interest. | 95 to 119 |
| | 7 | 29.08.2109 | Order in respect of **Columbia Foundation Sr. Sec. School, Vikas Puri (B-564)** recommending refund of unjustified fee hike **amounting to Rs.1,16,82,385** alongwith 9% interest. | 120 to 140 |
| | 8 | 30.08.2019 | Order in respect of **Holy Cross School, Najafgarh (B-614)** recommending no intervention. | 141 to 150 |
| (b) | Cause List of the cases taken up in August 2019 on 19.08.2019, 20.08.2019, 22.08.2019, 23.08.2019, 26.08.2019, 27.08.2019, 29.08.2019 and 30.08.2019. | | | 151 |
| (c) | Miscelleneous/ Interim orders passed in August 2019 | | | 152 to 165 |

**Place: Delhi**

**Secretary**

**Delhi High Court Committee for Review of School Fee**

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

Private School Branch
Diary No. 10579
Dte. of Education, GNCT of Delhi

**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:**

**Mann Public School, Holambi Khurd, Delhi-110085 (B-285)**

**Order of the Committee**

**Present: Sh. Bharat Rattan, Chartered Accountant with Sh. Brijesh Kumar Sharma, Accountant of the school.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto. The Committee issued a fresh questionnaire on 24/07/2013 vide which, besides the queries raised vide questionnaire dated 27/02/2012, the school was also required to answers to specific queries with regard to collection and utilisation of development fee and maintenance of earmarked development/depreciation reserve funds, in order to examine whether the school was fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004)



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

5 SCC 583, for charging development fee. However, this was also not responded to. Reminders were issued to the school on 05/09/2013, 21/10/2013 and again on 05/12/2013. The school submitted its reply to the revised questionnaire, as per which it implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/12/2008. It was stated that as a result of implementation of the recommendations of VI Pay Commission, the monthly expenditures on salaries rose from Rs. 5,68,811 in November 2008 to Rs. 9,64,656 in December 2008. So far as arrears are concerned, the school stated that it paid a sum of Rs. 8,86,135 as arrears of differential salary to the staff for the period September 2008 to November 2008. It also stated that no arrears of differential salary were paid to the staff for the period January 2006 to August 2008 as the school did not recover the arrear fee for the corresponding period which was recoverable as per order dated 11/02/2009 issued by the Director of Education.

With regard to hike in regular tuition fee, the school stated that it hiked the tuition fee by Rs. 400 per month for all the classes w.e.f. October 2008 for the purpose of implementation of the recommendations of VI Pay Commission.

With regard to recovery of development fee and maintenance of earmarked development fund/depreciation reserve fund, the school did not give any clear cut answers.



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

The accounts of the school were directed to be verified by the Accounts Officer of the Committee and she endorsed the replies given by the school to the revised questionnaire issued by the Committee. With regard to development fee, she noted that the school charged development only at the time of admission of the students. She also recorded that the school paid salary mainly through bank. Proper deductions were made in respect of TDS and Provident Fund. Salary to staff was paid in accordance with recommendations of VI Pay Commission w.e.f. December 2008. She also recorded that the school prepared a separate set of books of accounts as well as balance sheet in respect of a boarding house meant for the students.

The Committee issued a notice dated 27/01/2014, requiring the school to appear before it on 24/02/2014 and produce the details of entire fee, salary and accounting records for the years 2006-07 to 2010-11.

Sh. Rajender Kumar Saini and Sh. Brijesh Kumar Sharma, Accountants of the school appeared and were partly heard on that date and on 24/03/2014, when they clarified that the school did not maintain any earmarked bank account for development fee or depreciation reserve fund. However, the Committee could not pass the final order.

After reconstitution of the Committee, the Committee issued a fresh notice dated 22/06/2017 requiring the school to furnish the



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

information with regard to different components of fee and salary for the years 2008-09, 2009-10 and 2010-11 in a structure format so as to facilitate the relevant calculations. The school was also directed to furnish details of its accrued liabilities of gratuity and leave encashment, account of its parent society as appearing in its books and the audited financials of pre primary school and hostel, if they were not part of the financials of the main school.

The school merely filed the information with regard to fee and salary in the structured format on 21/07/2017 without any elaboration.

A notice of hearing was issued to the school on 20/02/2018, requiring it to appear before the Committee on 20/03/2018. Sh. S.M. Surana, Chartered Accountant appeared with Sh. Brijesh, Accountant of the school. The Committee noticed that even the inchoate information furnished by the school on 21/07/2017 did not agree with the books of accounts produced by the school during the course of hearing. Further, the Committee noticed that the school had also not produced copy of the circular that was issued to the parents for hiking the fee for the purpose of implementation of the recommendations of 6th pay commission. The authorized representative who appeared for the school submitted that some more time be given to the school to furnish complete information in response to the notice dated 22/06/2017.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The request of the school was acceded to by the Committee. On 07/05/2018, the school again sought more time as the Chartered Accountant of the school was not available on account of demise of his father. The matter was accordingly posted for further hearing on 08/06/2018.

The school furnished the requested information vide its letter dated 08/06/2018 which was filed during the course of hearing. It was stated that the school increased the fee by Rs. 400 per month w.e.f. 01/09/2008 without waiting for any order from the Director of Education. However, it stated that application for approval of the mid- session hike was filed with the Directorate of Education. Although it was stated that a copy of the application was enclosed with the letter, no such copy was found to be enclosed. The school also furnished details of its accrued liabilities of gratuity and leave encashment and a copy of the ledger account of its parent society as appearing in its books.

The school also produced its books of accounts in a lap top, which were maintained in tally software. It also filed copies of the circulars dated 20th Sept.2008 vide which the fee hike for the purpose of paying increased salary on account of implementation of the recommendations of the 6th pay commission was communicated to the parents.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The Committee perused the circular issued by the school and also verified the information with regard to the fee and salary as furnished by the school for the years 2008-09 to 2009-10.

The Committee observed that the school had issued the circular on 20th Sept.2008 for increasing the fee of the students @ 400 per month w.e.f. Sept.2008. However, the order permitting the school to increase the fee was issued by the Director of Education only on 11/02/2009. The fee was increased by the school @ Rs.400 p.m. for all the classes whereas as per the order dated 11/02/2009 which was issued by the Director of Education, it was permitted to increase the fee by Rs.300 per month in respect of classes Pre-school to 5th where the existing fee of the school was between Rs.1001 and Rs.1500 per month. In respect of classes 6th to 10th the fee increase of Rs.400 p.m. was in accordance with the order of the Director. In respect of the students of classes 11th to 12th, the school could have increased the fee by Rs.500 per month while the school increased the same by Rs.400 per month. In view of these facts, the Committee did not draw any adverse influence on account of the increase in fee in respect of classes Pre-school to 5th, which was more than that permitted by order of the Director, as in view of the Committee the same would be more or less compensated by the lesser fee hike effected by the school for classes 11th and 12th.

It was submitted by the authorized representative who appeared for the school that the school did not pay the arrears of



**TRUE COPY**

Secretary

Delhi High Court Committee For Review of School Fee

salary for the period 01/01/2006 to 31/08/2008 and accordingly it did not recover any arrear fee for that period.



The Committee noticed that although the school did not collect the arrear fee for the period 01/09/2008 to 31/03/2009 also as the school actually hiked the fee w.e.f. Sept. 2008 itself, the school had calculated that a sum of Rs.27,57,960 would relate to the increased fee from Sept. 2008 to March 2009. This was purely an academic exercise for facilitating relevant calculations.

In respect of the increased salary on account of implementation of the recommendation of the 6th pay commission, it was submitted that the school increased the salary of the staff in accordance with the recommendations of the 6th pay commission w.e.f. Dec. 2008 itself and paid the arrears for the period Sept.2008 to Nov. 2008. However, for the purpose of making the relevant calculations the school had furnished a figure of Rs. 28,62,706, which represented the arrear salary from Sept. 2008 to Nov.2009 and the increased salary from Dec. 2008 to March 2009

With regard to regular tuition fee, the Committee verified that the same increased from Rs.2,14,34,545 in 2008-09 (excluding the increased fee from Sept. 2008 to March 2009) to Rs. 2,54,39,880 in 2009-010.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The Committee noted that the total amount of development fee recovered by the school at the time of admission of the students amounted to Rs.22,43,000 in 2009-10 and Rs.26,29,000 in 2010-11.

With regard to regular salary, the Committee observed that the figure furnished by the school for the year 2008-09 was erroneous . On verification from the books of accounts, it observed that the salary paid during 2008-09 (excluding the salary shown as arrears) was Rs.97,76,974 and a contribution to employees provident fund was Rs.6,59,692. In the year 2009-10, the salary rose to Rs. 1,72,51,601 and the employees contribution provident fund also rose to Rs.7,80,799.

The Committee noticed that as per the details submitted by the school, its accrued liability for payment of gratuity was Rs.48,07,367 as on 31/03/2010 while that for leave encashment, it was Rs. 28,44,835.

The Committee took note of fact that the school also had a hostel and had furnished its audited financials. The Committee was of the view that for the purpose of relevant calculations, the funds available with the school as well as the hostel ought to be considered to examine whether the fee hike effected by the school was justified or was excessive.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The following calculation sheet was prepared by the Committee 

to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education:

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

| | Particulars | Sr.Sc.School | Boarding | Total |
|---|---|---|---|---|
| | **Funds apparently diverted as per annexure (A)** | **11,124,910** | **45,442,279** | **56,567,189** |
| | Current Assets + Investments | | | |
| | Cash in hand | 204,512 | 561,126 | 765,638 |
| | Bank Balance | 1,665,319 | 2,697,689 | 4,363,008 |
| | Fixed Deposits with Bank | 887,232 | - | 887,232 |
| | Prepaid Expenses | 4,209 | - | 4,209 |
| | Prepaid Insurance | 12,760 | 11,837 | 24,597 |
| | TDS receivable | 19,720 | - | 19,720 |
| | Staff Loan | 41,000 | 30,000 | 71,000 |
| | Pocket Money recoverable from students | - | 1,928,647 | 1,928,647 |
| | Advance to Suppliers | 44,406 | 18,390 | 62,796 |
| | **Total Current assets + Investments (B)** | **2,879,158** | **5,247,689** | **8,126,847** |
| **Less** | Current Liabilities | | | |
| | Caution Money | 614,500 | 1,101,000 | 1,715,500 |
| | Advance fee | 1,713,530 | 1,872,370 | 3,585,900 |
| | Statutory Liability | 152,071 | - | 152,071 |
| | Sundry Creditors | 18,388 | 46,503 | 64,891 |
| | Unpresented Cheques | 12,000 | 10,187 | 22,187 |
| | Science Olympiad Foundation | 23,140 | - | 23,140 |
| | Rent Security | 60,000 | - | 60,000 |
| | Mann Public School (Boarding Section) | 2,774,818 | (2,774,818) | - |
| | Salary Payable | 713,399 | 174,505 | 887,904 |
| | Expenses Payable | 295,024 | 26,094 | 321,118 |
| | **Total Current Liabilities (C )** | **6,376,870** | **455,841** | **6,832,711** |
| | **Net Current Assets + investments (B-C=D)** | **(3,497,712)** | **4,791,848** | **1,294,136** |
| | **Funds deemed to be available (E=A+D)** | **7,627,198** | **50,234,127** | **57,861,325** |
| **Less** | **Additional liability on implementation of 6th CPC:** | | | |
| | Arrear of Salary as per 6th CPC w.e.f. 1.1.06 to 31.8.08 | - | - | |
| | Arrear of Salary as per 6th CPC w.e.f. 1.9.08 to 31.3.09 | 2,862,706 | | 2,862,706 |
| | Incremental Salary in 2009-10 | 7,595,734 | 204,053 | 7,799,787 |
| | **Total (F)** | **10,458,440** | **204,053** | **10,662,493** |
| | **G=E-F** | **(2,831,242)** | **50,030,074** | **47,198,832** |
| **Add** | **Additional recovery for 6th CPC:** | | | |
| | Arrear of Tuition fee for 1.1.06 to 31.8.08 | - | | |
| | Arrear of Tuition fee for 1.9.08 to 31.3.09 | 2,757,960 | - | 2,757,960 |
| | Incremental Tuition fee in 2009-10 | 4,005,335 | 1,362,492 | 5,367,827 |
| | **Total amount received for implementation of 6th CPC (H)** | **6,763,295** | **1,362,492** | **8,125,787** |
| | **Excess / (Short) Fund After Fee Hike (I=G+H)** | **3,932,053** | **51,392,566** | **55,324,619** |



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

| | | | | |
|---|---|---|---|---|
| Less | **Reserves required to be maintained:** | | | |
| | for future contingencies (equivalent to 4 months salary) | 6,010,800 | 883,873 | 6,894,673 |
| | for accrued liability of Gratuity as on 31.03.2010 | 4,807,367 | - | 4,807,367 |
| | for accrued liability of Leave Encashment as on 31.03.2010 | 2,844,835 | - | 2,844,835 |
| | **Total (J)** | **13,663,002** | **883,873** | **14,546,875** |
| | **Excess / (Short) Funds (K=I-J)** | **(9,730,949)** | **50,508,693** | **40,777,744** |

| | |
|---|---|
| **Development Fee refundable: on account of non fulfillment of pre conditions** | **Rs.** |
| For the year 2009-10 (treated as revenue receipt) | 2,243,000 |
| For the year 2010-11 (treated as revenue receipt) | 2,629,000 |
| Incremental fee w.e.f.01.09.2008 to 31.3.2010 apparently required to be refunded as the school did not need to hike the fee for payment of increased salaries consequent to implementation of 6th Pay Commission in view of sufficient funds being available with the school as apparent from the above calculation sheet | **6,763,295** |
| **Total amount apparently refundable** | **11,635,295** |

**Working Notes:**

| **Main School** | **2008-09** | **2009-10** |
|---|---|---|
| Regular/ Normal Tuition Fee excluding Fee Concession | 21,434,545 | 25,439,880 |
| **Incremental Tuition Fee in 2009-10** | **4,005,335** | |

| | **2008-09** | **2009-10** |
|---|---|---|
| Regular/ Normal Salary | 10,436,666 | 18,032,400 |
| **Incremental Salary in 2009-10** | **7,595,734** | |

| **Boarding** | **2008-09** | **2009-10** |
|---|---|---|
| Regular/ Normal Fee excluding Fee Concession | 21,736,208 | 23,098,700 |
| **Incremental Tuition Fee in 2009-10** | **1,362,492** | |

| | **2008-09** | **2009-10** |
|---|---|---|
| Regular/ Normal Salary | 2,447,565 | 2,651,618 |
| **Incremental Salary in 2009-10** | **204,053** | |

A copy of the calculation sheet was given to the school to file its rebuttal, if any.

The school filed written submissions dated 02/11/2018, disputing the calculation sheet prepared by the Committee. The school has also filed its own calculation sheet showing that instead



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

of sum of Rs.4,07,77,744 which has been worked out by the Committee as surplus available with the school after implementation of the recommendations of the 6th pay commission, the school was actually in deficit to the tune of Rs.1,57,89,445.

The Committee observed that the only item disputed by the school in the calculation sheet prepared by it, was the funds apparently diverted for incurring capital expenditure, which the Committee had taken to be Rs.5,65,67,189.

It was contended that the hostel was a separate entity and was located on a private land which had not been allotted by Delhi Development Authority or by any other government owned agency. The tuition fee charged from the students availing of the hostel facility had already been included in the income of the school. It was also submitted that the bulk of funds available with the school which had been considered by the Committee to be available for implementation of the recommendations of the 6th Pay Commission, belonged to the hostel, which was a separate entity and therefore ought not to have been included in the calculations. The school also furnished figures showing that only a fraction of the students availed of the hostel facility and the same was optional. Class wise break up was furnished in respect of the students availing hostel facility as well as those not availing of the hostel facility.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The following table would show the contentions raised by the school in this regard:

| Year | Total student strength | Boarders | %age of Boarders | Day scholars | %age of Day scholars |
|---|---|---|---|---|---|
| 2006-07 | 1041 | 294 | 28% | 747 | 72% |
| 2007-08 | 998 | 318 | 32% | 680 | 68% |
| 2008-09 | 1048 | 321 | 31% | 727 | 69% |
| 2009-10 | 901 | 241 | 27% | 660 | 73% |

It was further contended that if the stand-alone figures of the school were to be considered by the Committee, the calculations would show that the school incurred a deficit after implementation of the recommendations of the 6th pay commission.

**Discussion :**

The Committee has considered the contentions made by the school. It notes that out of the total funds which the Committee has considered as diversion towards capital expenditure amounting to Rs. 5,65,67,189, a significant portion of **Rs. 4,54,42,279** represents the funds of hostel. Further, the incremental fee for the year 2009-10 taken by the Committee to be Rs. 53,67,827 includes **Rs. 13,62,492** which is not the tuition fee but the boarding fee of the students availing the hostel facility. The total surplus determined by the Committee after accounting for the funds available with the hostel and the revenue of the hostel amounted to **Rs. 4,07,77,744.** Thus if the contention of the school that the hostel is a separate entity, although



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

managed by the same parent society, is accepted, the net result would be that the fee hiked by the school did not result any surplus being generated by it.

Therefore, the moot question that the Committee has to consider is whether the funds available with the hostel should be considered as funds available with the school.

The Committee has bestowed its consideration on this aspect of the matter. It observes that maintenance of a hostel by the school is not mandatory under the law for it to be recognised under the provisions of Delhi School Education Act, 1973. There is also no prohibition on any Private Society, which runs a school which is granted recognition by the Directorate of Education, not to engage in any activity other than running the school. The Society may run higher educational institutions or engage in other activities including running a hostel. Normally when the hostel is run as a separate entity and it is not compulsory for the students to avail of the hostel facility, the profits made by providing accommodation to the students of the school cannot be considered as the profits of the school. More so when the hostel is constructed on land which is not acquired from any government agency at concessional rates. The position would of course be different if the school was a residential school i.e. all the students were compulsorily required to avail of the hostel facility or where the hostel was constructed on land allotted for the purpose of



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

establishing the school. In the present case, none of these conditions are satisfied.

As per the information furnished by the school as given in the above table which the Committee does not doubt, the hostel was not mandatory for the students. In fact, predominantly the students were Day Scholars i.e. not availing of the hostel facility. The Committee is therefore, of the view that the funds or the revenues of the hostel should not be considered as the funds or revenue of the school and in that view of the matter, the school did not generate any surplus by hiking the tuition fee or recovering the arrear fee.

**Conclusion:**

**In view of the foregoing discussion, the Committee is of the view that no interference is called for with regard to hike in fee effected by the school for the purpose of implementation of the recommendations of VI Pay Commission.**

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

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

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

Dated: 19/08/2019



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

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

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

**In the matter of:**

**Air Force Bal Bharati School, Lodi Road, N Delhi-110003 (B-437)**

**Order of the Committee**

Present : Mrs. Sunita Gupta, Principal with Group Capt. C.P. Nigam, Admin Officer & Sh. R. S. Chakrabarti, Accountant of the school.

The Committee had received a complaint from one Sh. A. K. Aggarwal, a retired Wing Commander of the Indian Air Force, who was a parent of student of the school on 14/05/2012. The complaint was limited to the issue that the school was cross subsidizing the burden of a 2009 fee hike amongst its general category students. It was charging different fee and passing off the burden of the fee hike in different proportions within the class of its general category students based on the status (Serving or Retired) of their parents. It was stated that a general category student whose father had retired from Air Force was being charged double the fee compared to another general category student whose father was yet to retire.

The complaint was considered by the Committee and the Committee was of the view that the grievance raised by the complainant was outside the purview of this Committee. Accordingly, no notice was issued to the school on the complaint. However, during the course of consideration of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education when



TRUE COPY

Secretary

the representatives of the school appeared before the Committee, it was brought to the notice of the committee that the same grievance had been raised by the complainant before the Hon'ble Delhi High Court in Writ Petition No.8297 of 2009 which was dismissed by the Court vide its judgment dated 26/09/2011 with costs of Rs.20,000 imposed on the complainant.

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 pursuant to order dated 11/02/2009 issued by the Director of Education, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school), which was followed by a reminder dated 27/03/2012. However, the school did not submit its reply to the questionnaire.

As copies of the Returns filed by the school under rule 180 of Delhi School Education Rules,1973 were found to be complete, the preliminary calculations were assigned to be prepared by the Chartered Accountants (CAs) deputed with this Committee by the Directorate Of Education. They made the preliminary calculations and as per their calculations, it appeared that the school had sufficient funds of its own to absorb the impact of implementation of recommendations of 6th Pay Commission and did not require to hike any fee for that purpose. However, the calculations made by the CAs were not accepted by the Committee as it observed that the CAs had



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

not taken into consideration the requirements of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and future contingencies.

The Committee issued a notice dated 22/05/2015, requiring the school to furnish within 10 days, the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11, duly reconciled with the audited Income & Expenditure Accounts, in a structured format which was devised by the Committee to facilitate calculations. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment. A fresh questionnaire was also issued to the school. However, the school did not respond to this notice also. A fresh notice was issued to the school on 23/09/2015 requiring the school to furnish the information as per the previous notice and also appear before the Committee on 15/10/2015.

Sh. Rabi S. Chakrabarti, Accountant of the School appeared with Sh. Manoj Ahuja and Ms. Puja Chitra, UDCs. The school furnished its reply to the notice dated 23/09/2015. Besides furnishing the break-up of fee and salary for the years 2008-09, 2009-10 and 2010-11, the school also furnished the details of its accrued liabilities of gratuity which amounted to Rs.3,66,22,069. However,



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

the school did not furnish details of its accrued liability for leave encashment.

The school also furnished its reply to the questionnaire issued by the Committee.

As per the reply, the school submitted as follows:

(a) It had implemented the recommendations of VI Pay Commission and the increased salaries to the staff were started to be paid w.e.f. May 2009.

(b) It had paid the arrears of increased salary with effect from 01/01/2006 to April 2009. While the amount pertaining to the period 01/01/2006 to 31/08/2008 was Rs.2,43,28,378, the amount pertaining to the period 01/09/2008 to 30/04/2009 was Rs.1,23,72,566.

(c) As a result of implementation of the recommendations of 6th Pay Commission, the monthly expenditure on salary rose from Rs.31,14,599 to Rs.46,66,609.

(d) It had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009 and also recovered the arrear fee from the students.

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

(f) The development fee was credited to an earmarked development fund account. Separate Depreciation Reserve



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

Fund was also maintained by the school. The unutilized development fund and depreciation reserve funds were parked in earmarked investments.

The Committee observed that the information with regard to fee and salaries as furnished by the school was neither in the format given by the Committee nor reconciled with its audited financials. The school was directed to furnish the correct information.

During the course of hearing, the authorized representative of the school contended that initially, the parents of the students were issued a circular regarding fee hike which was more than the hike permitted by the Director of Education vide order dated 11/02/2009. However, ultimately the hike actually effected was restricted to the permissible hike as per the said order. He also contended that though the order of the director permitted recovery of arrears of differential development fee for the period 01/09/2008 to 31/03/2009 besides the arrears of differential tuition fee also, the school did not recover any arrears of differential development fee for this period. However, the regular development fee was hiked to 15% of tuition fee with effect from 01/04/2009.

The school filed a revised chart of information with regard to different components of fee and salary for the years 2008-09 to 2010-11 which was stated to have been reconciled with the audited financials. The school also filed the details of utilization of development fund and details of its accrued liability of leave



TRUE COPY

Secretary

encashment as per which its liability as on 31/03/2010 was Rs.1,19,49,300.

The matter could not be concluded on account of resignation of Justice Anil Dev Singh as Chairman of the Committee. After reconstitution of the Committee, a fresh notice of hearing was issued on 24/08/2017 requiring the school to appear before the Committee on 06/09/2017.

Sh. Rabi S. Chakrabarti, Accountant of the school appeared with Sh. Manoj Ahuja, and Ms. Puja Chitra UDCs. He was partly heard by the Committee.

The Committee observed that on the last date of hearing, it was contended by the authorized representative of the school that the parents of students were issued a circular regarding fee hike which was more than the hike permitted by the Directorate of Education. But subsequently the same was moderated and ultimately the fee actually effected was restricted to the amounts prescribed by the Directorate of Education. However, while preparing the calculation sheet, it appeared to the Committee that this was not so. The fee hike effected in case of the students of Air Force Personnel was much more than the hike that was permitted by the order dated 11/02/2009. The Committee also observed that the contention regarding non-recovery of arrears of differential development fee for the period 01/09/2008 to 31/03/2009 was only partially true. While there was no hike in development fee in case of students in Air Force Airmen



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

(AFA) and Air Force Officers (AFO) category, the development fee was indeed hiked for students of Non Air Force (NAF) category. As per the circulars dated 17/03/2009 issued by the school, the position regarding fee hike and recovery of arrear fee from different categories of students is as follows:

| Category AFA | | | | | |
|---|---|---|---|---|---|
| **Class** | **Particulars** | **Per month** | **No. of months** | **Amount** | **Total arrears recovered** |
| **UKG to V** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 750 | 7 | 5250 | 8250 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3000 | |
| **VI to X** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 920 | 7 | 6440 | 9940 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3500 | |
| **XI & XII** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 1120 | 7 | 7840 | 12340 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 4500 | |



Delhi High Court Committee ★ For Review of School Fee ★

TRUE COPY

Secretary

| Category AFO | | | | | |
|---|---|---|---|---|---|
| **Class** | **Particulars** | **Per month** | **No. of months** | **Amount** | **Total arrears recovered** |
| **UKG to V** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 775 | 7 | 5425 | 8425 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3000 | |
| **VI to X** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 1050 | 7 | 7350 | 10850 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3500 | |
| **XI & XII** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 1330 | 7 | 9310 | 13810 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 0 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 4500 | |



Delhi High Court Committee For Review of School Fee

**TRUE COPY**

Secretary

| Category NAF | | | | | |
|---|---|---|---|---|---|
| **Class** | **Particulars** | **Per month** | **No. of months** | **Amount** | **Total arrears recovered** |
| **UKG to V** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 300 | 7 | 2100 | 7198 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 2098 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3000 | |
| **VI to X** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 400 | 7 | 2800 | 9070 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 2770 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 3500 | |
| **XI & XII** | Incremental Tuition Fee for the period 01/09/2008 to 31/03/2009 | 500 | 7 | 3500 | 11442 |
| | Incremental Development Fee for the period 01/09/2008 to 31/03/2009 | 0 | 7 | 3442 | |
| | Lump Sum Arrears for the period 01/01/2006 to 31/08/2008 | | | 4500 | |

With regard to the hike in tuition fee which was more than the hike permitted by the Directorate of Education for AFO and AFA category, the authorized representative submitted that it was on account of the decision taken by the Managing Committee to restrict the subsidy component in the factor the fee charged from AFA and AFO categories and the hike in fee ought to be considered in that light.



Delhi High Court Committee For Review of School Fee

TRUE COPY

Secretary

It would be pertinent to mention here that the complaint of Sh. A.K. Aggarwal which was received by the Committee alleged that the children of Non Air Force parents were being discriminated against. However, the above tables giving the total amount of fees recoverable from different categories of students pursuant to the hike effected for implementation of recommendations of 6th Pay Commission was more in case of Air Force categories than in the case of Non Air Force category.

The Committee noticed that the school recovered the arrears of development fee which were equal to almost 100% of the arrears of tuition fee for the period 01/04/2008 to 31/03/2009 for the NAF category. The authorized representative contended that originally the school was charging a fixed amount of development fee amounting to Rs. 800 p.a. but after the issuance of order dated 11/02/2009, the school revised the development fee w.e.f. 01/04/2008 to be equal to 15% of the annual tuition fee for the whole year 01/04/2008 to 31/03/2009, although the school had initially recovered a fixed amount of development fee of Rs. 800 for the whole year in the beginning of the year.

Based on the audited financials of the school and the information furnished by the school during the course of hearing, the Committee prepared a Calculation Sheet in order to examine the justifiability of the fee hike effected by the school pursuant to order dated 11/02/2009 of the Director of Education. As per the



Delhi High Court Committee For Review of School Fee

**TRUE COPY**

Secretary

calculations prepared by the Committee, it appeared that the school had available with it a sum of **Rs.11,40,46,446** as per the following details:

| | | | |
|---|---|---|---|
| **Investments:** | | | |
| Short term deposit | 11,545,803 | | |
| School Fund fixed Deposit with IAFBA | 27,300,000 | | |
| Depreciation Fund Fixed Deposit with Bank of Baroda | 6,445,818 | | |
| Depreciation Fund with IAFBA | 47,100,000 | | |
| Gratuity Fund FD with IAFBA | 20,300,000 | | |
| PTA Fund Investment | 314,543 | | |
| Prize Fund Investment | 200,180 | | |
| Fixed Deposits with SBI | 90,875 | | |
| FD with Bank of Baroda (School Affiliation) | 739,023 | 114,036,242 | |
| Less: Earmarked Funds: | | | |
| Depreciation Fund Fixed Deposit with Bank of Baroda | 6,445,818 | | |
| Development Fund | 8,215,866 | | |
| PTA Fund | 176,837 | | |
| Prize Fund | 200,180 | 15,038,701 | |
| **Free Investments** | | **98,997,541** | 98,997,541 |
| *Current Assets* | | | |
| Cash in Hand | | 978 | |
| Cash at Bank | | 5,411,529 | |
| Interest accrued but not received | | 806,454 | |
| Prepaid Expenses | | 34,589 | |
| Staff advance account | | 43,117 | |
| IAFCW Fund recoverable account | | 1,692,330 | |
| Cash Imprest | | 10,500 | |
| Advance to Contractor of MES | | 13,114,000 | |
| Due from students | | 4,865 | |
| Bus loss recovery account | | 81,562 | 21,199,924 |
| **Current Assets+ Free Investments** | | | **120,197,465** |
| *Current Liabilities* | | | |
| Fee received in advance | | 966,260 | |
| Students Medical insurance | | 984,200 | |
| Caution Money | | 2,773,980 | |
| Sundry creditors | | 203,085 | |
| Payable to contractors for deposits | | 33,048 | |
| Security Contractors refundable | | 130,905 | |
| Expenses payable | | 146,934 | |
| Old Students Association | | 13,661 | |
| Diary/ I Card | | 114,790 | |
| Earnest Money | | 40,000 | |
| Metrological Observatory | | 16,271 | |
| Consumers club | | 4,700 | |
| Rebate received in advance | | 654,526 | |
| Stale cheque payable | | 68,659 | **6,151,019** |
| **Net Current Assets + Investments** | | | **114,046,446** |



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

The requirement of the school to keep funds in reserve to meet its accrued liabilities of gratuity and leave encashment and a reasonable reserve for future contingencies equivalent to four months' salary was **Rs. 6,86,56,048** as per the following details:

| Reserves required to be maintained: | | |
|---|---|---|
| for future contingencies (equivalent to 4 months salary) | 20,084,679 | |
| for accrued liability towards Leave Encashment as on 31.03.2010 | 11,949,300 | |
| for accrued liability towards Gratuity as on 31.03.2010 | 36,622,069 | **68,656,048** |

Thus, the balance amount available with the school which could have been utilized for meeting the additional expenditure in implementing the recommendations of 6th Pay Commission was **Rs 4,53,90,398** (11,40,46,446 - 6,86,56,048). The total impact of implementation of recommendations of 6th Pay Commission was **Rs. 4,91,22,859** as per the following details:

| | | |
|---|---|---|
| Arrear of Salary as per 6th CPC | 39,706,530 | |
| Incremental Salary for 2009-10 (as per calculation given below)* | 9,416,329 | **49,122,859** |

Thus, there was a shortfall of **Rs.37,32,461** (4,91,22,859 – 4,53,90,398), which required to be bridged by hiking the fee/ recovering arrear fee as per order dated 11/02/2009. However, the school recovered a total sum of **Rs.3,18,84,213** by way of arrear fee and incremental fee in terms of order dated 11/02/2009. Thus apparently, the school recovered a sum of **Rs. 2,81,51,752** in excess of its requirements.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

A copy of the calculation sheet prepared by the Committee was given to the school. The school was given an opportunity to file its rebuttal of the calculation sheet.

Mrs. Sunita Gupta, Principal of the school appeared with Group Captain C.P. Nigam, Admin Officer & Sh. R.S.Chakrabarti, Accountant of the school. She filed the rebuttal of the school vide written submissions dated 11/12/2017. It was contended that the Committee ought to have excluded the amount of Rs.4,71,00,000 deposited with IAFBA while calculating the funds available with the school at the threshold, as the same was earmarked against depreciation reserve fund and thus was not available for the purpose of payment of increased salaries. She drew the attention of the Committee to the audit report on the balance sheet of the school as on 31/03/2008 wherein the auditors had also considered this as part of investment of depreciation reserve fund. She contended that since the school was fulfilling all the preconditions for charging development fee, the earmarked depreciation reserve funds could not be considered as available for payment of salaries.

She further contended that the advance to the contractor of the MES amounting to Rs.1,31,14000 was given out of development fund for upgradation/renovation and the same was adjusted after completion of the work in 2010-11 and hence this was also not available with the school for the purpose of meeting its increased financial obligation on account of implementation of the recommendations of the 6th pay commission.

It was contended that if the calculation sheet was amended to take the above objections into consideration, the result would be that the school incurred a deficit on implementation of the recommendations of 6th Pay Commission

The Committee has bestowed its consideration to the submissions made by the Principal of the school. The Committee has also examined the audited financials of the school and the audit reports thereon. The Committee is satisfied that the school was fulfilling the preconditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India (2004) 5 SCC 583. The Committee agrees with the contentions raised on behalf of the school that the funds which are earmarked against Depreciation Reserve cannot be utilised for payment of increased salaries. If the sum of Rs.4,71,00,000 is excluded from the figure of funds available at the threshold, the result would be that the school incurred a notional deficit on implementation of recommendations of 6th Pay Commission. It is notional because it has been worked out after allowing the school to keep funds in reserve amounting to Rs. 2,00,84,679 to meet any future contingency.

However, the issue of recovery of excess development fee and that too with retrospective effect from 01/04/2008 requires to be dealt with.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The order dated 11/02/2009 issued by the Director of Education did not permit the school to retrospectively increase the development fee with effect from 01/04/2008 to 15% of tuition fee where the schools were originally charging development fee at a lesser rate. 15% of tuition fee is the upper limit of development fee that can be recovered by the school. The schools are at liberty to charge development fee at a rate which is less than 15% of tuition fee or not to charge development fee at all. As noticed supra, the school was originally charging a fixed amount of Rs.800 per anuum as development fee which was not linked to tuition fee but was within the cap of 15% of tuition fee. Clause 15 of order dated 11/02/2009 of the Directorate of Education permitted the schools to recover the incremental development fee for the period 01/09/2008 to 31/03/2009 where there would be a consequential increase in development fee on account of increase in tuition fee with effect from 01/09/2008. This would happen where the development fee was recovered as a percentage of tuition fee. However, in this particular case, the school was charging a fixed amount of development fee which was not linked to tuition fee at all. Hence, any increase in tuition fee could not have resulted an increase in development fee enabling the school to recover the differential amount of development fee. Moreover, the school even recovered the differential amount of development fee with retrospective effect from 01/04/2008 when the fee hike permitted by the order dated 11/02/2009 was only with effect from 01/09/2008. This amounts to hiking the development fee in the



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

mid session and recovering the back arrears without specific approval of the Director of Education which is a mandatory requirement as per Section 17(3) of The Delhi School Education Act, 1973.

**In view of the foregoing discussion, the Committee is of the view that the arrears of development fee recovered by the school from the students in the Non Air Force category amounting to Rs.2094 from students of UKG to V, Rs.2770 from students of classes VI to X and Rs.3442 from students of Classes XI & XII was not only unjustified but also illegal. The school ought to refund the same alongwith interest @ 9% p.a. 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)**

Dated: 20/08/2019



Delhi High Court Committee ★ For Review of School Fee ★

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:**

**Vandana International Sr. Sec. School, Dwarka, Delhi-110075 (B-427)**

**Order of the Committee**

**Present: Sh.Manu Luthra, Chartered Accountant with Sh. Harsh P. Tandon, Admn. Officer, Sh. Hitesh, Accountant & Sh. Sanjeev Kumar, Accountant of the school.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto.

On perusal of the documents of the school , it appeared that the preliminary calculations could be made to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. In the first instance, the calculations were made by the Chartered Accountants (CAs) deputed by the Directorate of Education with this Committee to assist it. They



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

provisionally determined that the school generated a total sum of Rs. 1,75,16,200 by recovering arrear fee and increasing the regular fee w.e.f. 01/09/2008 in terms of order dated 11/02/2009 issued by the Director of Education. They also determined that considering the funds available with the school at the threshold and the impact of implementation of the recommendations of VI Pay Commission, a sum of Rs. 62,10,156 was recovered by the school in excess of its requirements.

On review of the calculation sheet prepared by the CAs, the Committee observed that the funds available with the school at the threshold as on 31/03/2008, as determined by the CAs were in the negative zone to the tune of Rs. 3,58,554 as its current liabilities as on that date exceeded its current assets. The Committee considered that this was an abnormal situation and was indicative of either diversion of funds to the parent society or utilisation of fee revenues for incurring capital expenditure. Accordingly, the Committee did not rely upon the calculations prepared by the CAs.

The Committee issued a notice dated 21/05/2015, requiring the school to furnish details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

of the circular issued to the students with regard to fee hike pursuant to order dated 11/02/2009 of the Director of Education. The school was also issued a fresh questionnaire vide which, besides the queries raised vide questionnaire dated 27/02/2012, the school was also required to answers to specific queries with regard to collection and utilisation of development fee and maintenance of earmarked development/depreciation reserve funds, in order to examine whether the school was fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, for charging development fee.

The school furnished the required information under cover of its letter dated 02/06/2015. Reply to the questionnaire was also submitted. As per the reply to the questionnaire, the school submitted as follows:

(a) It had implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/04/2009. It was also stated that the monthly salary of the staff rose from Rs. 7,91,566 in March 2009 to Rs. 11,82,474 in April 2009 as a result of implementation of the recommendations of VI Pay Commission.

(b) It had paid a sum of Rs. 64,30,767 as salary arrears of VI Pay Commission, partly in 2009-10 and partly in 2010-11.

(c) It had increased the tuition fee of the students w.e.f. 01/04/2009 at the rates prescribed by the order dated



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

11/02/2009. It was submitted that as a result of the increase in tuition fee, the fee revenue rose from Rs. 3,01,56,111 in 2008-09 to Rs. 4,07,72,029 in 2009-10.

(d) It had recovered a total sum of Rs. 61,31,610 towards arrear fee in terms of circular dated 11/02/2009 and the recovery was spread over three years i.e. 2008-09, 2009-10 and 2010-11.

(e) The school did not charge any development fee.

As per information furnished by the school, its accrued liabilities on account of gratuity was Rs. 5,09,200 as on 31/03/2010 and Rs. 2,96,352 on account of leave encashment.

A notice of hearing was issued to the school on 01/08/2016 requiring the school to appear before the Committee on 23/08/2016.

Sh. Man Mohan Sharma, Chartered Accountant appeared with Sh. Sanjeev Kumar, Sh. Rakesh Kumar, Sh. Hitesh and Sh. R.L. Virmani of the school.

The Committee pursued the circular dated 15/02/2009 issued by the school to the parents of the students regarding fee hike effected in pursuance of order dated 11/02/2009 issued by the Directorate of Education. As per circular, the parents were required to deposit fee arrears of seven months i.e. Sept. 2008 to March 2009, calculated @ Rs.400 per month for pre primary classes, Rs. 300 p.m. for class 1 to class 7, Rs.400 p.m. for classes 8 to 10th & Rs.500 for



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

classes 11th. Besides this, parents were also asked to deposit lump sum fee as envisaged in order dated 11/02/2009 to cover the salary arrear for the period 01/01/2006 to 31/08/2008.

The school produced a bank statement to show that all the arrears were paid through direct bank transfer except to three employees who were paid by bearer cheques.

The Committee examined the audited financials of the school and observed that the school had taken heavy amounts of loans for creation of its fixed assets like building and vehicles (presumably buses). The loans and interest thereon were being repaid out of the fee revenues of the school. This was primarily the reason for the school to have its net current assets, which the Committee considers as the funds available with the school, in the negative zone, before the fee hike. It was apparent that the school was recovering fee, not just to meet its revenue expenditure on salary and overheads but also to incur capital expenditure. The Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 had laid down that capital expenditure could not form part of the fee structure of the school. Therefore, the Committee was of the view that if the school had diverted its fee revenues towards incurring capital expenditure, such amount of diversion ought to be considered as part of funds available with the school.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

Based on the information furnished by the school and its audited financials, the Committee prepared the following calculation sheet considering the amount of repayment of loans and interest as part of funds available with it.

**Statement showing Fund available as on 31.03.2008, Funds diverted upto 31.03.2010 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report**

| | Particulars | Amount (Rs.) | Amount (Rs.) |
|---|---|---|---|
| | **Funds diverted for repayment of loans taken for capital expenditure and interest paid thereon as per Annexure** | | **12,749,438** |
| | *Current Assets + Investments* | | |
| | Cash in Hand | 242,770 | |
| | Cash at Bank in savings account | 510,222 | |
| | Cash at bank in current account | 448,776 | |
| | Fixed Deposits with Bank of Rajasthan | 250,000 | |
| | Interest accrued on FDRs | 20,520 | |
| | Prepaid Insurance | 132,541 | |
| | TDS receivable | 2,356 | 1,607,185 |
| **Less** | *Current Liabilities* | | |
| | Caution Money | 481,900 | |
| | Other Current Liabilities | 1,483,838 | 1,965,738 |
| | Net Current Assets + Investments | | (358,553) |
| | **Net Current Assets + Investments + Funds diverted** | | **12,390,885** |
| | **Funds available for implementation of 6th CPC** | | **12,390,885** |
| **Less** | **Reserves required to be maintained:** | | |
| | for future contingencies (equivalent to 4 months salary) | 6,295,732 | |
| | for accrued liability towards Leave Encashment as on 31.03.10 | 644,139 | |
| | for accrued liability towards Gratuity as on 31.03.10 | 1,635,403 | 8,575,274 |
| | **Funds available for implementation of 6th Pay Commission before Fee hike** | | **3,815,611** |
| **Less** | **Additional Liabilities after implementation of VIth Pay Commission:** | | |
| | Arrear of Salary as per 6th CPC | 6,430,767 | |
| | Incremental Salary for 2009-10 (as per calculation given below) | 2,673,138 | 9,103,905 |
| | **Excess / (Short) Fund Before Fee Hike** | | **(5,288,294)** |
| **Add** | **Total Recovery for implementation of 6th Pay Commission:** | | |
| | Arrear of tuition fee | 6,131,610 | |
| | Incremental tuition fee for 2009-10 (as per calculation given below) | 10,615,918 | 16,747,528 |
| | **Excess / (Short) Funds After Fee Hike** | | **11,459,234** |



TRUE COPY

Secretary

**Working Notes:**

| | Rs. | Rs. |
|---|---|---|
| | **2008-09** | **2009-10** |
| Normal/ regular salary | 16,214,057 | 18,887,195 |
| **Incremental salary in 2009-10** | **2,673,138** | |
| | **2008-09** | **2009-10** |
| Normal/ Regular Tuition fee | 30,156,111 | 40,772,029 |
| **Incremental tuition fee in 2009-10** | **10,615,918** | |

**Annexure**

**Funds diverted for repayment of loans taken for capital expenditure and interest paid thereon (As per Reciept & Payments Account)**

| Year | Fresh Loans raised | Repayment of Loans | Payment of Interest | Net outflow of funds for capital expenditure |
|---|---|---|---|---|
| | (A) | (B) | (C ) | (D)=B+C-A |
| 2006-07 | 2,270,554 | 2,876,806 | 1,984,344 | 2,590,596 |
| 2007-08 | 2,118,550 | 2,867,841 | 2,125,412 | 2,874,703 |
| 2008-09 | 6,900,944 | 4,485,680 | 2,127,735 | (287,529) |
| 2009-10 | 2,158,542 | 7,435,770 | 2,294,440 | 7,571,668 |
| **Total** | **13,448,590** | **17,666,097** | **8,531,931** | **12,749,438** |

Since, as per the calculation sheet, the school had apparently recovered more fee than was required to cover the financial impact of the recommendations of the 6th pay commission, a copy of the calculation sheet was furnished to the school for rebuttal if any.

The school filed its rebuttal and disputed only the sum of Rs.1,27,49,438 which the Committee had considered as diversion of funds in the shape of repayments of loans taken for capital expenditure and interest thereon. It was submitted that the Committee had omitted to consider the fresh infusion of funds by the parent society which were also utilized for the aforesaid purpose.



TRUE COPY

Secretary

The Committee considered the submissions made by the school and observed that the calculations made by the Committee were restricted only to the repayment of loans taken for capital expenditure and interest paid thereon, since that was the obvious diversion of fee revenues for incurring capital expenditure. The Committee had not taken into consideration the fresh infusion of funds by the parent society as there were other capital expenditures also like purchase of fixed assets without raising loans from financial institutions and the same had also not been taken into account. Accordingly, the Committee decided to prepare a fresh calculation sheet to take on record the contentions raised by the school as also to take into account the other capital expenditures which had not been earlier considered.

Accordingly, the Committee prepared a revised calculation sheet taking on record the submissions made by the school and arrived at a prima facie conclusion that instead of a sum of Rs. 1,27,49,438 taken by the Committee as having been diverted for capital expenditure, the actual amount of diversion was Rs. 2,65,49,446, as per the following details:

| | Capital Receipts | | | | | |
|---|---|---|---|---|---|---|
| **Financial Year** | **Development fee received** | **Contribution from Society** | **Aid from Society** | **Loans raised** | **Sale of Fixed Assets** | **Total** |
| 2006-07 | 568,723 | 4,881,541 | 500,000 | 2,270,554 | - | 8,220,818 |
| 2007-08 | - | 3,430,000 | | 2,118,550 | - | 5,548,550 |
| 2008-09 | - | 4,614,000 | | 6,900,945 | - | 11,514,945 |
| 2009-10 | - | 2,063,446 | | 2,158,543 | 351,000 | 4,572,989 |
| **Total** | **568,723** | **14,988,987** | **500,000** | **13,448,592** | **351,000** | **29,857,302** |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

| | Capital Payments/ Expenditure | | | | Net Outflow for capital expenditure |
|---|---|---|---|---|---|
| **Financial Year** | **Repayment of Loan and interest** | **Purchase of Fixed Assets** | **Diversion to Society** | **Total** | |
| 2006-07 | 4,861,150 | 4,926,905 | - | 9,788,055 | (1,567,237) |
| 2007-08 | 4,993,256 | 9,336,307 | - | 14,329,563 | (8,781,013) |
| 2008-09 | 6,613,418 | 9,766,568 | - | 16,379,986 | (4,865,041) |
| 2009-10 | 9,730,212 | 6,178,932 | - | 15,909,144 | (11,336,155) |
| **Total** | **26,198,036** | **30,208,712** | - | **56,406,748** | **(26,549,446)** |

Accordingly as against the provisional determination made earlier that the school generated a surplus of Rs. 1,14,59,234 on account of fee hike effected by the school, as per the revised calculations, the Committee revised the figure of surplus generated to Rs. 2,52,59,242. Since the total fee arrear recovered by the school and the incremental tuition fee recovered in the year 2009-10 pursuant to order dated 11/02/2009 issued by the Director of Education resulted in a collection of Rs. 1,67,47,528, the Committee provisionally determined that the school did not require to hike any fee or recover any arrear fee for implementing the recommendations of VI Pay Commission and the entire amount of Rs. 1,67,47,528 ought to be refunded to the students. A copy of the revised calculation sheet was furnished to the school on 15/11/2018 for rebuttal, if any.

The school filed written submissions dated 21/12/2018 controverting the revised calculation sheet prepared by the Committee. Sh. Manu Luthra, Chartered Accountant was heard in the matter.

In the written submissions as well as the oral arguments advanced before the Committee, he quoted certain excerpts from the



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

report of the Duggal Committee which had examined the issue of fee hike effected by the schools on implementation of the recommendations of V Pay Commission. In particular, he cited the recommendations of Duggal Committee with regard to charging of development fee for supplementing the resources for purchase, upgradation and replacement of furniture and fixture and equipments provided the school was maintaining depreciation reserve fund equivalent to depreciation charged in the revenue account. He also relied upon Rule 177 of the Delhi School Education Rules, 1973 to buttress his argument that the fee could be utilised for incurring capital expenditure not just for the same school but also for another school under the same management. He further stated that the purchase of buses and repayments of loans for their purchase came out of the transport fund for which the school was separately charging transport fee. The school also filed memorandum transport accounts in which the receipts from transport fee and payments on account of transportation expenses, both revenue as well as capital, were reflected. He also submitted that the fixed assets acquired by the school were necessary for the purpose of running the school. Accordingly he submitted that the amount of Rs. 2,65,49,446 taken by the Committee as fee diverted for capital expenditure ought not be considered as funds deemed to be available with the school. He relied on certain observations made by the Hon'ble Supreme Court in the case of Modern School (supra) and also section 18 (4) (b) of the Delhi School Education Act, 1973.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

On merits of the other items of the calculation sheet, he submitted that the FDR of Rs. 2,50,000 + Rs. 20,520 interest accrued thereon ought not to be considered as funds available since the FDR was in the joint names of the school and the Director of Education and was not encashable for payment of increased salaries.

**Discussion:**

The Committee has considered the arguments put forth on behalf of the school and is not convinced with the tenability of any of them except to the extent that the FDR which is in the joint name of the school and the Director of Education should be excluded from the figures of fund available for implementing the recommendations of VI Pay Commission and that is going to have no effect on the final determination made by the Committee. The reasons which weigh with the Committee for rejecting the arguments of the school are as follows:

**(a) Reliance on the report of Duggal Committee :**

The school has selectively cited certain observations made by the Duggal Committee with regard to the utilisation of development fee for the purpose of incurring capital expenditure on furniture and fixture and equipments. The Committee finds it odd that the school is relying on the recommendation with regard to utilisation of development fee when it is the admitted case of the school that it did not charge any development fee in 2007-08, 2008-09, 2009-10 and 2010-11. It charged development fee in 2006-07 and that has already been taken into account by the



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

Committee while working out the funds diverted for capital expenditure. Moreover, the school has omitted to mention the specific recommendation of the Duggal Committee with regard to charging of fee for incurring capital expenditure.

7.23 *In suggesting rationalization of the fee structure with the above components, the committee has been guided by the twin objectives of ensuring that while on the one hand the schools do not get starved of funds for meeting their legitimate needs, on the other, that there is no undue or avoidable burden on the parents as a result of schools indulging in any commercialization.*

7.24 *Simultaneously, it is also to be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the 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 the facilities including building, on a land which had been given to the Society at concessional rate for carrying out a "philanthropic" activity.*** *One only wonders what then is the contribution of the society that professes to run the school.*

(Emphasis supplied by us)

**(b) Rule 177 of the Delhi School Education Rules, 1973:**

This particular Rule has already been interpreted by the Hon'ble Supreme Court in the case of Modern School (supra) and therefore, it is not for this Committee to give its own interpretation. The law declared by the Hon'ble Supreme Court is the law of land and has to be unreservedly followed by everybody. The Hon'ble Supreme Court held as follows:

*"19. It was argued on behalf of the management that rule 177 allows the schools to incur capital expenditure in respect of the same school or to assist any other school or to set up any other school under the same management and consequently, the Director had no authority under clause (8) to restrain the school from transferring the funds from the Recognized Unaided School Fund to the society or the*



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

trust or any other institution and, therefore, clause (8) was in conflict with rule 177.

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

21. In the light of the above observations, we are required to analyse rules 172, 175, 176 and 177 of 1973 rules. The above rules indicate the manner in which accounts are required to be maintained by the schools. Under section 18(3) of the said Act every Recognized school shall have a fund titled "Recognized Unaided School Fund". It is important to bear in mind that in every non-business organization, accounts are to be maintained on the basis of what is known as 'Fund Based System of Accounting'. Such system brings about transparency. Section 18(3) of the Act shows that schools have to maintain Fund Based System of Accounting. The said Fund. contemplated by Section 18(3), shall consist of income by way of fees, fine, rent, interest etc. Section 18(3) is to be read with rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognized Unaided School Fund. Further, rule 175 indicates accrual of income unlike rule 177 which deals with utilization of income. Rule 177 does not cover all the items of income mentioned in rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

*instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings.* ***Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools****. It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above. It is for this reason that under Section 17(3) of the Act, every school is required to file a statement of fees which they would like to charge during the ensuing academic year with the Director. In the light of the analysis mentioned above, we are directing the Director to analyse such statements under section 17(3) of the Act and to apply the above principles in each case. This direction is required to be given as we have gone through the balance- sheets and profit and loss accounts of two schools and prima facie, we find that schools are being run on profit basis and that their accounts are being maintained as if they are corporate bodies. Their accounts are not maintained on the principles of accounting applicable to non-business organizations/ not-for- profit organizations."*

It is clear from the above that the schools cannot charge fee to incur capital expenditure but the same can be incurred if there are savings from the fee which are to be calculated in the manner prescribed in the Rule. The school has filed statements showing that it had savings of Rs. 2,27,25,406 for the periods 2006-07 to 2009-10. The amount of savings as worked out by the school for different years are as follows:

| Year | Savings as per Rule 177 |
|---|---|
| 2006-07 | 3,07,362 |
| 2007-08 | 67,96,271 |
| 2008-09 | 55,08,742 |
| 2009-10 | 1,01,13,031 |
| Total | 2,27,25,406 |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The Committee has examined the budget estimates of the school, on the basis of which the fee of the students is fixed for the ensuing year, for all the above years. It observes that the school had already accounted for the capital expenditure (including repayment of loans taken for creating capital assets) to be incurred by the school while fixing its fees. Therefore, the savings as worked out by the school by taking the gross fee revenues, cannot be termed as savings as envisaged in Rule 177 of the Delhi School Education Rules, 1973, to justify its capital expenditure. This shows that the savings were already built into the fee structure for incurring capital expenditure which is contrary to the law laid down by the Hon'ble Supreme Court, as per which ***capital expenditure cannot constitute a component of the financial fees structure.***

**(c) <u>Section 18 (4) (b) of the Delhi School Education Act, 1973:</u>**

Section 18 of Delhi School Education Act, 1973 reads as follows:

*__18. School Fund__- (1) In every aided school, there shall be a fund, to be called the "School Fund" and there shall be credited thereto-*

*(a) any aid granted by the Administrator,*

*(b) income accruing to the school by way of fees, charges or other payments, and*

*(c) any other contributions, endowments and the like.*

*(2) The School Fund and all other fund, including the Pupils' Funds, established with the approval of the Administrator, shall be*



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

*accounted for and operated in accordance with the rules made under this Act.*

*(3) In every recognised unaided school, there shall be a fund, to be called the "Recognised Unaided School Fund", and there shall be credited thereto income accruing to the school by way of*

*a) fees,*

*b) any charges and payments which may be realised by the school for other specific purposes, and*

*c) any other contributions, endowments, gifts and the like.*

*(4) (a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and*

*(b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received.*

*(5) The managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.*

Clause (b) of Sub Section (4) of Section 18, which the school has relied upon provides that charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received. It is submitted that the transport fee was recovered by the school specifically for providing transport to the students and as such the repayments of loans taken for purchase of buses could be considered as having come from the transport fee. The school filed statements of transport fee received by it vis a vis expenditure on transport including capital expenditure by way of repayment of loans for purchase of buses. As per the statements filed by the school, the transport fee receipts vis a vis the



TRUE COPY

Secretary

Delhi High Court Committee * For Review of School Fee *

expenditures on buses and payment of salary to transport staff in the years 2006-07 to 2009-10 is as follows:

| Year | Transport Fee | Expenditure on transport |
|---|---|---|
| 2006-07 | 14,97,154 | 26,59,045 |
| 2007-08 | 23,79,520 | 41,71,854 |
| 2008-09 | 40,19,258 | 75,46,521 |
| 2009-10 | 50,72,565 | 92,87,746 |
| **Total** | **1,29,68,497** | **3,66,33,663** |

It is apparent from the above figures, that the school is itself admitting that in each of the above four years, its expenditure on transport, including repayment of loans for purchase of buses, far exceeded the transport fee recovered by it from the students. In fact in these four years, it incurred a deficit of Rs. 2,36,65,166 (3,66,33,663 – 1,29,68,497), in transport account. The school has tried to buttress its arguments by saying that it had also utilised the depreciation of Rs. 80,40,683 charged on buses in these four years. The school has failed to substantiate as to how depreciation, which is a non cash charge in the accounts for which no depreciation reserve fund is maintained, can be utilised to meet a cash expenditure.

**For all the foregoing reasons, the Committee rejects the various contentions raised by the school except to the extent of excluding a sum of Rs. 2,70,420 as the amount of FDR and interest due thereon from the funds available. As noticed supra, this is not going to change the determination made by the Committee that the entire fee hike made by the school and arrear fee recovered by it**



TRUE COPY

Secretary

High Court Committee ★ For Review of School Fee pursuant to order dated 11/02/2009 amounting to Rs. 1,67,47,528 was unjustified and the school ought to refund the same 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)**

Dated: 22/08/2019



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

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

**In the matter of:**

**St. Mary's School, Safdarjung Enclave, New Delhi-110029 (B-137)**

**Order of the Committee**

**Present: Sh. George Kosh, Chartered Accountant, Sh.P.A.Sivichen, Accounts Supdt. & Sh.Nikhil , Admn. Incharge of the school.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

The school submitted its reply which was received in the office of the Committee on 13/03/2012.

As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/01/2006 (sic). It enclosed copies of the salary sheets for the months of August 2008 to show its monthly salary expenditure prior to implementation of the recommendations of



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

VI Pay Commission and for the month of March 2009 to show the monthly salary expenditure after implementation of the recommendations of VI Pay Commission. This indicates that the school actually increased the salaries of the staff w.e.f. March 2009 and not January 2006 as stated by it.

The school also enclosed the detail of salary arrears as per VI Pay Commission, which were paid to the staff in four installments. As per the statements submitted, the school paid a sum of Rs. 1,48,00,064 towards arrear salary.

With regard to fee hike, the school admitted having hiked the tuition fee w.e.f. 01/04/2009, in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the information furnished by the school, the tuition fee was hiked @ Rs. 400 per month for all the classes as the school had only one fee structure for all the classes. It also stated that it had recovered a sum of Rs. 1,02,27,274 as arrears of incremental fee and the lump sum arrear fee as per the order dated 11/02/2009.

In the first instance, the relevant calculations to examine the justifiability of fee hike effected by the school were made by the Chartered Accountants (CAs) deputed by the Directorate of Education with this Committee to assist it. As per the calculations made by them, the school apparently recovered a sum of Rs. 1,53,41,025 in excess of its requirements, by hiking the fee and recovering the arrear



TRUE COPY

Secretary

fee as per order dated 11/02/2009. However, on reviewing the calculations made by the CAs, the Committee observed that they had taken the figures of fee hike itself by extrapolating the monthly differences for 12 months without attempting to reconcile the same with the audited financials of the school.

The Committee issued a notice dated 13/05/2015, requiring the school to furnish within 10 days, the complete break up of fee and salaries for the years 2008-09 to 2010-11, duly reconciled with its audited financials (including arrear fee and arrear salary pursuant to implementation of VI Pay Commission), copies of bank statements showing payment of arrear salaries, statement of account of the parent society running the school and details of its accrued liabilities of gratuity and leave encashment, besides copy of the circular issued to the parents regarding fee hike effected by the school. A supplementary questionnaire was also issued to the school to elicit information regarding charging of development fee, its utilisation and manner of treatment in the accounts, besides information regarding maintenance of earmarked development fund and depreciation reserve funds.

The school submitted the required information under cover of its letter dated 25/05/2015. It also filed reply to the supplementary questionnaire regarding development fee.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

As per the reply filed by the school, it charged development fee in all the five years for which information was sought, i.e. 2006-07 to 2010-11. It also furnished the total expenditure out of development fee in those five years. It stated that the school treated development fee as a capital receipt and maintained separate depreciation reserve fund for depreciation on assets acquired out of development fee. However, it conceded that the depreciation reserve fund and unutilised development fund were not kept in earmarked bank accounts or FDRs or investments.

A notice of hearing was issued to the school on 23/06/2016, requiring it to appear on 01/07/2016 and produceits books of accounts, fee and salary and other relevant records.

Sh. P.A. Sivichen, Accounts Superintendent of the school appeared and filed a request letter from the Principal of the school seeking postponement of the hearing as the school was closed for summer vacation. The request was acceded to by the Committee and the matter was directed to be relisted on 20/07/2016.

The Committee perused the circular dated March 2, 2009 issued to the parents regarding the fee hike pursuant to order dated 11th Feb. 2009 of the Director of Education. It observed that besides recovering lump sum arrear fee amounting to Rs. 3500 per student, the school hiked the tuition fee by Rs. 400/- p.m. w.e.f. 1st Sept. 2008 and the arrears of incremental fee for the period 01/09/2008 to



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

31/03/2009 amounting to Rs. 2800 per student were recovered. Besides, the school also hiked the development fee @ Rs. 60/- per month w.e.f. 1st Sept. 2008 which is 15% of the hike in tuition fee and accordingly recovered arrears of such incremental development fee for the period 01/09/2008 to 31/03/2009 @ Rs. 420 per student. The Committee also observed that over and above such recoveries, the school also recovered arrears of Rs. 1140 per student @ Rs. 95 per month for the period April 2008 to March 2009, being the 5% difference of the development fee which was supposedly the difference between the development fee charged earlier @ 10% of the tuition fee, which was sought to be enhanced to 15% of tuition fee with retrospective effect from April 2008.

On 20/07/2016, Sh. George Koshi, Chartered Accountant appeared with Sh. P.A. Sivkhon, Accounts Supdt., Sh. Nikhil, Office Incharge & Sh. Biju N.U. Accountant of the school. He filed written submissions which were taken on record by the Committee. The written submissions merely gave details of the fee hike and salary hike effected by the school and fee arrears and salary arrears paid by the school. With regard to increase in development fee with retrospective effect from 01/04/2008, it merely stated that this was done to cover the shortfall. Later emphasis was made on the fact that the fee hike was discussed with Parent Teacher Forum and approved by it and was also passed by the school Managing Committee which included nominee of the Directorate of Education. With regard to bank



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

balances and FDRs, the school stated that it also had liabilities to pay which included loans from Axis Bank. It was further stated that all the funds available with the school had to be utilised for construction of school building which was going on.

During the course of hearing, the authorized representative of the school relied on clauses 14 & 15 of the order dated 11/02/2009, in support of his submission that the development fee hiked by the School was authorized by this order.

With regard to maintenance of earmarked development fund and depreciation reserve funds, he stated that depreciation reserve was maintained in the books of the school but no earmarked bank accounts of FDRs of investment were kept for unutilized against the same. He also submitted that the school did not have unutilized development fund as whatever funds were available were utilized for the purpose of construction of new building. He submitted that at that time there was an earthquake and old building developed cracks, consequently it was demolished and a new building was constructed and all the funds available with the school, including the development fund, were utilized for the construction of building. He further submitted that the school could not have implemented the recommendations of the 6th pay commission out of its own funds which were available, as at that time the building was under construction and for the purpose of meeting the additional



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

expenditure on account of implementation of 6th pay commission, fee hike was necessary.

Based on the audited financials of the school and the relevant information culled out from the various communications with the school, the Committee prepared the following calculation sheet to examine the justifiability of the fee hike effected by the school as well as the arrear fee recovered by it for implementing the recommendations of VI Pay Commission:



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

| | Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report | | |
|---|---|---|---|
| | **Particulars** | **Amount (Rs.)** | **Amount (Rs.)** |
| | *Current Assets + Investments* | | |
| | Cash in hand | 3,530 | |
| | Balance in Bank accounts | 6,600,878 | |
| | Fixed Deposits | 16,989,444 | |
| | TDS Receivable | 528,234 | |
| | Interest receivable | 732,837 | |
| | Loans & Advances | 600,770 | |
| | Prepaid Expenses | 142,466 | 25,598,159 |
| **Less** | *Current Liabilities other than for fixed assets:* | | |
| | Audit Fee Payable | 56,205 | |
| | Bus Security | 95,240 | |
| | Caution Money | 2,082,000 | |
| | Salary payable | 1,251,239 | |
| | TDS payable | 44,945 | |
| | Expenses payable | 910,599 | |
| | Chawla Book Depot | 900,000 | |
| | Glory Graphics | 304,200 | |
| | PF payable | 286,272 | |
| | Sundry Creditors | 350,644 | 6,281,344 |
| | **Net Current Assets + Investments ( Funds available)** | | **19,316,815** |
| **Less** | **Reserves required to be maintained:** | | |
| | for future contingencies (equivalent to 4 months salary) | 9,143,471 | |
| | towards accrued liability of Gratuity as on 31.03.2010 | - | |
| | towards accrued liability of Leave Encashment as on 31.03.2010 | - | 9,143,471 |
| | **Excess / (Short) Fund** | | **10,173,344** |
| **Less** | **Additional Liabilities after implementation of VIth Pay Commission:** | | |
| | Arrear of Salary as per 6th CPC | 14,800,064 | |
| | Incremental Salary for 2009-10 (as per calculation given below) | 8,204,173 | 23,004,237 |
| | **Excess / (Short) Fund Before Fee Hike** | | **(12,830,893)** |
| **Add** | **Total Recovery for implementing 6th Pay Commission** | | |
| | Arrear fee recovered | 10,227,274 | |
| | Incremental fee for 2009-10 (as per calculation given below) | 7,142,300 | 17,369,574 |
| | **Excess / (Short) Fund After Fee Hike** | | **4,538,681** |

| | |
|---|---|
| **Development fee refundable being pre-conditions not being satisfied:** | |
| 2009-10 | 5,675,640 |
| 2010-11 | 6,300,540 |
| **Total** | **11,976,180** |
| **Add: Excess recovery of tuition fee** | 4,538,681 |
| **Total amount refundable** | **16,514,861** |

**Working Notes:**

| | **2008-09** | **2009-10** |
|---|---|---|
| Normal/ regular salary | 19,226,239 | 27,430,412 |
| **Incremental salary 2009-10** | **8,204,173** | |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

| | 2008-09 | 2009-10 |
|---|---|---|
| Normal/ Regular Tuition fee | 32,285,700 | 39,428,000 |
| **Incremental tuition fee in 2009-10** | **7,142,300** | |

On 06/09/2016, the school filed a letter which contained its own calculation sheet, as per which it was projected that the school was in deficit after implementation of the recommendations of VI Pay Commission. It was emphasized that on 8th October 2005, there was an earthquake as a result of which the building of the school developed major cracks and it was advised that the school building should be reconstructed. The reconstruction was started in the year 2006-07. As the school did not have adequate funds of its own, it was imperative for it to have hiked the fee for implementing the recommendations of VI Pay Commission.

The authorized representative of the school was provided with a copy of the calculation sheet prepared by the Committee for rebuttal, if any.

The school filed its own revised calculation sheet to show that instead of surplus as worked out by the Committee, the school had a deficit after implementation of the recommendations of VI Pay Commission.

The Committee compared the calculation sheet prepared by it with that prepared by the school. It observed that the difference in the two calculation sheets was on account of the following reasons:



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

(i) The Committee had included all the FDRs amounting to Rs. 1,69,89,444 in the figures of funds available. On the other hand, the school had excluded a sum of Rs. 91,16,563 which was purportedly the amount of FDRs against Welfare fund and another Rs. 3,58,009 which was lying as security with the Directorate of Education. Hence, the school had taken the figures of FDRs to be Rs. 75,14,872. Similarly the Committee had included the entire bank balance Rs. 66,00,878 as available with the school, the school had excluded a sum of Rs. 22,04,919 which purportedly represented the balance in saving bank account of the Welfare fund. The authorized representative of the school contended that the exclusions made by the school were justified as such sums were not available for the purpose of payment of increased salaries for implementation of VI pay Commission report. It was contended that both the saving bank account and Fixed Deposit account were specifically designated as being on account of Student Welfare Account.

(ii) The school had taken a sum of Rs. 99,88,664 as its requirement of reserve for future contingencies as against Rs. 91,43,471 taken by the Committee. The authorized representative of the school contended that the requirement of reserves ought to be based on the salary



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

and employers contribution provident fund for the month of March 2010 instead of taking the average of the entire year 2009-10.

(iii) The school had taken into consideration a sum of Rs. 53,94,352 as its accrued liability of gratuity and another sum of Rs. 92,81,023 as accrued liability of leave encashment as on 31/03/2010, while the Committee had not taken into account any such accrued liabilities as the school did not provide the required information in this regard, when it was specifically asked to provide the same. The school filed copies of actuarial valuation reports of a certified actuary who had estimated the accrued liability on account of leave Rs.92,81,023 and gratuity amounting to Rs. 1,18,12,907. The school also filed a statement from Life Insurance Corporation of India, with whom it had taken a group gratuity policy, which showed that it had fund balance of Rs. 64,18,555 as on 31/03/2010 in the group gratuity policy. The authorized representative contended that the difference of Rs. 53,94,352 ( 1,18,12,907 – 64,18,555 ) ought to be taken into account for the purpose of keeping funds in reserve.

(iv) The school had also taken a sum of Rs. 1,02,21,034 as the arrear of tuition fee and development fee recovered in pursuance of order dated 11/02/2009 of the Director of



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

Education as against Rs. 1,02,27,274 taken by the Committee.

The authorized representative of the school also contended that out of the development fee for the years 2009-10 and 2010-11, the amount utilized for purchase of furniture and fixture and equipments amounting to Rs. 31,69,941 and Rs. 50,61,365 ought to be deducted as the school had already spent these amounts.

The Committee considered the contentions of the school and noted that the school had not filed complete balance sheets along with schedules and details earlier. Similarly, no information was provided with regard to the accrued liability of gratuity and leave encashment despite being specifically asked vide the committee's notice dated 13/05/2015 and for these reasons the calculation sheet prepared by the Committee did not take into account the contentions of the school as are now being raised.

The Committee also noted that the school sought exclusion of Rs. 1,13,21,482 on account of earmarked funds in the Student Welfare account. However, the balance in the Welfare fund account as on 31/03/2008 was only Rs. 95,73,718, indicating that the school had spent money for the purpose of welfare of students out of its revenues from fee instead of drawing upon earmarked FDRs or earmarked saving bank account. Accordingly, the school was directed to furnish copies of its earmarked FDRs for student welfare fund and



TRUE COPY

Secretary

saving bank account of student welfare fund and also to file the ledger account of welfare fund for the years 2006-07 to 2010-11 indicating the source of accretion to Welfare fund account.

The school furnished the details of the bank accounts and FDRs of welfare fund and copy of ledger account of welfare fund for the years 2006-07 to 2010-11. The contention of the school that the balance held in the Welfare fund saving bank as well as fixed deposit be not considered as part of the funds available to the school for the purpose of meeting its liabilities on account of arrears and increased salary, as a consequence of implementations of the recommendations of the Sixth Pay Commission. The authorized representatives contended that the welfare fund was exclusively utilized for the welfare of the students.

While finalizing the recommendations to be made by the Committee, the Committee felt that certain clarifications were required from the school in the matter of Students Welfare fund. Accordingly, the matter was re fixed.

The authorized representative of the school reiterated their contention that the balances in the earmarked accounts of the Student Welfare Fund were meant to be spent on the students welfare and were not available for payment of increased salaries on account of implementation of the recommendations of VI Pay Commission.



TRUE COPY

Secretary

The Committee noted that the school was maintaining a welfare fund and the balance in this account as on 31/03/2008 was Rs. 95,73,718. As against this, the school had a sum of Rs.91,16,563 in FDRs earmarked against welfare fund and a sum of Rs.22,04,919 in the earmarked saving bank account against welfare fund. Thus the total amount that was purportedly held against the welfare fund was Rs.1,13,21,482, which was more than the balance in welfare fund. It was obvious that the school had incurred certain welfare expenses but instead of withdrawing the money from the earmarked bank account for welfare fund, it charged the same against the fee revenue of the school and debited to Income and Expenditure Account.

Further, on perusal of the ledger account of the welfare fund the Committee observed that the accretion to this fund was mainly on account of the following :

1. Charges for allowing certain coaching entities like FITTJEE and Aggarwal Study Centre to use the premises of the school for conducting examinations/classes.
2. The excess of the cost of books recovered from the students over that paid to the bookseller.
3. Rent/license fee from Mother Dairy which had put up its stall in the school.
4. The income from organizing programmes like Foundation Day etc.



TRUE COPY

Secretary

5. Income from allowing certain groups like Dance Works to conduct classes for the students.

**Discussion:**

It is obvious that the school had credited all its miscellaneous income from various activities /sources to the welfare fund account instead of crediting the same to the Income and Expenditure account. The Director of Education vide its order dated 11/02/2009, directing the schools to implement the recommendations of the 6th pay commission and allowing the schools to increase the fee for meeting the additional expenses had, vide Para-2 of the order, exhorted upon the schools to first of all explore the possibility of utilizing the existing reserves to meet any shortfall in payment of salaries and allowances as a consequence of the increase in the salaries and allowances of the employees. Further, vide Para-11 of the order it was stipulated that the school should not consider the increase in fee to be the only source of augmenting their revenue but should also venture upon other permissible measures for increasing revenue receipts.

Whether the use of school premises for allowing coaching classes of institutions like FIITJEE or Aggarwal Study Centre were permitted under the law or not, the Committee is not in any manner of doubt that the income which accrued to the school from such commercial activities was definitely available for payment of



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

increased salaries to the teachers, irrespective of the fact that such incomes were kept apart in earmarked saving bank or Fixed deposit accounts. Moreover, the order dated 11/02/2009 issued by the Director of Education, in no unmistakable terms stipulated that the schools ought to utilise its existing reserves as well as income generated from other activities for paying increased salaries to the teachers and the fee hike should be effected only as a last resort.

This leaves us to deal with the other differences in the calculation sheet prepared by the Committee and that prepared by the school.

The Committee agrees with the school that the FDR amounting to Rs. 3,58,009 which was pledged as security with Director of Education ought not be considered as part of funds available.

Although the school did not provide the information at the initial stage with regard to its accrued liability of gratuity and leave encashment, the Committee does not hold it against the school to deny it from keeping funds in reserve for meeting these accrued liabilities as it has allowed such liabilities to be excluded from the funds available to all the schools.

The Committee does not agree with the contention of the school that the reserve for future contingencies should be calculated on the basis of the salary for March 2010 instead of the average monthly salary for the entire year 2009-10. There is no law or other legal



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

stipulation which enables the school to keep such funds in reserve but the Committee in its own wisdom has laid down that a sum equivalent to four months average salary for the year 2009-10 ought to be allowed to be retained by the school for any future contingencies and the schools ought not to be denuded of all the funds available with them while implementing the recommendations of VI Pay Commission. The Committee has taken a uniform view in case of all the schools and cannot make a departure in case of this school.

The Committee accepts the figure of Rs. 1,02,21,034 taken by the school as arrears of incremental tuition fee and development fee instead of Rs. 1,02,27,274 taken by the Committee, the difference being of a minor nature.

The Committee does not accept the contention of the school that a sum of Rs. 31,69,941 and Rs. 50,61,365, which the school spent out of development fee in 2009-10 and 2010-11 ought to be deducted from the development fee for those years, as the amount was no longer available with the school. The Committee is of the view that the development fee collected by the school was not justified and in accordance with the law laid down by the Hon'ble Supreme Court as the school did not fulfill the essential pre condition for charging development fee as laid down by the Duggal Committee which was affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

At page 68 of the Duggal Committee report, it was observed as follows:

> *"6.26 The Committee observes that next to transferring a part of its revenue income, to various funds/reserves even prior to determining surplus/deficit, charging of depreciation provided the most convenient and widely used tool for the schools to covertly understate the surplus. Of the 142 schools studied, over a 100 schools have resorted to charging depreciation as an item of expenditure, without simultaneously setting up any Depreciation Reserve Fund for replacing the depreciated assets at the appropriate time. It tentamounts to creating 'Secret Reserves' by the schools- a purely commercial practice. The Committee, however, takes note of the fact that in some of these cases the reserves had been utilized to create other Assets.*
>
> *6.27 In the context of charging of depreciation, the following observation of the Hon'ble Supreme Court in the case of Safdurjung Enclave Education Society vs. MCD as reported in (1992) 03 Supreme Court cases 390 in Civil Appeal no. 228/90 is very pertinent.*
>
> > *" Depreciation is not an expenditure, but is only a deduction @ certain percentage of the capital assets for arriving profit and gains of the business".*
>
> *6.28 Instances also came to the notice of the Committee where assets not owned by the schools too had been depreciated and an equivalent amount transferred to the parent society. In an extreme case, a school paid a license fee for use of building to the Society and also contributed to the Society towards the building fund and charged depreciation which in turn was remitted to the society."*

With this contextual back ground, the Duggal Committee made recommendations in paragraphs 7.21 and 7.22 which read as follows:



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

"7.21 ***Provided a school is maintaining a depreciation reserve fund equivalent to depreciation charged in the revenue accounts,*** *schools could also levy, in addition to the above four categories, a Development fee annually, as a capital receipt not exceeding 10% of the total annual tuition fee for supplementing the resources for purchase, upgradation and replacement of furnitures, fixtures and equipment. At present these are widely neglected items, notwithstanding the fact that a large number of schools were levying charges under the head 'Development Fund'.*

7.22 *Being capital receipts, these should form a part of the Capital Account of the school.* ***The collection in this head along with any income generated from the investment made out of this fund should however, be kept in a separate Development Fund Account with the balance in the fund carried forward from year to year.***

7.23 *In suggesting rationalization of the fee structure with the above components, the committee has been guided by the twin objectives of ensuring that while on the one hand the schools do not get starved of funds for meeting their legitimate needs, on the other, that there is no undue or avoidable burden on the parents as a result of schools indulging in any commercialization.*

7.24 *Simultaneously, it is also to be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the 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 the facilities including building, on a land which had been given to the Society at concessional rate for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the school.*

As a follow up to the recommendations of the Duggal Committee, the Director of Education issued an order dated 15/12/1999 giving certain directions to the schools. Direction no. 7 was as follows:

"7. Development fee, not exceeding 10% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

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

The recommendations of the Duggal Committee and the aforesaid direction no. 7 of the order dated 15/12/1999 issued by the Director of Education were considered by the Hon'ble Supreme Court in the case of Modern School (supra). One of the points that arose for determination by the Hon'ble Supreme Court was:

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

The Hon'ble Supreme Court while upholding the recommendations of the Duggal Committee and the aforesaid direction of the Director of Education observed as follows:

*"24. The third point which arises for determination is whether the managements of Recognized unaided schools are entitled to set up a Development Fund Account?*

*25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states that development fees not exceeding 10% to 15% of total annual tuition fee shall be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipments. It further states that development fees shall be treated as Capital Receipt and shall be collected only if the school maintains a depreciation reserve fund. In our view,*



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

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

It is evident that the schools were allowed to charge development fee, which was otherwise not allowed to be charged by Private Unaided Schools, if they maintained earmarked development fund and depreciation reserve funds.

The school submitted that it was not maintaining an earmarked development fund as the entire development fee collected by it was utilised, which however, is contrary to the figures furnished by the school in its reply to the questionnaire regarding development fee.

The details of development fee charged by the school and expenditure out of such development fee that was incurred by the school from 2006-07 to 2010-11 as furnished by the school in its reply to the questionnaire is as follows:



TRUE COPY

Secretary

| Year | Development Fee received (Rs.) | Development Fee utilised (Rs.) | Surplus out of development fee (Rs.) |
|---|---|---|---|
| 2006-07 | 20,90,030 | 1,95,183 | 18,94,847 |
| 2007-08 | 27,79,160 | 26,12,485 | 1,66,675 |
| 2008-09 | 36,28,080 | 8,52,634 | 27,75,446 |
| 2009-10 | 57,83,680 | 31,69,941 | 26,13,739 |
| 2010-11 | 63,00,940 | 50,61,365 | 12,39,575 |

It is apparent that the entire development fee received by the school was not utilised in toto in any of the five years for which the information was sought. The unutilised development fee was required to be kept in an earmarked development fund account.

With regard to earmarked depreciation reserve fund account, the school of its own conceded that the same was not maintained.

When the school was not fulfilling the essential pre conditions for charging development fee, it did not lie in its mouth to say, that atleast the amount which had already been spent out of the development fee should not be considered as refundable on the ground of its non availability. Accepting such a contention would be putting premium on an illegality committed by the school in charging development fee in the first place.

The last issue that remains to be discussed is the recovery of arrears of development fee with retrospective effect for the period 01/04/2008 to 31/08/2008 and the excess recovery of arrears of incremental development fee for the period 01/09/2008 to 31/03/2009, without obtaining specific approval of the Director.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

As noted supra, the school collected additional arrears of Rs. 1140 per student for the entire year 01/04/2008 to 31/03/2009 so as to hike development fee from 10% to 15% of tuition fee, vide its circular dated March 2, 2009. The school also recovered arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 @ Rs. 420 per student when the arrears of incremental tuition fee for the corresponding period were recovered @ Rs. 2800 per student. This also amounted to 15% of the incremental tuition fee when the school was originally charging development fee @ 10% of tuition fee. The amount that could have been recovered by the school as per order dated 11/02/2009 was Rs. 280 per student i.e. 10% of Rs. 2800. Thus the school recovered Rs. 140 per student in excess of what was permitted by order dated 11/02/2009.

The school justified such increases by stating that the increase was necessary to cover the shortfall in its resources for implementing the recommendations of VI Pay Commission. The school feebly and vaguely relied on paras 14 & 15 of order dated 11/02/2009.

The total amount so recovered to make development fee as 15% of tuition fee instead of 10%, was Rs.1280 (1140+140) per student. There were 1458 students from whom such recoveries were made. Thus the school recovered a total sum of **Rs. 18,66,240.**

The Committee has considered this issue which has two dimensions. The first is that with effect from which date the hike in



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

fee was permitted to the school vide order dated 11/02/2009. The second is whether the school could have revised the rate of development fee from 10% to 15% of tuition fee while recovering the arrear fee for the period 01/09/2008 to 31/03/2009.

Para 4 of the order dated 11/02/2009 leaves no doubt whatsoever that the increase in tuition fee was permitted w.e.f. 1st September 2008 and that too to the school who needed to raise additional funds for implementing the recommendations of VI Pay Commission. The order did not permit any hike in development fee but since normally the schools charge development fee as a percentage of tuition fee, the hike in tuition fee would have resulted in an automatic hike in development fee. To take care of such additional increase in development fee, Para 15 of the aforesaid order provided that such additional increase in development fee *on account of increase in tuition fee* should be utilised for the purpose of meeting any shortfall on account of salary/arrears only.

Thus the increase in development fee was allowed only to the extent it became imperative on account of increase in tuition fee. If the school was charging development fee @ 10% of the tuition fee and the increase in tuition fee was Rs. 400 per month (Rs. 2800 for 7 months from 01/09/2008 to 31/03/2009) the increase in development fee which the school could have resorted to was Rs. 40 per month i.e. Rs. 280 for 7 months. The order of the Directorate did not permit the schools to raise the rate of development fee to 15% of



TRUE COPY

Secretary

Delhi High Court Committee ★ for Review of School Fee

tuition fee where the schools were charging development fee at a lesser rate or where the development fee was not charged by the schools as a percentage of tuition fee. 15% of tuition fee is the upper cap upto which the schools can charge development fee. The schools are at liberty to charge development fee at a lesser rate or not charge the same at all. In this case, the school, in its own wisdom, was charging development fee @ 10% of tuition fee in the year 2008-09 and in fact had recovered it for the whole year at the beginning of the year itself. It could not have increased the development fee to 15% of tuition fee from the beginning by issuing a circular at the fag end of the academic year and that too without any specific approval of the Director of Education as mandated by Section 17(3) of the Delhi School Education Act, 1973.

Thus the Committee is of the view that the recovery of additional arrears of development fee to the tune of Rs. 18,66,240 was not only unauthorized but also illegal. Subject to the other determinations, the school would have to refund it.

**Determinations:**

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

| | | | |
|---|---|---|---|
| | **Amount of refund as provisionally determined by the Committee** | | **16,514,861** |
| Less | Amount of FDR pledged with Directorate of Education | 358,009 | |
| | Accrued liability of gratuity to the extent of shortfall in funding | 5,394,352 | |
| | Accrued liability of leave encashment | 9,281,023 | |
| | Arrear fee excess taken by the Committee in its calculations | 6,240 | 15,039,624 |
| | **Amount refundable by the school** | | **1,475,237** |



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

While working out the above amount, the Committee has allowed the school to retain funds amounting to Rs. 91,43,471 for any future contingencies. The Committee has determined that the school recovered a sum of Rs. 18,66,240 illegally by hiking development fee with retrospective effect and also recovering the same @ 15% of tuition fee instead of 10% of tuition fee which it was originally charging in 2008-09.

**Thus the school ought to refund Rs. 18,66,240 which recovered illegally, notwithstanding the above determination of Rs. 14,75,237 since that determination allowed the school to retain Rs. 91,43,471 as a reserve fund. The aforesaid refund ought to be made 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)**

Dated: 23/08/2019

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



TRUE COPY

Secretary

Delhi High Court Committee for School Fee

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

**In the matter of:**

**St. Columbo Public School, Maharana Pratap Enclave, Pitampura, Delhi-110034 (B-632)**

**Order of the Committee**

**Present: Mrs. Rakesh Dutt, Principal with Ms. Bhawani Devi, Accounts Head of the school.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto.

On perusal of the documents of the school requisitioned from the Director of Education , it appeared that the school had hiked the fee as per order dated 11/02/2009 issued by the Director of Education but had not implemented the recommendations of VI Pay Commission. In order to verify this limited aspect, the school was issued a notice dated 08/08/2012 requiring it to produce its fee and salary records and also provide detail of arrear fee received from the



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

students in terms of order dated 11/02/2009. The school was also directed to submit its reply to the questionnaire dated 27/02/2012.

In response to the notice of the Committee, Smt. Rakesh Dutt, Vice Principal of the school appeared with Sh. P.K. Arya, Chartered Accountant, before the audit officer of the Committee and produced the fee and salary records. It also filed reply to the questionnaire issued by the Committee as per which it was stated as follows:

(a) The school had implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/09/2009.

(b) The school had paid arrears of differential salary for the period January 2006 to August 2009 in two installments in July 2010 and December 2010.

(c) The school had hiked the fee as per order dated 11/02/2009 w.e.f. 01/09/2008.

The school also enclosed a statement showing the arrear fee due from the students vis a vis sum recovered from them and the balance outstanding. As per the statement filed by the school, out of a total sum of Rs. 42,02,000 due from the students as arrear fee, it had recovered a sum of Rs. 36,33,800 and the balance of the fees Rs. 5,68,200 was still recoverable. Although the school did not specifically provide the details of the period for which the arrear fee was recovered, from the amount of arrear fee per student, it was apparent



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

that the school had recovered a sum of Rs. 3000 per student as the lump sum arrear fee for the period 01/01/2006 to 31/08/2008 and Rs. 2100 per student towards arrears of differential fee for the period 01/09/2008 to 31/03/2009 @ Rs. 300 per month.

The audit officer of the Committee examined the fee and salary records and endorsed the replies given by the school to the questionnaire.

The preliminary calculations to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education were, in the first instance, made by the Chartered Accountants (CAs) deputed by the Directorate of Education with this Committee to assist it. They provisionally determined that the school generated a total sum of Rs. 28,52,002 by recovering arrear fee and increasing the regular fee w.e.f. 01/09/2008 in terms of order dated 11/02/2009 issued by the Director of Education.

On perusal of the calculation sheet prepared by the CAs, the Committee observed that the funds available with the school at the threshold as on 31/03/2008, as determined by the CAs were a meager sum of Rs. 3,95,173. The Committee considered that this was not a normal situation and was indicative of either diversion of funds to the parent society or utilisation of fee revenues for incurring capital



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

expenditure. Accordingly, the Committee did not rely upon the calculations prepared by the CAs.

The Committee issued a notice dated 29/06/2015, requiring the school to furnish details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the students with regard to fee hike pursuant to order dated 11/02/2009 of the Director of Education. The school was also issued a fresh questionnaire vide which the school was required to answers to specific queries with regard to collection and utilisation of development fee and maintenance of earmarked development/depreciation reserve funds, in order to examine whether the school was fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, for charging development fee. The school was also required to appear before the Committee on 30/07/2015 and produce its accounting records as well as fee and salary records.

On the date of hearing, Ms. Rekha Dutt, Principal of the school appeared along with Sh. P.K. Arya, Chartered Accountant, Ms. Pooja Singh, Accounts Manager and Ms. Anjana, PGT Commerce. They furnished the required information with respect to fee and salary but



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

did not produce the bank statements and books of accounts of the school. Reply to the questionnaire regarding development fee was also furnished as per which the school did not recover development fee in any of the five years for which the information was sought i.e. 2006-07 to 2010-11.

The Committee noticed that the school had shown a payment of Rs. 36,09,279 in 2008-09 as arrear salary. However, in the reply to the questionnaire which was submitted earlier by the school, it was mentioned that the arrear salary were paid in two installments in July 2010 and December 2010. The Committee also noticed that such arrear payment was not reflected in the Income & Expenditure Account of the school for the year 2008-09. The school had also not filed copies of bank statements which were specifically required to be filed by it. When confronted with these discrepancies, <u>the Principal of the school conceded that in fact no payment of arrear salary was made by the school as the staff members voluntarily surrendered the arrears of salary as donation to the school.</u>

The Committee also noticed that the circulars which was issued by the school to the parents showed that the school had also demanded a sum of Rs. 1050 as arrears of development fee for the seven months period of 01/09/2008 to 31/03/2009, besides arrears of tuition fee but the same was reflected in the statement of fee and salary filed by the school. The Principal of the school contended that though the arrears of development fee was demanded from the



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

parents, the same was not recovered on account of protest by the parents. However, the school did not produce the copies of fee receipts of arrear payment to substantiate its claim.

The Committee also noticed that the school had not furnished any details of its accrued liabilities of gratuity and leave encashment. Accordingly one more opportunity was given to the school to produce its books of accounts, fee and salary records, bank statements and details of accrued liability of gratuity and leave encashment, if any.

On the next date of hearing, the Principal of the school submitted that after the last date of hearing, the Managing Committee of the school met on 04/08/2015 and decided to pay the arrears to all the staff members and in pursuance of such decision, part payments had already been made. It was submitted that the cheques for the balance payments were ready and the process of payment will take about 10 days time.

With regard to recovery of arrears of development fee, the school produced the fee receipts which showed that, contrary to its claim, the school had actually recovered the arrears of development fee. The Principal of the school submitted that the arrears of development fee were recovered only in the initial stages but subsequently they were either refunded or adjusted in the subsequently years. She was directed to produce the vouchers of refund of development fee and subsequent years fee receipts showing adjustment of development fee.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The school still did not file the details of its accrued liability of gratuity and leave encashment.

On the next date, the Principal of the school produced fee receipts showing adjustment of arrears of development fee in respect of 11 students from whom such arrears were recovered in March 2009. It was submitted that the school had recovered such arrears only from those 11 students.

On the next date of hearing, the school filed a statement of the ex-staff who had been paid arrears of salary through separate cheques/drafts along with copy of bank statements showing such payments and also a statement showing that the school had an accrued liability of Rs. 4,26,485 on account of gratuity and Rs. 2,73,798 on account of leave encashment as on 31/03/2010.

The matter could not be concluded on account of resignation of Justice Anil Dev Singh as Chairman of the Committee. After reconstitution of the Committee, a fresh notice dated 20/03/2018 was issued to the school requiring to appear on 10/04/2018.

Mrs. Rakesh Dutt, Principal & Mrs. Anjana Sharma, PGT of the school appeared. However, they did not produce the Books of Accounts for the year 2006-07 to 2010-11 of the school, in spite of specific directions given in the notice dated 20/03/2018. The Principal of the school submitted that the books were maintained in the old software and needed to be converted into new software.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The school was directed to produce its Books of Accounts for the years 2006-07 to 2010-11 in a laptop, as also the audited financials for the years 2011-12 to 2015-16 to ascertain whether the arrears salary paid in 2015-16, were paid out of the arrear fee recovered by the school pursuant to order dated 11/02/2009 or were paid out of the subsequent years' revenues.

On the next date, the school produced its books of accounts for the years 2006-07 to 2010-11, which were maintained in Tally software. The Committee checked the information with regard to different components of fee and salary filed by the school in the shape of a chart on 30/07/2015.

The Committee observed that the information chart filed by the school was erroneous in the following respects:-

a. The school had shown recovery of arrear fee amounting to Rs.36,33,800 in 2008-09 while the same had actually been recovered in 2009-10 as per the books of accounts produced by the school.

b. The regular normal tuition fee received by the school in the year 2009-10 was Rs.1,88,53,850 as per its books of accounts while that shown by the school in the information chart was Rs.2,24,87,630. It appeared that the school had included the arrear fee received by it in the figure of normal tuition fee.



**TRUE COPY**

Secretary

The school filed the audited financials for the years 2011-12 to 2015-16 along with a folder showing collection of arrear fee in the year 2009-10 and payment of arrear salary in the year 2015-16.

The Committee perused the audited financials of the school for and observed that:-

A. In the year 2011-12, out of the total revenue of Rs.3,36,05,157 the school earned a net profit of Rs.1,00,56,002. In 2012-13, out of a total revenue of Rs.4,00,44,696, the school earned a net profit of Rs. 1,21,45,620. In 2013-14 out of a total revenue of Rs,4,54,17,710, the school earned a net profit of Rs.1,55,82,263. In 2014-15, out of a total revenue of Rs.5,06,17,405, the school earned a net profit of Rs.1,76,21,488. In 2015-16 i.e. the year in which the school paid the arrears of salary for the period 01/01/2006 to 31/03/2009, out of total revenue of Rs.5,70,50,870 the school earned a net profit of Rs.1,41,72,070, <u>even after the payment of arrear salary amounting to Rs.36,09,279.</u>

It was obvious that the arrear fee collected by the school in the year 2009-10 had not been utilized for the purpose of payment of arrear salary. The arrears of salary had been paid by the school out of its profits for the subsequent years. Even in the year of payment i.e.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

2015-16 the school had a net profit of Rs.1.41 crores after charging the payment of arrear salary to that year's revenue.

Considering the audited financials of the school and the information extracted from the school through its various communications and submissions, the Committee prepared a calculation sheet. At the outset, it observed that the school had utilised its fee revenues for incurring capital expenditure and therefore, it apparently had meager funds available with it as on 31/03/2008. As per the decision of the Hon'ble Supreme Court in the case of Modern School (supra), capital expenditure cannot form part of the fee structure of the school. The following statement was prepared to determine the amount of fee revenues diverted by the school for capital expenditure:

| **Fees utilised in repayment of loans taken for creation of Fixed assets (A)** | |
|---|---|
| Decrease/ (increase) in Loans in 2007-08 | 413,903 |
| Decrease/ (increase) in Loans in 2008-09 | 653,920 |
| Decrease/ (increase) in Loans in 2009-10 | (214,730) |
| **Total (A)** | **853,093** |
| **Addition to Fixed Assets from 2006-07 to 2009-10 (B)** | **15,567,456** |
| Interest on loans paid in 2006-07 | 579,560 |
| Interest on loans paid in 2007-08 | 915,466 |
| Interest on loans paid in 2008-09 | 845,711 |
| Interest on loans paid in 2009-10 | 767,374 |
| **Total interest paid for servicing of loans for creation of fixed assets (C )** | **3,108,111** |
| **Total Diversion of fee towards capital expenditure (A+B+C)** | **19,528,660** |



TRUE COPY

Secretary

Dehors the aforesaid determination, the school had available with it a sum of Rs. 3,94,812 as net current assets (funds) as on 31/03/2008 as per the following details:

| | | |
|---|---|---|
| *Current Assets + Investments* | | |
| Cash in hand | 143,816 | |
| Bank Balances | 223,951 | |
| Investments | 586,649 | |
| TDS Deposit | 6,146 | |
| Sundry Debtors | 215,024 | 1,175,586 |
| *Less: Current Liabilities* | | |
| Accountancy Charges payable | 16,000 | |
| PF Payable | 6,405 | |
| Salary Payable | 478,549 | |
| TDS Payable | 27,371 | |
| Sundry Creditors | 252,449 | 780,774 |
| **Net Current Assets + Investments** | | **394,812** |

Thus the Committee considered that the school had a sum of **Rs. 1,99,23,472** (1,95,28,660 + 3,94,812) as funds which were deemed to be available with it.

After providing for a sum of Rs. 31,18,576 as reserve for future contingencies and Rs. 4,26,485 for accrued liability of gratuity and Rs. 2,83,798 for accrued liability of leave encashment, the school still had a sum of Rs. 1,61,04,613 for implementing the recommendations of VI Pay Commission.

The total liability of the school for implementing the recommendations of VI Pay Commission was determined to be Rs. 32,44,803 for incremental salary for the year 2009-10. The arrear



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

salary of Rs. 36,09,279 paid by the school out of its profits for the year 2015-16 was ignored.

Thus, prima facie, the school had no requirement either to collect the arrear fee or to hike any fee for the year 2009-10 pursuant to order dated 11/02/2009 of the Director of Education. However, the school collected a total sum of Rs. 36,33,800 towards arrear fee and a sum of Rs. 53,37,500 towards incremental tuition fee for the year 2009-10. Prima facie, the entire additional recovery of **Rs. 89,71,300** (36,33,800 + 53,37,500) was unjustified. The school could have met its additional liabilities on implementation of recommendations of VI Pay Commission out of its own resources.

A copy of the above calculations was given to the Principal of the school on 12/06/2018 for rebuttal, if any.

The school filed its rebuttal on 06/07/2018 during the course of hearing and the Principal and the Chartered Accountant of the school were heard by the Committee. The school also filed its own calculation sheet as per which the excess fee recovered by it amounted to Rs. 6,14,896 as against Rs. 89,71,300 provisionally determined by the Committee. The school raised the following contentions:

(a) The amount of Rs. 31,18,576 considered by the Committee for future contingencies equivalent to four months' salary ought to have been Rs. 36,60,308 as the total salary of both



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

the teaching staff and non teaching staff in the whole year 2009-10 amounting to Rs. 1,09,80,923.

(b) The Committee erred in excluding the sum of Rs. 36,09,279 paid as arrear salary and Rs. 1,14,712 as Provident Fund on such arrears as the school did not have sufficient funds in 2009-10 to pay such arrears.

(c) The Committee had included the repayment of loans for building and interest thereon upto 31/03/2008 and also considered the cost of fixed assets added as funds available on the premise that the same came out of fee revenues. However, the school had raised a sum of Rs. 90,00,000 as loan from Nainital bank for construction of building, which fact was not considered by the Committee.

(d) The school was not charging development fee and therefore, had utilised part of its fee under other heads for creating certain fixed assets. Had the school been charging development fee, some of the fixed assets like furniture, fixtures and equipments could have been legitimately be funded from the development fee.

On going through the calculation sheet filed by the school the Committee observed that the school had not disputed its determinations on net current assets, reserve for accrued liability of gratuity and leave encashment and the amount of incremental salary paid by it in 2009-10 and incremental fee and arrear fee recovered by



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

it. At the same time, the Committee felt that some of the contentions raised by the school with regard to non consideration of sources of capital expenditure merited acceptance and accordingly a fresh Calculation sheet was required to be prepared.

The Committee accepted the contention of the school that the reserve for future contingencies ought to be Rs. 36,60,308 instead of 31,18,576 taken by the Committee.

With regard to objection of the school to exclude the arrear salary of Rs. 36,09,279, the Committee found merit in the contention of the school as the Committee had excluded the same on the ground that the arrear fee recovered by the school in 2008-09 and 2009-10 was not utilised for payment of arrear salary which was paid out of the revenues of the school for the year 2015-16. However, since the Committee had separately considered the fee revenues diverted for capital expenditure upto 2009-10 as part of funds available with the school for implementing the recommendations of VI Pay Commission, exclusion of payment of arrear salary in 2015-16 would result in double jeopardy to the school. Accordingly, the Committee accepted this contention of the school.

The Committee observed that the calculations made by it for determining the amount fee diverted for capital expenditure were not comprehensive and it gave the impression that the Committee had not considered the fresh loans taken by the school for meeting its capital



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

expenditure. However, that was entirely true as the Committee had considered the decrease in loans at the end of the year to be representing the capital expenditure. For the sake of clarity, a comprehensive statement was required to be prepared to allay the fears of the school. However, the Committee found no merit in the contention of the school that if it had been charging development fee, it would have been entitled to incur certain capital expenditures out of such fee. This is a purely hypothetical argument.

For calculating the amount of fee revenues diverted by the school for incurring capital expenditure, the Committee prepared a fresh comprehensive statement of the capital receipts and capital expenditure of the school in the years 2005-06 to 2009-10. The same is as follows:

| | Capital Receipts | | | | |
|---|---|---|---|---|---|
| **Financial Year** | **Development fee received** | **Contribution from Society** | **Loans raised** | **Sale of Fixed Assets** | **Total** |
| **1** | **2** | **3** | **4** | **5** | **6=(2+3+4+5)** |
| 2005-06 | - | - | 4,000,000 | - | 4,000,000 |
| 2006-07 | - | 75,000 | 5,000,000 | 197,500 | 5,272,500 |
| 2007-08 | - | - | - | - | - |
| 2008-09 | - | - | - | - | - |
| 2009-10 | - | - | 1,000,000 | - | 1,000,000 |
| **Total** | - | **75,000** | **10,000,000** | **197,500** | **10,272,500** |



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

| Capital Payments/ Expenditure | | | | Net Capital Inflow/ (Outflow) |
|---|---|---|---|---|
| Repayment of Loan and interest | Purchase of Fixed Assets | Diversion to Society | Total | |
| 7 | 8 | 9 | 10=(7+8+9) | 11=(6-10) |
| 531,619 | 3,049,822 | - | 3,581,441 | 418,559 |
| 1,803,620 | 5,944,856 | - | 7,748,476 | (2,475,976) |
| 1,334,200 | 2,283,158 | - | 3,617,358 | (3,617,358) |
| 1,499,631 | 1,799,568 | - | 3,299,199 | (3,299,199) |
| 1,350,000 | 9,176,072 | - | 10,526,072 | (9,526,072) |
| **6,519,070** | **22,253,476** | - | **28,772,546** | **(18,500,046)** |

As would be apparent from the above statement, the school generated a total sum of Rs. 1,02,72,500 by way of capital receipts but incurred a total sum of Rs. 2,87,72,546 towards capital expenditure/payments. The balance of **Rs. 1,85,00,046** obviously came out of its fee revenues, which was recovered by it as part of the fee from the students in the years 2005-06 to 2009-10. Accordingly, the Committee considered that the capital expenditure which had been incurred by the school, not out of its capital receipts but out of its revenue receipts of fee, ought to be considered as funds deemed to be available with the school for the purpose of implementation of the VI Pay Commission, despite the fact that the school had already utilised the same for incurring capital expenditure. The school could not take advantage of its own wrong and plead paucity of funds when it had utilised the fee revenues in a manner which was not permissible under the law. The school was in breach of law laid down by the Hon'ble Supreme Court in incurring such capital expenditure



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

by making it a part of fee structure. Had such capital expenditure not been incurred, the school would have available with it the aforesaid sum of Rs. 1,85,00,046 which had to be utilised for implementation of the recommendations of VI Pay Commission. The Committee by its mandate, is required to follow the principles laid down by the Hon'ble Supreme Court in the case of Modern School (supra) while examining the justifiability of fee hike effected by the school.

A copy of the revised calculations prepared by the Committee was furnished to the Principal of the school on 27/08/2018 for rebuttal, if any. The final result as provisionally prepared by the Committee was not materially different from the one prepared earlier, the only difference was that the final surplus which was determined by the Committee earlier at Rs. 2,18,31,110 got reduced to Rs. 1,65,36,773 after considering the amount of reduction of funds diverted for capital expenditure from 1,95,28,660 to Rs. 1,85,00,046, the increase in reserve for future contingencies from Rs. 31,18,576 to Rs. 36,60,308 and accounting for Rs. 36,09,279 + Rs. 1,14,712 as arrear salary and Provident fund thereon. However, since the total amount of additional fee recovered by the school pursuant to order dated 11/02/2009 was Rs. 89,71,300 only, the reduction in total surplus from Rs. 2,18,31,110 to Rs. 1,65,36,773 did not materially alter the final determination that the school was not justified in recovering the sum of Rs. 89,71,300 as additional fee for implementing the recommendations of VI Pay Commission.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

After a couple of adjournments at the request of the school, the matter finally came up for hearing on 22/10/2018 when the Principal of the school appeared with the head of the Accounts Department of the school.

The school filed written submissions dated 22/10/2018 in rebuttal of the revised calculation sheet prepared by the Committee. The school stated that except for one item taken in the calculation sheet by the Committee i.e. diversion of fee toward capital expenditure, the rest of the calculation sheet prepared by the Committee was in order. As regards the diversion of fee towards capital expenditure, the school submitted that the diversion upto 2007-08 was to the tune of Rs. 28,98,723 and if that is factored in, the calculation would result showing the excess amount of fee recovered by the school pursuant to order dated 11/02/2009 to be Rs. 9,35,449.

The Committee observed that the school had not taken into consideration the apparent diversion of fee for capital expenditure for the years 2008-09 and 2009-10. The Principal of the school who was present at the time of hearing, submitted that although the figures worked out by the Committee for these two years were in order, they ought not be considered while calculating the fee hike pursuant to order dated 11/02/2009 as the Committee has based its calculations on the balance sheet as on 31/03/2008 which was the latest balance sheet available before the hike in fee was effected.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

The Committee does not find any force in the submissions made by the Principal of the school. It notes that the school has not disputed the revised calculation of fee diverted for capital expenditure upto 31/03/2010. The only argument put forth is that since the Committee has based its calculations on the basis of balance sheet as on 31/03/2008, it ought to consider the funds diverted for capital expenditure only upto 31/03/2008. The argument is flawed for the reason that the Committee has not based its calculations only on the balance sheet as on 31/03/2008. The balance sheet as on 31/03/2008 has been considered only to determine the funds available with the school at the threshold before hiking the fee. In addition, the Committee has considered the recovery of arrear fee in 2008-09 and 2009-10 and also the additional liabilities on account of implementation of VI Pay Commission upto 31/03/2010. The Committee has also considered the requirement of the school to keep funds in reserve based on its accrued liabilities of gratuity and leave encashment upto 31/03/2010. Likewise, it had worked out the requirement of the school to keep funds in reserve for future contingencies based on the annual salary expenditure of the school for the year 2009-10. The very fact that despite recovering arrear fee to the tune of Rs. 36,33,800 in 2008-09 and 2009-10, the school did not pay the arrear salary till 2015-16 on account of paucity of liquid funds, as per its own submission, shows that the additional fee recovered in 2008-09 and 2009-10 for the specific purpose of meeting



TRUE COPY
Secretary

Delhi High Court Committee ★ For Review of School Fee ★

its increased liabilities for implementing the recommendations of VI Pay Commission was also diverted by the school for capital expenditure. The same cannot be ignored.

**Accordingly, the Committee is of the view that the school was not justified in recovering any arrear fee or increasing the regular tuition fee for the year 2009-10 and entire amount of arrear fee and incremental tuition fee for 2009-10 amounting to Rs. 89,71,300 ought to be refunded to the students 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)**

Dated: 26/08/2019



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

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

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

**In the matter of:**

**B.G.S. International Public School, Sector-5, Dwarka, New Delhi-110075 (B-389)**

## Order of the Committee

**Present:** Sh. Boregowda G.D., Accountant of the school.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto.

Later on another revised questionnaire was issued on 07/08/2013 requiring it to submit by 16/08/2013, a reply thereto. The revised questionnaire contained all the queries which were raised vide questionnaire dated 27/02/2012. Additionally, the school was required to answer specific queries with regard to charging of development fee, its utilisation, its accounting treatment and information with regard to maintenance of earmarked fund accounts



TRUE COPY

Secretary

Delhi High Court Committee * For Review of School Fee *

for depreciation reserve and unutilised development fund, in order to examine whether the school was complying with the pre conditions prescribed 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.

A scanned copy of the reply to the revised questionnaire was received by email, as per which the school submitted as follows:

(a) It had implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/06/2009.

(b) It had not paid any arrears of incremental salary to the staff for the period 01/01/2006 to 31/05/2009 and had also not recovered any arrear fee from the students in terms of order dated 11/02/2009 issued by the Director of Education.

(c) The regular fee of the students was increased in terms of the aforesaid order 11/02/2009 w.e.f. 01/04/2009.

(d) The school charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. In the years 2009-10 and 2010-11, with which this Committee is mainly concerned, the school recovered a sum of Rs. 35,66,026 and Rs. 44,06,044 as development fee. The same was treated as a capital receipt in the year 2009-10 but as a revenue receipt in the other years. The school did not maintain any depreciation reserve fund for depreciation on



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

assets acquired out of development fee and consequently no earmarked bank accounts or FDRs or investments to park the same.

The preliminary calculations to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education were, in the first instance, made by the Chartered Accountants (CAs) deputed by the Directorate of Education with this Committee to assist it. They provisionally determined that the school incurred a deficit on implementation of the recommendations of VI Pay Commission despite increasing the regular fee w.e.f. 01/04/2009 in terms of order dated 11/02/2009 issued by the Director of Education.

On perusal of the calculation sheet prepared by the CAs, the Committee observed that the CAs had made perfunctory calculations as they determined that the funds available with the school at the threshold as on 31/03/2008, were negative to the tune of Rs. 27,00,016 as its current liabilities were in excess of its current assets to that extent. They failed to study the financials of the school in depth as such a position would have been impossible if the school was making cash profits, which it was. The excess of current liabilities over current assets apparentlhy indicates that either the school was diverting its fee revenues towards making capital investments in fixed assets or was transferring funds to its parent society or other sister organizations or both. Both the utilisation of fee revenues for capital



TRUE COPY

Secretary

expenditure or transfer of funds to the parent society were not permissible as per the ratio of the decision of the Hon'ble Supreme Court in Modern School (supra) and Action Committee Unaided Pvt. Schools, which the Committee is bound to follow as per its mandate. Accordingly, the Committee did not rely upon the calculations prepared by the CAs.

The Committee issued a notice dated 22/05/2015, requiring the school to furnish within 10 days, the details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11. The school was also required to furnish the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the students with regard to fee hike pursuant to order dated 11/02/2009 of the Director of Education.

The school furnished the required information with respect to fee and salary. The school also furnished details of its accrued liability of gratuity and leave encashment as per which the accrued liabilities on these two accounts were Rs. 15,77,863 and Rs. 1,99,018 as on 31/03/2010. However, the copy of its accounts with the parent society was neither furnished nor adverted to in its reply.

A notice of hearing was issued to the school on 18/07/2016, requiring it to appear before the Committee on 22/08/2016 and



TRUE COPY

Secretary

produceits fee and salary records besides books of accounts for the years 2006-07 to 2010-11 for verification by the Committee.

Ms. Punam Gupta, Principal of the school appeared with Sh. Rajesh Kanojiya, Admn. Officer and Sh. Boregowda G.D., Accountant of the school.

The Committee perused the copy of the circulars dated 30/03/2009 issued to the parents regarding fee hike pursuant to order dated 11/02/2009 issued by the Director of Education. As per the circular, the school increased the tuition fee of all the classes by Rs. 400 per month w.e.f. 01/04/2009 and development fee @ 15% thereof. The circular was silent about the recovery of any arrear fee for the period 01/01/2006 to 31/03/2009. The Principal of the school submitted that the school did charge any arrear fee for the aforesaid period and therefore did not pay arrear salary also for the same period. She further submitted that the increased salary as per the recommendations of VI Pay Commission was paid to the staff only w.e.f. 1st June 2009.

During the course of hearing, the school submitted a revised reply in substitution of the earlier reply dated 11/06/2015.

The Committee examined the fee schedules filed by the school as part of its annual returns under Rule 180 of Delhi School Education Rules, 1973 and observed that in the year 2009-10, the school also started charging fee under a new head, annual charge,



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

besides annual fee. Such charge was to the tune of Rs. 12,000 per student from the new students. However, the Committee observed that in the audited financials of the school, the collection under the Head Annual Charge was not separately shown. It was submitted by the Principal that the same might have been clubbed with Annual fee, as reflected in the Income and Expenditure Account. They undertook to submit the break-up of Annual Fee and Annual Charge within seven days.

On perusal of the balance sheets of the school, the Committee observed that there were heavy transactions between the school and its Parent Trust and its subordinate entities. The Principal of the school submitted that its Parent Trust Sh. Adichunchunagiri Shikshana Trust (R) was based at Bangalore and it had about 450 subordinate entities. However, she was unable to state as to how many transactions with the subordinate entities were undertaken since the recognition of the school w.e.f. 01/04/2005. She sought some time to furnish the details of such entities and the details of the transactions undertaken with them by the school since its recognition.

With regard to development fee, the Committee noted that the school, in its reply dated 19/08/2015 to the questionnaire issued by the Committee, vaguely stated that it was treated as a "revenue receipt" but was treated as capital receipt in 2009-10. At the time of hearing, the Principal of the school clarified that upto 2008-09 it was treated as a revenue receipt but w.e.f. 2009-10, it was treated as a



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

capital receipt. The Committee noted that in the details of utilization of development fee for the years 2009-10 and 2010-11, as furnished by the school along with the reply to the questionnaire, a sum of Rs. 93,52,001 was shown as having been utilized for building construction. The same position prevailed in 2010-11 also in which the amount was Rs. 85,60,526. In 2010-11 further amount of Rs. 9,19,177 was shown as having been utilized for the construction of basket ball court. The Committee also noted that the school had stated that no earmarked fund accounts had been maintained for unspent development fee and depreciation on fixed asset acquired out of such development fee, as the school was not left with any money to be put in the earmarked account.

On the next date of hearing, the Principal of the school filed the break-up of annual fee and annual charges as appearing in the Receipt and Payment accounts of the school for the year 2009-10. However, for the purpose of relevant calculations, it was necessary that the information was filed as per the Income & Expenditure Accounts of the school. The Principal of the school undertook to file the same within one week (which was subsequently filed on 22/09/2016). She submitted that the annual charges were recovered only in the year 2009-10 as the school was in the process of expanding the school building and the amount was utilized for that purpose.



TRUE COPY

Secretary

Delhi High Court Committee * For Review of School Fee *

Based on the audited financials of the school, the Committee calculated that prima facie the school had utilised a sum of Rs. 4,42,48,123 towards the repayment of loans taken for creating fixed assets and payment of interest thereon. The amount was worked out as follows:

| Funds diverted for repayment of loans taken for capital expenditure and interest paid thereon (As per Reciept & Payments Account) | | | |
|---|---|---|---|
| **Financial Year** | **Repayment of Loans** | **Interest** | **Total** |
| 2006-07 | 8,618,481 | 2,946,246 | 11,564,727 |
| 2007-08 | 9,586,737 | 3,796,617 | 13,383,354 |
| 2008-09 | 10,330,570 | 1,930,677 | 12,261,247 |
| 2009-10 | 6,842,061 | 196,734 | 7,038,795 |
| **Total** | **35,377,849** | **8,870,274** | **44,248,123** |

Considering that such diversion of fee received by the School, for creation of capital assets was not permissible. In these cicumstances the Committee considered that the aforesaid sum of Rs. 4,42,48,123 ought to be considered as funds available with the school for implementing the recommendations of VI Pay Commission.

Besides, the Committee calculated that the current assets of the school were for Rs. 30,27,284 and its current liabilities were Rs. 60,07,300 as on 31/03/2009. Accordingly, the Committee provisionally calculated that the school had available with it, a total sum of **Rs. 4,12,68,107** (4,42,48,123 +30,27,284 -60,07,300). The Committee also calculated that the requirement of the school to keep



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

funds in reserve for future contingencies amounted to Rs. 71,24,176 as per the following details:

| | | |
|---|---|---|
| **Reserves required to be maintained:** for future contingencies (equivalent to 4 months salary) | 5,347,295 | |
| for accrued liability towards Leave Encashment as on 31.03.2010 | 199,018 | |
| for accrued liability towards Gratuity as on 31.03.2010 | 1,577,863 | 7,124,176 |

After providing for the above, the Committee considered that the school had available with it a sum of **Rs. 3,41,43,931** for implementing the recommendations of VI Pay Commission.

The school did not pay the arrears of incremental salary as per the recommendations of VI Pay Commission for the period 01/01/2006 to 31/05/2009. The incremental salary which the school started to pay w.e.f. 01/06/2009 resulted in an additional expenditure of **Rs. 47,08,918** upto 31/03/2010.

Thus, prima facie, it appeared that the school had sufficient funds of its own, not only to absorb the additional burden for the period 01/06/2009 to 31/03/2010 but also to pay the arrears of incremental salary for the period 01/01/2006 to 31/05/2009, which the school did not pay, without any requirement for the hike in fee w.e.f. 01/04/2009, which the school effected in terms of order dated 11/02/2009 issued by the Director of Education.



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

As per the information furnished by the school, it recovered an additional fee of **Rs.1,01,50,856** out of which Rs. 88,06,856 was on account of increase in tuition fee as per order dated 11/02/2009 and Rs. 13,44,000 on account of levy of an additional annual charge introduced in the year 2009-10.

Besides, the Committee was of the prima facie view that since the school did not fulfill the essential pre condition of maintaining an earmarked depreciation reserve fund account, it was not entitled to charge any development fee from the students. Consequently, the development fee of Rs. 35,66,026 charged in the 2009-10 and Rs. 44,06,044 charged in 2010-11 was apparently unjustified.

Thus the Committee provisionally calculated that the school ought to refund a total sum of **Rs. 1,81,22,926** (1,01,50,856 + 35,66,026 + 44,06,044).

A copy of the calculation sheet was furnished to school on 08/11/2016 for rebuttal, if any.

The school filed written submissions dated 14/12/2016, in rebuttal of the calculation sheet prepared by the Committee, Sh. Boregowda G.D. Accountant of the school appeared with Sh. Mubarak Hussain, Accounts Assistant. He was heard by the Committee.

The Committee observed that the school contested only the amount of Rs. 4,42,48,123 taken by the Committee as part of funds available to it for the purpose of implementation of the



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

recommendations of VI Pay Commission. The authorized representative of the school submitted that the entire repayment of loans and payment of interest was not out of the fees recovered by the school from the students over the years but a part of the same was contributed by Parent Society, as would be apparent from the Receipt and Payment accounts of the school.

Secondly, he contended that during the year 2006-07 and 2007-08, the school also raised fresh loans which ought to have been taken into consideration by the Committee. The school also furnished break up of repayment of vehicle loans and term loan for construction of building. It was contended that the school had taken loans for purchase of buses and construction of school building. He contended that buses had to be made available to the students and the school building was also a necessary part of the school infrastructure which was required and as such the school was justified in repaying the loans and paying interest out of school funds to the extent it was not covered by the contribution of the Parent Society.

The Committee observed that while making the above submissions, the school had not taken into account the fact that fresh loans were taken for the purpose of creating new fixed assets and not for the purpose of repaying the earlier loans. However, in order to meet the grievances of the school, the Committee considered that so far as the matter of diversion of fee for creating fixed assets was concerned, a more comprehensive calculation sheet was required to be



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

prepared taking into account not only the funds contributed by the Parent Society but also funds transferred to the Parent Society or to its other subsidiary entities. Besides regard had also to be given to the fact that the school also raised fresh loans and purchased certain fixed assets without raising loans, partly out of development fee. Accordingly, the Committee prepared a fresh statement showing diversion of school fund for creating fixed assets. The same is as follows:

| | Capital Receipts | | | | |
|---|---|---|---|---|---|
| **Financial Year (1)** | **Development fee received (2)** | **Contribution from Society (3)** | **Loans raised (4)** | **Sale of Fixed Assets (5)** | **Total (6) =(2) + (3)+(4)+(5)** |
| 2006-07 | 142,000 | 7,948,255 | 4,140,596 | - | 12,230,851 |
| 2007-08 | 1,671,100 | 9,624,484 | 4,290,800 | - | 15,586,384 |
| 2008-09 | 1,928,000 | 5,733,879 | - | - | 7,661,879 |
| 2009-10 | 3,566,026 | 4,232,910 | - | - | 7,798,936 |
| **Total** | **7,307,126** | **27,539,528** | **8,431,396** | **-** | **43,278,050** |

| Capital Payments/ Expenditure | | | | **Net Inflow/ (Outflow) on Capital Account (11) = (6) – (10)** |
|---|---|---|---|---|
| **Repayment of Loan and interest (7)** | **Purchase of Fixed Assets (8)** | **Diversion to Society/ Other entities (9)** | **Total (10) = (7) + (8) + (9)** | |
| 11,564,728 | 6,269,339 | - | 17,834,067 | (5,603,216) |
| 13,383,355 | 6,503,069 | - | 19,886,424 | (4,300,040) |
| 12,261,248 | 2,682,861 | - | 14,944,109 | (7,282,230) |
| 7,038,795 | 7,296,634 | 5,693,100 | 20,028,529 | (12,229,593) |
| **44,248,126** | **22,751,903** | **5,693,100** | **72,693,129** | **(2,94,15,079)** |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

Thus, taking into account the contentions raised on behalf of the school, the Committee revised its calculation with regard to diversion of fee revenues for creating fixed assets from Rs. 4,42,48,126 to Rs. 2,94,15,079 resulting in the reduction of funds available with the school for implementing the recommendations of VI Pay Commission from Rs. 3,41,43,931 to Rs. 1,93,10,887. However, that did not make any material difference to the provisional result arrived at by the Committee that the school had sufficient funds of its own to absorb the additional financial burden of Rs. 47,08,918 on account of implementation of the recommendation of VI Pay Commission w.e.f 01/06/2009. However, the Committee felt that since the development fee for the year 2009-10 had already been considered while calculating the funds diverted for capital expenditure, a separate recommendation for its refund was not called for. Accordingly, the Committee considered only the development fee for the year 2010-11 amounting to Rs. 44,06,044 to be refundable apart from the fee hike and additional annual charges recovered by the school in 2009-10 amounting to Rs. 1,01,50,856.

A copy of the revised calculation sheet was provided to the school on 16/11/2018 for its rebuttal, if any.

After taking a couple of adjournments, the school filed its rebuttal on 14/05/2019 when the accountant of the school was also heard. It was submitted as follows:



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

(a) The capital expenditure on purchase of fixed assets amounted to Rs. 2,27,51,903 ought not be considered as part of the funds available since any expansion or improvement to the infrastructure of the school has to be borne out of the fees recovered from the students. The responsibility of the Parent Society ceases once it has constructed the school building with the initial infrastructure and handed over the same to the Managing Committee of the school. It was contended that Rule 177 (2) allows for expansion of the school or any expenditure of development nature.

(b) The annual charges amounting to Rs. 13,44,000 which were introduced in the fee structure for the first time in 2009-10, ought not be considered as increase in fee merely for the reason that no such charges were recovered in the year 2008-09. It was further contended that only the increase in tuition fee ought to be considered for ascertaining the funds required for implementation of recommendation of VI Pay Commission.

(c) Without prejudice to the above claim regarding exclusion of funds diverted for capital expenditure, it was submitted that the calculation of amount utilized for capital expenditure amounting to Rs. 2,94,15,079 which had been taken by the Committee would actually be Rs. 65,71,113 if the purchase of fixed assets allowed as per Rule 177 (2), the requirement of keeping 10% reserve fund out of savings from tuition fee as per



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

Rule 177(2)(e) and the surplus generated by the school out of transport fee, which had been utilized for repayment of vehicle loan and interest thereon were factored in.

(d) Lastly it was submitted that the development fee charged from the students in 2010-11 amounting to Rs. 44,06,044 ought not be ordered to be refunded as the same had been spent by the school on capital expenditure.

The school also filed its own calculation sheet as per which it determined a surplus of Rs. 5,64,859 generated by it out of the fee hike effected in terms of order dated 11/02/2009 as against the Committee's provisional determination of Rs. 2,47,42,825.

**Discussion:**

(a) **Purchase of fixed assets amounting to Rs. 2,27,51,903:**

The contention of the school is that the Parent Society is responsible only for constructing the school building and providing the initial infrastructure. Thereafter, the expansion of building or its other infrastructure has to be borne by the students. The same is also allegedly provided by Rule 177 (2) of the Delhi School Education Rules, 1973. For appreciating this argument, it would be apposite to reproduce Rule 177 herebelow:

> ***177. Fees realised by unaided recognised schools how to be utilized***
>
> *(1) Income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for*



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

*meeting the pay, allowances and other benefits admissible to the employees of the school: Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:— (a) award of scholarships to students; (b) establishment of any other recognised school, or (c) assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

*(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely :— (a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school; (b) the needed expansion of the school or any expenditure of a developmental nature; (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation; (d) co-curricular activities of the students; (e) reasonable reserve fund, not being less than ten per cent, of such savings.*

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

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

The Hon'ble Delhi High Court in **Delhi Abibhavak Mahasangh Vs. Union of India and others AIR 1999 Delhi 124,** had held that such savings must be incidental and not created savings. In other words, the fee fixed by the school cannot provide for creation of such savings in order to be able to



TRUE COPY

Secretary

incur capital expenditure. That is to say that capital expenditure should not form part of the fee structure but if incidentally there is some savings from the fee, it can be used for incurring capital expenditure. It would apt to cite the relevant part of the judgment of the Hon'ble Delhi High Court in the above case. The same is as follows:

> *47. The forceful submission put forth on behalf of the schools by Mr. Jaitley and by Mr. Gopal Subramaniam that what can be regulated and interfered with is the use of the amounts collected by the schools from the students and not the quantum also deserve to be rejected. It is same argument that only end use of the amount collected is the relevant consideration and not whether the amount collected for one head is spent on another. <u>The scheme of the Act and the Rules is that there should be no diversion of funds and what is collected shall be spent for same purpose barring accidental savings. The incidental use of sums collected for some ancillary purpose may be different but not the deliberate levy for one purpose knowing that for the said purpose the amount required may be much less and knowing that the excess amount is levied and collected and later used for another purpose.</u> We do not think that the object of the Act would stand satisfied on simply showing that the amounts collected were spent for educational purposes. There may be some stray cases of such diversion of funds taking placed. The approach relating to such stray cases may be different. The approach would, however, be different when one finds a continuous pattern of such diversion which is not permissible under the Act and the Rules and cannot be permitted under the garb of spreading education. But these are some of the aspects to be examined on facts in each case.*
>
> ................................................................................
>
> ................................................................................
>
> *65. In view of the aforesaid discussion, our conclusions may be summaries as under:-*



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

*(i) It is the obligation of the Administrator and or Director of Education to prevent commercialisation and exploitation in private unaided schools including schools run by minorities.*

*(ii) The tuition fee and other charges are required to be fixed in a validly constituted meeting giving opportunity to the representatives of Parent Teachers Association and Nominee of Director of Education of place their viewpoints.*

*(iii) No permission from Director of Education is necessary before or after fixing tuition fee. In case, however, such fixing is found to be irrational and arbitrary there are ample powers under the Act and Rules to issue directions to school to rectify it before resorting to harsh measures. The question of commercialisation of education and exploitation of parents by individual schools can be authoritatively determined on thorough examination of accounts and other records of each school.*

*(iv) The Act and the Rules prohibit transfer of funds from the school to the society or from one school to another.*

***(v) The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.***

*(vi) The inspection of the schools, audit of the accounts and compliance of the provisions of the Act and the Rules by private recognised unaided schools could have prevented the present state of affiars.*

*(vii) The authorities/ Director of Education has failed in its obligation to get the accounts of private recognised unaided schools audited from time to time.*

*(viii) The schools/ societies can take voluntary donations not connected with the admission of the ward.*

*(ix) On the peculiar facts of these petitions there is no per se illegality in issue of the impugned circular dated 10th September 1997.*

*(x) An independent statutory Committee, by amendment of law, if necessary, deserves to be constituted to go into factual matters and adjudicate disputes which may arise*



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

*in future in the matter of fixation of tuition fee and other charges.*

*(xi) The Government should consider extending Act and Rules with or without modifications to all schools from Nursery onward.*

The aforesaid judgment of the Delhi High Court was challenged in the Supreme Court by way of civil appeal and the judgment of the Hon'ble Supreme Court is reported as Modern School & ors vs. Union of India & ors. (2004) 5 SCC 583. The capital expenditure to be forming part of the fee structure was specifically dealt with by the Hon'ble Supreme Court as follows:

> *"19. It was argued on behalf of the management that rule 177 allows the schools to incur capital expenditure in respect of the same school or to assist any other school or to set up any other school under the same management and consequently, the Director had no authority under clause (8) to restrain the school from transferring the funds from the Recognized Unaided School Fund to the society or the trust or any other institution and, therefore, clause (8) was in conflict with rule 177.*

*20. <u>We do not find merit in the above arguments</u>. Before analyzing the rules herein, it may be pointed out, that as of today, we have Generally Accepted Accounting Principles (GAAP). As stated above, commercialization of education has been a problem area for the last several years. One of the methods of eradicating commercialization of education in schools is to insist on every school following principles of accounting applicable to not-for-profit organizations/ non- business organizations. Under the Generally Accepted Accounting Principles, expense is different from expenditure. All operational expenses for the current accounting year like salary and allowances payable to employees, rent for the premises, payment of property taxes are current revenue expenses. These expenses entail benefits during the current accounting period. Expenditure, on the other hand, is for acquisition of an asset of an enduring nature which gives benefits spread over many accounting periods, like purchase of plant and machinery,*



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

*building etc. Therefore, there is a difference between revenue expenses and capital expenditure. Lastly, we must keep in mind that accounting has a linkage with law. Accounting operates within legal framework. Therefore, banking, insurance and electricity companies have their own form of balance-sheets unlike balance-sheets prescribed for companies under the Companies Act 1956. Therefore, we have to look at the accounts of non-business organizations like schools, hospitals etc. in the light of the statute in question.*

*21. In the light of the above observations, we are required to analyse rules 172, 175, 176 and 177 of 1973 rules. The above rules indicate the manner in which accounts are required to be maintained by the schools. Under section 18(3) of the said Act every Recognized school shall have a fund titled "Recognized Unaided School Fund". It is important to bear in mind that in every non-business organization, accounts are to be maintained on the basis of what is known as 'Fund Based System of Accounting'. Such system brings about transparency. Section 18(3) of the Act shows that schools have to maintain Fund Based System of Accounting. The said Fund. contemplated by Section 18(3), shall consist of income by way of fees, fine, rent, interest etc. Section 18(3) is to be read with rule 175. Reading the two together, it is clear that each item of income shall be accounted for separately under the common head, namely, Recognized Unaided School Fund. Further, rule 175 indicates accrual of income unlike rule 177 which deals with utilization of income. Rule 177 does not cover all the items of income mentioned in rule 175. Rule 177 only deals with one item of income for the school, namely, fees. Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings.* ***Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools****. It also shows that salaries and allowances are revenue expenses incurred*



TRUE COPY

Secretary

Delhi High Court Committee ★ Review of School Fee *during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above. It is for this reason that under Section 17(3) of the Act, every school is required to file a statement of fees which they would like to charge during the ensuing academic year with the Director. In the light of the analysis mentioned above, we are directing the Director to analyse such statements under section 17(3) of the Act and to apply the above principles in each case. This direction is required to be given as we have gone through the balance- sheets and profit and loss accounts of two schools and prima facie, we find that schools are being run on profit basis and that their accounts are being maintained as if they are corporate bodies. Their accounts are not maintained on the principles of accounting applicable to non-business organizations/not-for- profit organizations."*

As noted supra, this Committee is bound to examine whether the principles laid down by the Hon'ble Supreme Court in the case of Modern School (supra) have been followed or not. When the Hon'ble Supreme Court has interpreted Rule 177 of the Delhi School Education Rules, 1973 and held that ***capital expenditure cannot constitute a component of the financial fees structure,*** it is not for this Committee to give its own interpretation of the same. The submission made on behalf of the school that the funds for incurring capital expenditure to be incurred after the Parent Society has created the initial infrastructure, have to come from the students (by way of fee) is made in the teeth of the law laid down by the Hon'ble Supreme Court as noted above and has to be rejected. Accordingly, the Committee rejects the argument of the school that it incurred capital expenditure out of its savings as provided in Rule 177.



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

In fact, the school has not even given as to how the savings as per Rule 177 have been worked out by it.

(b) **Recovery of additional Annual Charges in 2009-10:**

The submission made by the school on this quote has to be rejected outrightly as Para 5 of the order dated 11/02/2009 issued by the Director of Education permitting hike in tuition fee for implementing the recommendations of VI Pay Commission, specifically stated that there shall not be any further increase in tuition fee beyond the limit prescribed in para 4 till March 2010. The school is only being ingenious by hiking fee under the head Annual Charge only in the year 2009-10 instead of hiking the tuition fee beyond the limits prescribed by the Para 4 of the order. Moreover, it was stated that the school recovered this fee as it required funds for construction of the building which was going on. This in fact is an admission of the school charging capitation fee from the new students in 2009-10, which as per the settled law, is illegal.

(c) There is no justification for reducing the amount of capital expenditure of Rs. 2,94,15,079 to Rs. 65,71,113, as contended by the school in the alternative by excluding certain figures which the school has given to be permitted as per Rule 177 (2) and the requirement of keeping 10% reserve fund out of savings from tuition fee as per Rule 177 (2) (e)



TRUE COPY

Secretary

Court Committee ★ Review of School Fee

and the alleged surplus from the transport fee. The school has not given any calculation sheet as to how it has worked out its so called 'savings' as per Rule 177 and the requirement of keeping 10% reserve. For proper appreciation of this argument, it was incumbent upon the school that it had given split Income & Expenditure Accounts showing its Income & Expenditures on curricular activities, co-curricular activities and transportation and then worked out the savings. Merely given certain charts does not give credibility to its arguments. Moreover, as we have held that the fee recovered from the students cannot be for the purpose of incurring capital expenditure, the alternative submission of the school also fails for the same reason.

(d) **Development Fee for 2010-11:**

There is no substance in the argument that development fee of Rs. 44,06,044 recovered by the school in 2010-11 ought not be ordered to be refunded for the reason that the same had been spent by the school on incurring capital expenditure. The school has not disputed the fact that it was not fulfilling the pre conditions which it was required to fulfill to be able to charge development fee. The charge of development fee by Private Unaided Schools is alien to the provisions of Delhi School Education Act and Delhi School Education Rules, 1973. It was allowed to be charged only on



TRUE COPY

Secretary

High Court Committee for Review of School Fee

the recommendation of the Duggal Committee which was constituted by the Hon'ble Delhi High Court. The Duggal Committee categorically stated as follows:

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

The aforesaid recommendation of the Duggal Committee was affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). It is apparent that the schools were allowed to be charged development fee provided they were maintaining a depreciation reserve fund. The school has itself stated that it was not maintaining any depreciation reserve fund. Therefore, the school was not entitled to charge development fee at the first place. The fact that it has already utilised the development fee for incurring capital expenditure and therefore, it should not be ordered to be refunded would amount to putting a premium on an illegality committed by the school. Accordingly, the Committee rejects this contention of the school.



TRUE COPY

Secretary

High Court Committee for Review of School Fee

**Determination:**

**In view of the foregoing discussion, the Committee is of the view that the school ought to refund the entire amount of additional tuition fee and annual charges charged by it in 2009-10 amounting to Rs. 1,01,50,856 as also the development fee charged by it in 2010-11 amounting to Rs. 44,06,044, 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)**

Dated: 27/08/2019



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

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

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

**In the matter of:**

**Columbia Foundation Sr. Sec. School, Vikas Puri, New Delhi-110018 (B-564)**

**Order of the Committee**

**Present: Sh. K.P. Sunder Rao, Advocate with Sh. N.K. Mahajan, Chartered Accountant, Sh. Anuj Mahajan and Sh. Pradeep Singh, Head Clerk of the school.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto.

Thereafter, a revised questionnaire was issued to the school vide which, besides seeking the response of the school to the queries raised vide questionnaire dated 27/02/2012, relevant queries were also raised in respect of the development fee charged by the school, its utilisation and maintenance of earmarked development and depreciation reserve funds in order to examine whether the school was



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

complying with the pre conditions laid down by the Duggal Committee, on fulfillment of which only, the school was entitled to charge development fee. The report of the Duggal Committee on this particular aspect was affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583, which this Committee is required to follow as per the mandate given to it by judgment dated 12/08/2011 of the Hon'ble Delhi High Court in WP(C) 7777 of 2009.

The school submitted its reply to the revised questionnaire issued by the Committee on 13/09/2013. As per the reply submitted by the school,

(a) It implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. July 2009, which was paid along with the arrears of incremental salary from April 2009 to June 2009.

(b) The monthly expenditure on salary rose from Rs. 8,21,080 in June 2009 to Rs. 11,99,766 in July 2009 on account of implementation of the recommendations of VI Pay Commission.

(c) It paid a total sum of Rs. 34,42,828 as arrears of incremental salary for the period 01/01/2006 to 31/03/2009 as follows:

| For the period | Paid in | Amount paid (Rs.) |
|---|---|---|
| Sept. 08 to March 09 | November 2009 | 10,43,310 |
| Jan. 06 to August 08 | March 2013 | 23,82,013 |
| Paid to Ms. Veena Rao | August 2013 | 17,505 |
| **Total** | | **34,42,828** |



TRUE COPY

Secretary

Delhi High Court Committee ★ for Review of School Fee

(d) It increased the fee of the students in accordance with order dated 11/02/2009 of the Director of Education w.e.f. April 2009 and also recovered a sum of Rs. 42,09,938 as lump sum arrears and arrears of incremental fee for the period 01/01/2006 to 31/03/2009.

(e) It recovered a total sum of Rs. 86,79,035 on account of development fee from 2006-07 to 2010-11. In the years 2009-10 and 2010-11, with which this Committee is concerned, it recovered Rs. 23,21,035 and Rs. 25,18,780 respectively.

(f) Except in 2006-07 when development fee was treated as a capital receipt, it was treated as a revenue receipt in all other years.

(g) The school did not maintain any depreciation reserve fund for depreciation on assets acquired out of development fee. Further, as the school had utilised the entire amount of development fee for purchase of fixed assets and for payment of salary to staff, the school did not maintain any earmarked development fund account.

It is apparent from the reply to the questionnaire that the school was not complying with any of the pre conditions laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). The school was



TRUE COPY

Secretary

not treating development fee as a capital receipt but was treating it as a revenue receipt. It was utilising the same for payment of salaries which is a revenue expenditure. It was also not maintaining any earmarked development/depreciation reserve fund. Accordingly, the Committee proposed to include the development fee charged by the school in 2009-10 and 2010-11 in the amount to be refunded by the school, besides the refund of arrear fee, incremental tuition fee and development fee determined by the Committee, as per order dated 11/02/2009 issued by the Director of Education.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish within 10 days, details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11 in a structured format which has been devised by the Committee to facilitate the relevant calculations. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the students with regard to fee hike pursuant to order dated 11/02/2009 of the Director of Education.

The school furnished the required information under cover of its letter dated 08/06/2015.



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

As per information furnished by the school, its accrued liabilities on account of gratuity was Rs. 50,81,579 as on 31/03/2010 and Rs. 12,50,658 on account of leave encashment.

The school also filed copy of a circular dated 07/03/2009 which was issued to the parents with regard to hike in fee and recovery of arrear fee as per order dated 11/02/2009 of the Director of Education. As per the circular, the school increased the tuition fee as well as development fee w.e.f. 01/09/2008. The arrears of incremental tuition fee and development fee were recovered from the students in the following manner:

| Class | Arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009 (Rs.) | Arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 (Rs.) | Lump sum arrear fee for the period 01/01/2006 to 31/08/2008 (Rs.) | Total (Rs.) |
|---|---|---|---|---|
| LKG /UKG | 1400 | 560 | 2500 | 4460 |
| I to VIII | 1400 | 490 | 2500 | 4390 |
| IX to X | 2100 | 490 | 2500 | 5090 |
| XI to XII | 2100 | 350 | 2500 | 4950 |

A notice of hearing was issued to the school on 26/11/2015, requiring the school to appear before the Committee on 03/12/2015 and produce its books of accounts and fee and salary records.

Sh. S.K. Singh, Accountant of the school appeared with Sh. Pradeep Singh, Head Clerk. They were partly heard by the Committee.



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

The Committee noticed that the arrears of incremental development fee recovered for the period 01/09/2008 to 31/03/2009 were almost 40% of the arrears of incremental tuition fee for that period. This was not permissible as there is a cap of 15% as per the judgment of the Hon'ble Supreme Court in the case of Modern School (supra). The school was directed to give justification of the same.

The school filed a letter dated 10/12/2015 vide which it gave calculations as to how the figure of incremental development fee had been arrived at. As per the figure furnished by the school, it was apparent that the distortion in the rate of development fee was on account of the fact that the school was charging development fee at a rate which was about 7 to 8% of tuition fee but w.e.f. 01/09/2008, the school increased the rate of development fee to 15% of tuition fee. However, the school did not provide any justification for increasing the rate of development fee w.e.f. 01/09/2008. The order dated 11/02/2009 of the Director of Education permitted the schools only to increase the tuition fee for meeting their additional liabilities on account of implementation of the recommendations of VI Pay Commission. It did not authorize the schools to increase the rate of development fee to 15% of tuition fee where the schools were charging development fee at a rate which was less than 15% of tuition fee as is the case of this school. Clause 15 of the aforesaid order permitted the schools to only raise the development fee which would result on account of increase in tuition fee. So if the school was charging



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

development fee at 8% of tuition fee, the consequential increase in development fee would be only 8% of the incremental tuition fee.

The matter could not be concluded on account of resignation of Justice Anil Dev Singh as Chairman of the Committee.

After reconstitution of the Committee, a fresh notice was issued to the school on 10/01/2018 to appear on 08/02/2018 and produce its books of accounts in a lap top, as the same were maintained in Tally software.

The authorized representatives of the school appeared on the date of hearing. The Committee considered the information furnished by the school earlier and observed that the break up of fee and salary that the school furnished on 08/06/2015 did not appear to be correct as it showed recovery of only a paltry sum of Rs. 24,040 as arrears of incremental development fee and that too in 2008-09 while the arrears of tuition fee for the same period were Rs. 41,66,468. Since the Committee had observed that the school recovered arrears of incremental development fee at almost 40% of the arrears of incremental tuition fee as per the circulars issued by the school, the information furnished by the school was ex facie incorrect. The school was directed to furnish correct and complete break up of fee and salary as per the format given by the Committee with the notice dated 25/05/2015. The school, despite specific notice to this effect did not



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

produce its books of accounts in a lap top. The school was directed to do so on the next date of hearing.

On 06/03/2018, the school filed a revised statement of fee and salary under cover of its letter dated 05/03/2018. The school also produced its books of accounts maintained in tally software in a laptop for the years 2008-09 to 2010-11. The Committee examined the aforesaid statement with reference to books of accounts as well as the audited financials of the school. The Committee observed that the regular salary paid by the school including employees provident fund amounted to Rs. 1,11,71,244 in 2008-09 as against Rs. 1,15,74,930 reported by the school in the statement. Similarly, the correct figure as per books of accounts for the year 2009-10 is Rs. 1,37,23,382 as against Rs. 1,39,92,120 reported by the school. The authorized representatives appearing for the school submitted that certain other expenses like staff welfare had also been included in the figures reported by the school and the difference was for that reason.

Further, the Committee observed that as per the revised statement filed by the school, it collected a sum of Rs. 2,60,450 as arrear fee in the year 2008-09 and another sum of Rs. 39,06,018 in the year 2009-10, thus totaling Rs. 41,66,468. Out of this, only a sum of Rs. 15,79,355 was disbursed to the staff as arrear salary in the year 2009-10.



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

It was also observed that while the collection in 2008-09 amounting to Rs. 2,60,450 was appropriated by the school as its own income in 2008-09 itself, the remaining balance of Rs. 23,26,663 was carried as a liability to be paid to the staff in subsequent years. This payment was actually made by the school in the year 2012-13. In the meantime, the school earned cash profit of Rs. 39.06 lacs in 2010-11, and Rs. 44.05 lacs in 2012-13 while it incurred a cash deficit of Rs. 13.59 lacs in 2011-12. Thus, the school earned a cash profit of Rs. 69.52 lacs in the three years period of 2010-11 to 2012-13. It was obvious that the arrear payment amounting to Rs. 23.26 lacs in the year 2012-13, was not made out of the arrear fee collected by the school but from the profits earned by the school in the subsequent years. Accordingly, the Committee excluded the sum of Rs. 23,26,663 paid as arrear salary in 2012-13 from the calculations for the purpose of examining whether the fee hike effected by the school was justified.

Based on the audited financials of the school and the information provided and gleaned from the books of accounts of the school, the Committee prepared the following preliminary calculation sheet:



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

**Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report**

| | Particulars | Amount (Rs.) | Amount (Rs.) |
|---|---|---|---|
| | *Current Assets + Investments* | | |
| | Cash in hand | 64,913 | |
| | Bank Balance | 984,784 | |
| | FDRs with accrued interest | 29,627,090 | |
| | Loans & Advances (except advance to MTNL) | 203,371 | 30,880,158 |
| Less | *Current Liabilities* | | |
| | Security from Students | 698,382 | |
| | Salary Payable | 822,804 | |
| | Provident Fund Payable | 52,933 | |
| | M K Mahajan & Co. | 13,500 | |
| | Annual Charges received in advance | 72,450 | 1,660,069 |
| | **Net Current Assets + Investments** | | **29,220,089** |
| Less | **Reserves required to be maintained:** | | |
| | for accrued liability towards Gratuity as on 31.3.10 | 5,081,597 | |
| | for accrued liability towards Leave Encashment as on 31.3.10 | 1,250,618 | |
| | for future contingencies (equivalent to 4 months salary) | 4,574,461 | 10,906,676 |
| | **Funds available for implementation of 6th CPC** | | **18,313,413** |
| Less | **Additional Liabilities on implementation of 6th CPC:** | | |
| | Arrear of Salary as per 6th CPC from 01.01.06 to 31.03.09 | 1,579,355 | |
| | Incremental Salary in 2009-10 (Calculation given below) | 2,552,138 | 4,131,493 |
| | **Excess / (Short) Fund Before Fee Hike** | | **14,181,920** |
| Add | **Additional Recovery for 6th Pay Commission:** | | |
| | Arrears of tuition fee from 01.01.06 to 31.03.09 | 3,613,778 | |
| | Arrear of Development fee from 01.09.2008 to 31.03.2009 | 576,730 | |
| | Incremental Tuition Fee in FY 09-10 (Calculation given below) | 2,727,038 | 6,917,546 |
| | **Excess / (Short) Fund After Fee Hike** | | **21,099,466** |

| | |
|---|---|
| **Development fee refundable being treated as a revenue receipt:** | **Rs.** |
| for 2009-10 | 2,321,035 |
| for 2010-11 | 2,506,610 |
| **Total** | **4,827,645** |
| **Add: Excess fee recovered** | **6,917,546** |
| **Total amount refundable** | **11,745,191** |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

**Working Notes:**

| | 2008-09 | 2009-10 |
|---|---|---|
| Normal/ regular salary | 11,171,244 | 13,723,382 |
| **Incremental salary in 2009-10** | **2,552,138** | |
| | **2008-09** | **2009-10** |
| Regular Tuition fee | 14,254,636 | 16,981,674 |
| **Incremental tuition fee in 2009-10** | **2,727,038** | |

As per the above calculation sheet, the school had available with it a sum of **Rs. 2,92,20,089** as on 31/03/2008. After providing for a sum of **Rs. 1,09,06,676** which the Committee felt should be retained by the school to cover its accrued liability of gratuity, leave encashment and a reasonable reserve equivalent to four months' salary for future contingencies, the school still had a sum of **Rs. 1,83,13,413** which was available with it for discharging its additional liabilities that arose on implementation of recommendations of VI Pay Commission. Such additional liabilities amounted to **Rs. 41,21,493** upto 31/03/2009. The school possessed funds which were far in excess of its additional liabilities that arose on account of implementation of VI Pay Commission. As such, the school was not justified to hike any fee pursuant to order dated 11/02/2009 of the Director of Education or to recover any arrear fee from the students. However, the school not only hiked the regular tuition fee but also recovered arrears of development fee which were even more than the amount that was permitted by order dated 11/02/2009 of the Director of Education. Besides, the school also recovered lump sum arrear fee and arrears of differential tuition fee, which it did not need



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

to as per the above calculations. The total arrear fee and incremental tuition fee recovered by the school upto 31/03/2010 amounted to Rs. 69,17,546. The same appeared to be unjustified and liable to be refunded to the students. Besides, the Committee also observed as discussed supra, that the school was not fulfilling any of the pre conditions prescribed for recovery of development fee and yet it recovered a sum of Rs. 48,27,645 as development fee in 2009-10 and 2010-11, which in view of the Committee was not justified and liable to be refunded to the students.

A copy of the calculation sheet was given to the authorized representative who appeared for the school on 17/04/2018 for rebuttal if any.

The school filed written submissions dated 29/05/2018 in rebuttal of the calculation sheet.

Sh. K.P. Sunder Rao, Advocate appeared with Sh. N.K. Mahajan, Chartered Accountant of the school on 02/07/2018 and made submissions in support of the written submissions filed in rebuttal.

At the outset, it was submitted that the Committee inadvertently took the figure of FDRs with accrued interest to be Rs.2,96,27,090 while as per the balance sheet of 31/03/2008, the total amount of FDRs held by the school amounted to Rs.1,56,44,457 only. It was further submitted that out of the total amount of FDRs, FDRs worth Rs.2,62,093 were held in the joint names of the school



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

and Directorate of Education/CBSE and as such were not available for implementing the recommendations of VI Pay Commission.

The Committee verified the aforesaid contentions made by the counsel of the school. So far as the total amount of FDRs is concerned, the Committee agreed with the contention made by the learned counsel. With regard to the other contention, the Committee observed that there was no indication in the balance sheet of the school that the FDRs were held in the joint names of the school and DOE/CBSE. The school was directed to produce copies of such FDRs.

It was further submitted that the Committee had not taken into consideration the arrears of salary paid by the school in the year 2012-13 which amounted to Rs. 23,26,663 while making the relevant calculations. The Committee had already given its reasons for excluding the aforesaid amount of Rs. 23,26,663 in its order dated 06/03/2018, which were not challenged by the school.

The Committee further observed that even if all the contentions raised by the school were to be accepted, the end result would still be that the school had a surplus of Rs. 45,28,077 after implementation of the recommendations of the 6th Pay Commission, as against a surplus of Rs. 2,10,99,466 earlier determined by the Committee provisionally as per its calculation sheet and atleast to that extent, the school was liable to refund the additional fee charged by it pursuant to order dated 11/02/2009.



TRUE COPY

Secretary

Delhi High Court Committee for Review of School Fee

The learned counsel for the school submitted that the school had an ongoing dispute with DDA with regard to allotment of additional 0.5 acres of land adjoining the school and the school was expecting a huge demand from DDA on this account. It was further submitted that the DDA had raised a demand of Rs.11,53,375 for allotment in 1993 which was contested by the school and the matter went up to the Hon'ble Supreme Court where finally the appeal of the school was dismissed by order dated 26th Sept.2007. The school, thereafter made the payment of Rs.11,53,375 on 16/05/2008. However, the DDA is now demanding the cost of land as per the prevailing rates, which the school has contested and is expecting a decision in about a months' time. The Counsel sought time of one month, by which time it was expected that the final liabilities would materialize Accordingly, the matter was adjourned to 20th August 2018. However, on this date, the school sought adjournment due non availability of its Counsel. On 12/09/2018, the Ld. Counsel of the school was partly heard and the matter was fixed for 22/10/2018 and at the request of the Counsel. However, on this date school sought adjournment on the ground that its Chartered Accountant was not available. Accordingly, the matter was adjourned to 26/11/2018 when the Chartered Accountant of the school Sh. N.K. Mahajan appeared and filed written submissions giving justification for its claim that the amount of Rs. 1.09 Crores that was payable to DDA for allotment of 0.5 acres of adjoining plot ought to be kept in



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

reserve and to that extent the funds available with the school ought not be considered as available for implementation of the recommendations of VI Pay Commission. The Ld. Chartered Accountant was also finally heard in the matter.

In the written submissions dated 26/11/2018, the school gave history of the allotment of land in 1986 by Delhi Development Authority (DDA). It was stated that while the Delhi Development Authority had allotted 1.5 acre plot to the Parent Society of the school viz. Lala Amar Nath Verma Educational and Human Welfare Society, in 1988 @ Rs. 8.00 lacs per acre, the actual land given to the Society was only 1 acre. The DDA offered the remaining 0.5 acre of land to the Society in 1993 but @ Rs. 45.00 lac per acre. The matter was taken up with the DDA to reconsider the cost of land but when no positive response came from DDA, a group of Societies (including the Parent Society of the school) took legal recourse. However, the Hon'ble Supreme Court dismissed the plea of the Society on 26th Sept. 2007 and asked it to the pay the amount fixed by the DDA. The school paid a sum of Rs. 11,53,375 on 16/05/2008, which was beyond the time period fixed for making such payment. However, on 14/05/2009, the DDA cancelled the allotment on account of non payment within the stipulated time. Thereafter, the matter was followed with DDA and Lt. Governor but there was no positive development. On 22/04/2013, the school deposited a further sum of Rs. 38,98,567 with the DDA. However, the DDA issued a show cause



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

notice on 10/03/2014 for removal of unauthorized construction, which was replied to by the school on 02/04/2014. However, the DDA in the meanwhile had issued a final show cause notice on 26/03/2014 which was received by the school on 12/04/2014. A request was again sent to DDA on 21/04/2014 requesting it to reconsider its decision which was followed up by a letter dated 13/08/2014 to the Lt. Governor but the DDA on 06/09/2017 informed the Society that it was only after removal of unauthorized construction on the land that the restoration issued to be considered.

It appears from the narrative given by the school that the school had unauthorisedly occupied 0.5 acres of land which was not allotted to it and was the subject matter of litigation. The school built class rooms and laboratories thereon and it was reluctant to remove the unauthorized construction as the same was being used for running the classes.

The school submitted that it ought to maintain a reserve of Rs. 1,09,69,332 for payment to DDA and this ought not be considered as funds available with the school for payment of the increased salaries and arrears pursuant to implementation of the recommendations of VI Pay Commission.

The Committee has considered the arguments put forth on behalf of the school. Essentially what the school is contending is that since it has to pay the said sum to DDA for additional 0.5 acre of land,



**TRUE COPY**

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

it be allowed to keep a reserve to the extent of Rs. 1,09,69,332 and if that was done, the result would be that the school would not have to make any refund out of fee charged by it for implementing the recommendations of VI Pay Commission.

The order dated 11/02/2009 issued by the Director of Education permitting the schools to hike the fee and recover the arrear fee for implementing the recommendations of VI Pay Commission is very explicit on this issue. Clause 1 of the order states that a fee hike is not mandatory for recognised unaided school in the NCT of Delhi. Clause 2 of the order states that the schools must first of all, explore the possibility of utilising the existing reserves to meet any shortfall in payment of salary and allowances as a consequence of increase in salaries and allowances of employees (pursuant to implementation of recommendations of VI Pay Commission). This has to be read along with Rule 177 of the Delhi School Education Rules. Sub Rule 1 stipulates unequivocally that income derived by unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school.

When the school possesses funds out of its existing reserves, which have been created out of surpluses generated in the past out of the fee revenues of the school, it has to first, utilise those funds to meet any shortfall in payment of enhanced salaries and arrears as per the recommendations of VI Pay Commission, as per clause 2 of the



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

order dated 11/02/2009. This order was impugned by a number of schools as also bodies of parents of students in various writ petitions filed in the Delhi High Court which were disposed off by the Hon'ble High Court along with WP (C) 7777 of 2009. This Committee was also constituted by the judgment in the aforesaid writ petition. The validity of the order dated 11/02/2009 was upheld by the Hon'ble High Court except that the clause relating to justification of fee hike to be given to the Parent Teacher Association of the school was struck down. No other clause of the order which has a total of 25 clauses was interfered with. Accordingly, the clause no. 2 of the order which requires the schools to first of all utilise the existing reserves to meet any shortfall of payment of the increased salaries and allowances, met with approval from the Hon'ble Court. The Committee has already considered the functioning of the school in allowing the school to keep funds to the tune of Rs. 45,74,461 in reserve out of its existing reserves, to meet any future contingencies. The Committee does not agree with the contention of the school that it be allowed to keep a further sum of Rs. 1,09,69,332 in reserve for paying to DDA, the additional cost of land, particularly when the initial demand of DDA was about Rs. 22.50 lacs i.e. the price of 0.5 acre @ Rs. 45.00 lac per acre. The rest of the amount which the school is required to pay is on account of its own acts and which are attributable to the School even after it lost its case in the Supreme Court in Sept. 2007. The reserve of Rs. 45,74,461 which the Committee has allowed the school to



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

keep, is based on its financial position as on 31/03/2008. Had the school paid the amount to the DDA immediately after losing its case in the Supreme Court, this amount would have been sufficient.. Moreover, the cost to be paid to the DDA is a capital expenditure and when there is a liability to pay salary to the staff, precedence has to be given to the claim of the staff over incurring capital expenditure. Accordingly, the Committee rejects the arguments put forth by the school. It is also pertinent to notice that although the school collected the full amount of arrear fee amounting to Rs. 41,90,508 by 31/03/2010, it paid arrears to the staff only to the extent of Rs. 15,79,355 by that date. The remaining amount of arrears of Rs. 23,26,663 were paid only in the year 2012-13 out of the subsequent years' profit.

In view of the foregoing discussion, the Committee is of the view that the school is entitled only to the following reductions from the amount of surplus of Rs. 2,10,99,466 provisionally determined by the Committee:

| S.No. | Particulars | Amount (Rs.) |
|---|---|---|
| 1 | Difference in the amount of FDRs taken by the Committee vis a vis that actually held by the school (2,96,27,090 – 1,56,44,457) | 13,982,633 |
| 2 | FDRs in the joint names of the school and DOE/CBSE | 262,093 |
| | **Total reduction** | **14,244,726** |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

Accordingly, the final surplus determined by the Committee is **Rs. 68,54,740** (2,10,99,466-1,42,44,726), which the school generated after recovery of arrear fee and hiking the regular fee pursuant to order dated 11/02/2009. In determining this surplus, the Committee has not accepted the contention of the school that the arrear salary of Rs. 23,26,663 paid in the subsequent years out of the profits of the subsequent years should be set off against the fee hike and recovery of arrear fee as per order dated 11/02/2009.

The Committee has already held that the school was not fulfilling any of the pre conditions laid down by the Duggal Committee for charging development fee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). As such the Committee is of the view that the development fee of Rs. 48,27,645 recovered by the school in 2009-10 and 2010-11 was not justified.

**In view of the foregoing discussion, the Committee is of the view that the school ought to refund Rs. 68,54,740 out of the arrear fee and incremental fee recovered by it pursuant to order dated 11/02/2009 and a further sum of Rs. 48,27,645 recovered by it as development fee in 2009-10 and 2010-11 pursuant to the**



TRUE COPY

Secretary

High Court Committee For Review of School Fee

**aforesaid order, 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)**

Dated: 29/08/2019

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



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:**

**Holy Cross School, Najafgarh, Delhi-110043 (B-614)**

**Order of the Committee**

**Present: Sr. Maria Fernandes, Principal and Shri Vikash Kr. Pal, Accountant of the School.**

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

However, the school did not respond either to the questionnaire issued by the Committee or to the reminder thereto.

A revised questionnaire was issued to the school on 11/09/2013, vide which besides the queries contained in the questionnaire dated 27/02/2012, the relevant queries with regard to charging of development fee, its utilisation and maintenance of earmarked development and depreciation reserve funds, in order to examine whether the school was fulfilling the pre conditions laid down by Duggal Committee which were subsequently affirmed by the

Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583.

However, the school did not respond to the revised questionnaire also. A reminder sent on 30/09/2013 also met with the same fate. Another reminder was sent on 28/10/2013 requiring the school to submit its reply positively by 08/11/2013. In response to this, the school submitted its reply vide letter dated 06/11/2013. However, instead of giving specific replies to the queries, the school merely furnished certain figures of payment of arrear salary, class wise detail of tuition fee charged per student in 2008-09 and 2009-10, class wise detail of arrear fee charged per student. However with regard to queries regarding development fee, the school gave some specific details. Importantly, it mentioned that the school did not maintain any depreciation reserve and since it did not maintain any depreciation reserve, there was no requirement of maintaining an earmarked fund account.

The Committee issued a notice dated 29/06/2015, requiring the school to furnish details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11, duly reconciled with its Income and Expenditure Account. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of account of its parent society as appearing in its books and a copy of the circular



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

issued to the students with regard to fee hike pursuant to order dated 11/02/2009 of the Director of Education. The school was also required to appear before the Committee on 30/07/2015 and produce its books of accounts, besides relevant fee and salary records.

Sr. Veronica Fernandez, Principal appeared with Sh. Vikesh Kumar Pal, Accountant of the school. They furnished the information in response to the notice of the Committee and contended that the school had fully implemented the recommendations of VI Pay Commission and paid full amount of arrears. All the payments of arrears as well as regular salary were made through direct bank transfers to the accounts of the staff members. The school hiked the fee as per order dated 11/02/2009 issued by the Director of Education and also recovered the arrear fee in accordance therewith. It was contended that the fee hike was justified as the school fully implemented the recommendations of VI Pay Commission.

While examining the funds available with the school for the purpose of implementation of VI Pay Commission, the Committee observed that the school transferred a sum of Rs. 4,80,000 to its Parent Society. On a query by the Committee, the Principal of the school submitted that this was being done atleast since 2001-02. The Committee also observed that although the school was charging a fixed amount of Rs. 500 per annum per student as development fee, after the issuance of order dated 11/02/2009, it revised the development fee to 15% of the annual tuition fee and that too with



TRUE COPY

Secretary

High Court Committee ★ Review of School Fee

retrospective effect from 01/04/2008. The differential amount was recovered as arrears of development fee.

The matter could not be concluded on account of resignation of Justice Anil Dev Singh as Chairman of the Committee. After reconstitution of the Committee, a fresh notice of hearing was issued to the school on 24/08/2017 requiring the school to appear on 06/09/2017.

In the meantime, based on the information furnished by the school and its audited financials, the Committee prepared a calculation sheet to examine the justifiability of fee hiked by the school. The Committee considered that prima facie, the transfer of Rs. 4,80,000 per annum from 2001-02 to 2009-10 amounting to Rs. 43,20,000 to the Parent Society of the school was contrary to the law laid down by the Hon'ble Supreme Court in the cases of Modern School (supra) and Action Committee Unaided Private Schools 2009 (11) SCALE 77 and accordingly included the same as part of funds available with the school for implementing the recommendations of VI Pay Commission. The calculation sheet prepared by the Committee is as follows:



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

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

| | Particulars | Amount (Rs.) | Amount (Rs.) |
|---|---|---|---|
| | **Funds transferred to Society from 2001-02 to 2009-10 (A)** | | 4,320,000 |
| | *Current Assets + Investments* | | |
| | Cash | 19,938 | |
| | Bank Balances | 3,833,672 | |
| | Fixed Deposits with HDFC | 14,956,334 | |
| | TDS recoverable | 9,859 | 18,819,803 |
| **Less** | *Current Liabilities* | | |
| | Caution Money Deposit | 772,000 | |
| | Fees received in advance | 368,350 | 1,140,350 |
| | Net Current Assets + Investments (B) | | 17,679,453 |
| | **Funds deemed to be available (A+B)** | | **21,999,453** |
| **Less** | **Reserves required to be maintained:** | | |
| | for future contingencies (equivalent to 4 months salary) | 5,318,039 | |
| | for accrued liability towards Leave encashment as on 31.03.2010 | 2,869,222 | |
| | for accrued liability towards Gratuity as on 31.03.2010 | 7,947,938 | 16,135,199 |
| | | | **5,864,254** |
| **Less** | **Additional Liabilities after implementation of 6th CPC:** | | |
| | Arrear of Salary as per 6th CPC w.e.f. 01.1.06 to 31.3.09 | 14,491,668 | |
| | Incremental Salary for 2009-10 (as per calculation given below) | 4,289,912 | 18,781,580 |
| | **Excess / (Short) Fund Before Fee Hike** | | **(12,917,326)** |
| **Add** | **Additional Recovery for implementation of 6th CPC:** | | |
| | Arrear of tuition fee w.e.f. 01.1.06 to 31.3.09 | 5,569,869 | |
| | Arrear of Development fee from 01.9.08 to 31.3.09 | 1,946,868 | |
| | Incremental tuition fee for 2009-10 (as per calculation given below) | 5,035,169 | 12,551,906 |
| | **Excess / (Short) Fund After Fee Hike** | | **(365,420)** |

| **Development fee refundable being treated as revenue receipt :** | **Rs.** |
|---|---|
| For the year 2009-10 | 3,259,867 |
| For the year 2010-11 | 3,664,854 |
| Total | 6,924,721 |
| Less: Shortfall in tuition fee | (365,420) |
| **Net amount refundable** | **6,559,301** |

**Working Notes:**

| | **2008-09** | **2009-10** |
|---|---|---|
| Normal/ regular salary | 11,664,205 | 15,954,117 |
| **Incremental salary in 2009-10** | **4,289,912** | |
| | **2008-09** | **2009-10** |
| Normal/ Regular Tuition fee | 16,976,265 | 22,011,434 |
| **Incremental tuition fee in 2009-10** | **5,035,169** | |



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

A copy of the above calculation sheet was given to the Principal of the school. The school was given an opportunity to file rebuttal to the calculation sheet.

The school filed its rebuttal vide which it contended that its Parent Society i.e. Society of the Sisters of the Cross, Delhi established the school in the year 1978. The Society is the absolute owner of the land on which the school is presently running. The entire expenditure for establishing the school including cost of construction was incurred by the Society. The school under a bonafide belief was paying maintenance charges to the Society @ Rs. 4,80,000 per annum. The school was submitting its balance sheet to the Director of Education every year but no objection was ever raised by the Department. However, when the issue was raised by this Committee, it stopped paying the maintenance charges. The actual amount of maintenance charges paid by the school to the Society was Rs. 37,90,000 instead of Rs. 43,20,000 taken by the Committee. The maintenance charges paid by the school to the Society had been utilised to achieve its aim and objects. In other states also, it is a usual practice to pay lump sum amount to the Society for the purpose of achieving its aim and objects. Sometimes, the Society incurred expenses in maintaining the school premises. The maintenance charges are paid to the Society only to enable it to meet any contingencies that may arise in respect of building. The Director of Education in the year 2009 directed all the school to implement the VI Pay Commission. Therefore, only the maintenance charges paid by the school to the Society



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

in the year 2009-10 or 2010-11 may be included in the statement and not prior to 2009-10.

With regard to development fee, it was contended that the Govt. of NCT of Delhi, vide order dated 11/02/2009, has clearly stated in paragraph 14 that the development fee not exceeding 15% of the total annual fee may be charged for supplementing the reserve for purchase, upgradation and replacement of furniture, fixtures and equipments. The fee is utilised entirely to fund the capital expenditure of the school and as required under the said order. The school is maintaining depreciation reserve fund i.e. Capital Fund. The school has strictly utilised the amounts collected as development fee in connection with acquisition of capital assets as shown in the balance sheet.

While finalizing its recommendations, the Committee observed that the school did not file copies of audited Receipts and Payments Accounts for the years 2006-07 to 2010-11 which were examined by the Committee. Accordingly a fresh notice of hearing was issued on 28/11/2018 requiring the school to appear before the Committee on 19/12/2018 and also to file copies of its Receipts and Payments Accounts.

The school could not file its Receipts and Payments Accounts on the date of hearing. The matter was taken up for further hearing on 14/05/2019 after the term of the Committee was extended by the Hon'ble Delhi High Court. The school filed its Receipts and Payments Accounts on this date. The Committee prepared a revised calculation



TRUE COPY

Secretary

sheet taking into account the submissions made by the school as per which, the amount which the school transferred to the society by way of maintenance charges was revised to Rs. 37,90,000. Accordingly the school was advised that the amount which was apparently refundable by the school stood reduced from Rs. 65,59,301 to Rs. 60,29,301.

The Principal of the school who was present at the time of hearing submitted that she would check with the Finance department of the school whether the school rectified the accounting of development fee from revenue receipt to capital receipt in the subsequent years and also whether development/depreciation reserve fund had been earmarked in the subsequent years so as to cover the years 2009-10 and 2010-11. The matter was accordingly adjourned to 5th July 2019 for the limited purpose of ascertaining the aforesaid aspect.

On the next date, the School filed a detail of development fund with copies of earmarked FDRs and the audited financials for 2014-15 to 2017-18. It was submitted by the Principal of the school that the school started treating development fee as a capital receipt w.e.f. 2014-15. However, the development fee received in the prior years was also transferred to the development fund. The depreciation charged for the last eight years had also been transferred to the depreciation reserve fund and to the extent it remained unutilized, it was put in the earmarked FDRs. It was accordingly submitted that since the School had rectified the mistake in the subsequent years and also put money into earmarked funds, no order for refund of development fee charged in the year 2009-10 and 2010-11 be made.



TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

The Committee has considered the arguments put forth by the Principal on behalf of the school. It notices that even in the original calculation sheet prepared by the Committee, it had arrived at a conclusion that so far as the fee hike as per order dated 11/02/2009 w.e.f. 01/09/2008 and recovery of arrear fee for the period 01/01/2006 to 31/08/2008 was concerned, the same called for no intervention, even if the development fee revised by the school w.e.f. 01/04/2008 was considered irregular, as the Committee had taken the full amount in its calculations and yet arrived at a finding that the school incurred a deficit on implementation of the recommendations of VI Pay Commission. If the same was taken out of the calculations and considered as a refundable, the deficit would increase to that extent and the school would be entitled to ask for a further hike in tuition fee over what was permitted to it vide order dated 11/02/2009 issued by the Director of Education. The Committee considered that it would only be an academic exercise.

So far as the regular development fee for the year 2009-10 and 2010-11 was concerned, the same was determined to be refundable on account of the fact that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court for charging development fee. However, that irregularity was corrected by the school from 2014-15 onwards, when the school not only created development and depreciation reserves for those years but also earmarked the funds which were required to be earmarked for the years 2009-10 and 2010-11.

The Committee has considered this subsequent development and is of the view that if it were to order to refund of development fee collected



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee

by the school in the years 2009-10 and 2010-11 without fulfilling the pre conditions, the school would have to draw funds from the reserves which it has already earmarked. The Committee has taken a view in the cases of some other schools that if the school had initially not fulfilled the pre conditions of maintaining earmarked depreciation reserve fund and development fund but subsequently puts the funds in the earmarked accounts and the amount collected by the school in 2009-10 and 2010-11 is covered by such subsequent earmarking, it would not be desirable to order refund of development fee for those years.

**Accordingly, the Committee is of the view that no intervention is called for in the matter of fee hike effected by the school as well as the arrear fee and development fee collected by it upto 2010-11 pursuant to order dated 11/02/2009.**

**Ordered accordingly.**

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

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

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

Dated: 30/08/2019



TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

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

000151

## CAUSE LIST FOR AUGUST 2019

### Cause List for Monday, 19th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-424 | Pragati Public School, Dwarka |
| 2 | B-285 | Mann Public School, Holambi Kalan |

### Cause List for Tuesday, 20th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-302 | Bharti Public School, Swasthya Vihar |
| 2 | B-437 | Air Force Bal Bharti School, Lodi Road |

### Cause List for Thursday, 22nd August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-148 | Venkateshwar International School, Dwarka |
| 2 | B-151 | G D Goenka Public School, Vasant Kunj |
| 3 | B-286 | Mount Abu Public School, Sect.5, Rohini |
| 4 | B-427 | Vandana International Sr. Sec. School, Dwarka |

### Cause List for Friday, 23rd August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-120 | The Heritage School, Vasant Kunj |
| 2 | B-137 | St. Mary's School, Safdarjung Enclave |

### Cause List for Monday, 26th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-290 | Kasturi Ram International School, Narela |
| 2 | B-632 | St. Columbo Public School, Pitampura |

### Cause List for Tuesday, 27th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-424 | Pragati Public School, Dwarka |
| 2 | B-389 | BGS International School, Dwarka |

### Cause List for Thursday, 29th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-60 | The Heritage School, Sector-23, Rohini |
| 2 | B-564 | Columbia Foundation School, Vikas Puri |

### Cause List for Friday, 30th August 2019

| S. No. | Cat. No. | School Name & Address |
|---|---|---|
| 1 | B-669 | Blue Bells International School, East of Kailash |
| 2 | B-614 | Holy Cross School, Najafgarh |

**TRUE COPY**

Secretary

Delhi High Court Committee For Review of School Fee

19/08/2019

000152

**B-424**

**Pragati Public School, Dwarka, Delhi**

Present: Shri Rajiv Malik, Authorised Representative and Shri Inderpal Singh, Accounts Incharge of the School.

The school has filed its rebuttal dated 19.8.2019 to the Revised Calculation Sheet prepared by the Committee. The school has also filed its own Calculation Sheet to show that instead of Rs.12,71,48,689 which the Committee had worked out to be the amount of surplus generated by the school after hiking fee pursuant to order dated 11.2.2009, the school actually had a deficit of Rs. 63,31,523. On comparing the calculation sheet prepared by the Committee with the Calculation Sheet filed by the school, it is apparent that school is disputing on the two figures in the Calculation sheet prepared by the Committee. These are as follows:-

1. The School does not agree that a sum of Rs. 2,04,37,612 was diverted out of its fee revenues towards meeting its capital expenditure, repayment of loans for purchase of its assets and the amount diverted to its parent society.
2. The school dispute the amount of incremental tuition fee for the period 2009-10. As against the sum of Rs.53,91,029 which was worked out by the Committee, the school admits only Rs.23,48,429 as its incremental tuition fee in the year 2009-10.

In respect of the sums disputed by the school as above, the school seeks to justify on the following grounds:-

(a) After the society has provided the initial infrastructure of the school like building, furniture and fixtures and equipments, it has no role to play with regard to the expansion of such infrastructure. The school is supposed to generate its own funds for expansion of such infrastructure which can only be out of the fee charged by the school from the students. Rule 177 of the Delhi School Education Rules permits the savings from fees to be utilized for meeting its capital expenditure.

(b) With respect to particular items of capital expenditure diversions which were considered by the Committee, the school submits that the repayment of vehicle loan and interest thereof to the extent of Rs. 42,82,869 came out of its transport surplus in the years 2006-07 to 2009-10. The purchase of other fixed assets to the extent of Rs.69,82,976 came out of development fee for the years 2006-07 to 2009-10, which the Committee had not factored in its calculations presuming it was treated as revenue receipt by the School. It is further submitted that though it was treated as revenue receipt, it was available for incurring capital expenditure as the revenue surplus including the development fee had always been more than the cash profit of the school.

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

(c) The net payments made to the society by the school from 2006-07 to 2009-10 were Rs.29,60,036 instead of Rs. 102,33,416 (206, 98232- 104,64,816) taken by the Committee. It is submitted that the Committee apparently did not take into account the fact that the school owe a sum of Rs. 72,73,379 to the society as on 1.04.2006. With regard to incremental tuition fee for the year 2009-10, the school submits that the fee recovered from the new students admitted in the year 2009-10 which amount to Rs.30,42,600 ought not be considered as incremental fee. (However, the school is silent about the salary paid to the new teachers and other staff in 2009-10.)

(d) The school submits that the collection of development fee in the year 2009-10 and 2010-11 amounting to Rs. 70,06,399 ought not to be considered as refundable merely for the reason that the same has been treated as a revenue receipt instead of a capital receipt. However, the authorized representative of the school concedes that the school did not maintain any earmarked development fund and depreciation reserve fund in respect of fixed assets acquired.

The Committee observes that while calculating the cash profit, the school has taken the net profit as per its income and expenditure account and added non cash depreciation charged to its revenue. However, it has not reduced the net transport surplus which is claimed to have been utilized for repayment of vehicle loans. Further, the calculation of net transport surplus has also not been furnished for any of the years. The authorized representative seeks some more time to make up for the deficiencies as noted. Accordingly the matter is adjourned to 27th August 2019 at 11.00 am.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA** | **J.S.KOCHAR** | **JUSTICE ANIL KUMAR (Retd.)** |
| **MEMBER** | **MEMBER** | **CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

20/08/2019

000154

B-302

**Bharti Public School, Swasthya Vihar, Delhi**

Present: Shri H.C.Batra, President and Shri Puneet Batra, Advocate of the School.

The Learned counsel appearing for the school has filed copy of the audited balance sheet of the school as on 31.03.2019 and submits that the entire depreciation reserve fund which was required to be provided up to 31.03.2019 amounting to Rs. 3,46,67,058 has earmarked on FDRs and saving bank account. He submits that the details are given in schedule 13 and 13(a) of the balance sheet and as such the development fee charged by the school in 2009-10 and 2010-11 ought not be ordered to be refunded as the school has now complied with all the essential pre-conditions. The school is required to place on record copies of the FDRs and statement of savings bank account as on 31.03.2019 which are claimed to have been earmarked against the Depreciation Reserve Fund. The matter is accordingly adjourned for 4th September 2019 at 11.00 am.

| Dr. R.K. SHARMA | J.S.KOCHAR | JUSTICE ANIL KUMAR (Retd.) |
|---|---|---|
| MEMBER | MEMBER | CHAIRPERSON |

TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

22/08/2019



**Venkateshwar International School, Dwarka, Delhi**

Present: Shri Kamal Solanki, Director (Finance), Shri Harish Sharma, Administrative Officer and Shri Gauri Shankar, Accounts Officer of the School.

The Committee observes that the income from transport fee and expenditures out of the same submitted by the School vide its letter dated 12.07.2019 are different from what was submitted vide letter dated 24.08.2018. The authorized representative appearing for the school submits that in the revised statement given 12.07.2019 the school has excluded certain expenses which were not related to the transportation of students. However, no detail of such exclusions have been given. The school is required to file a statement giving reconciliation of the figures given on 24.08.2018 vis-à-vis those given on 12.0.7.2019 and also to produce its books of accounts in the laptop for verification by the Committee. The matter is adjourned to 4th September 2019 at 11.00 a.m.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA**<br>**MEMBER** | **J.S.KOCHAR**<br>**MEMBER** | **JUSTICE ANIL KUMAR (Retd.)**<br>**CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

22/08/2019



**B-151**

**G.D. Goenka Public School, Vasant Kunj, Delhi**

Present: Shri Birender Singh, Accounts Officer, Shri Jitendra Singh, Sr. Accountant and Shri Kamal Gupta, Advocate of the School.

The Learned Counsel appearing for the School submits that it is permissible for the school to plan its fee structure so as to include the Capital expenditure and after incurring such capital expenditure, if there remains a surplus the same can also be utilized for incurring further capital expenditure. He accordingly submits that the addition of Rs.21,50,81,664 made by the Committee to the funds available with the school was not justified. He has filed three charts to demonstrate that the capital expenditure incurred between 2006-07 and 2009-10 exceeded the capital resource and the cash surplus available with the school out of its fee revenues was only to the tune of Rs. 2,57,38,391 instead of Rs. 81,50,81,664 taken by the Committee. The school has also filed its own calculation sheet as per which the School did not generate any surplus after hiking the fee in terms of order dated 11.02.2009 issued by the Directorate of Education. He further submits that the development fee for 2009-10 has already been considered while working out the funds applied for capital expenditure and as such should not be considered as an item of refund separately.

The Learned Counsel seek some more time to make submissions on the justifiability of including Rs. 4,48,11,739 which represents funds diverted to parent society over the years to be part of funds available as done by the Committee in its Calculation Sheet. As requested the matter is adjourned to 16th September 2019 at 11.00 am. The Learned Counsel will also file written submission in rebuttal of Calculation Sheet.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA** | **J.S.KOCHAR** | **JUSTICE ANIL KUMAR (Retd.)** |
| **MEMBER** | **MEMBER** | **CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

**Mount Abu Public School, Sector 5 Rohini, Delhi**

Present: Shri Puneet Batra, Advocate, Shri Bharat Arora, Treasurer and Shri Kamal Gupta, Advocate of the School.

The school has filed copies of fee structures for the year 2008-09 and 2009-10 as filed by under Section 17(3) of Delhi School Education Act 1973. The School has also filed copy of a certificate dated 18.07.2019 issued by State Bank of India Rohini Branch giving the date of encashment of cheques given by the school towards payment of arrears of salary to its ex-employees in the years 2018-19 and 2019-20. The total sum paid in 2018-19 and 2019-20 is Rs. 14,53,274.

The Committee has perused the information furnished by the school giving break up of fees and salaries for the years 2008-09 and 2009-10 and also examined the books of accounts of the school. As per the statement filed by the school and information furnished during the course of hearings, the school recovered a total sum of Rs.44,14,727 towards arrear fee and paid a total sum of Rs. 72,03,450 towards arrears on implementation of recommendation of 6th Pay Commission. The regular salary paid by the school in 2008-09 was Rs. 93,68,880 while in 2009-10 it rose to Rs. 1,86,81,093 which is almost 100% increase. The perusal of the staff statement filed by the School shows that the total staff strength rose from 57 in 2008-09 to 72 in 2009-10 even after accounting for the increase in salaries on account of implementation of 6th Pay Commission. A 100% increase in the salary in expenditure does not appear to be justified.

The regular tuition fee recovered by the school as given by it in the statement was Rs.2,75,58,747 in 2008-09 but the same showed marginal increase of only about 10% to Rs. 3,03,78,180 in 2009-10 despite an average fee hike of about 25% as per order dated 11.02.2009 and an increase in student strength of about 20% from 1694 in 2008-09 to 2045 in 2009-10.

TRUE COPY

Secretary

Delhi High Court Committee ★ For Review of School Fee ★

22/08/2019



The figures of incremental fee and incremental salary apparently did not reconcile with the level of fee hike and salary hike and the increase in student strength and staff strength in the year 2009-10. The school is required to justify its figures of regular tuition fee and regular salary in the years 2008-09 and 2009-10 in light of the above noted facts. The necessary reconciliation statements may be filed on or before the next date of hearing. The matter is adjourned to 16th September 2019 at 11.00 am.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA**<br>**MEMBER** | **J.S.KOCHAR**<br>**MEMBER** | **JUSTICE ANIL KUMAR (Retd.)**<br>**CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

23/08/2019

000159

**B-120**

**The Heritage School, Vasant Kunj, Delhi**

Present: Shri Vedanta Varma, Advocate, Ms. Mannat Sandhu Advocate, Shri Ajay Gupta, CA, Shri Parveen Jain, CA and Shri Vikas Gupta, CA of the School.

The Learned Counsel appearing for the school has been partly heard on the preliminary Calculation Sheet prepared by the Committee. He has filed another Calculation Sheet in rebuttal of the Calculation Sheet prepared by the Committee. As per the Calculation Sheet filed by the school, the school incurred a deficit of Rs.1,76,53,984 on implementation of recommendations of 6th Pay Commission as against the provisional determination by the Committee which was a surplus of Rs. 2,12,89,642. Besides the school has also disputed the amount provisionally determined by the Committee to be refundable on account of incremental development fee.

So far as the determination of net current assets as on 31/03/2008 is concerned, the school claims that the Committee omitted a sum of Rs. 62,98,174 which was overdraft taken against FDRs by the school for meeting its working capital requirements. However, the school has neither produced its books of accounts nor its bank statement to substantiate its claim that the amount of overdraft was utilized for meeting the working capital requirements and not for creating any fixed assets or incurring capital expenditure. He seeks some time to produce the required records to substantiate the claim of school.

The school has also disputed the incremental salary for the year 2009-10 as taken by the Committee. While the Committee has taken the incremental expenditure on salary on implementation of the recommendations of 6th Pay Commission to be Rs.1,12,51,363, the school claims that it ought to be Rs.1,36,25,481. The school has submitted a comparative chart of salary related expenditure in 2008-09 and 2009-10. The Committee observes that school has also included salary paid to the contractual staff in these two years by working out the incremental expenditure. The school may substantiate its claim that salary to contractual staff was also paid at the scales prescribed by the Pay Commissions in those two years.

The school has also disputed the reserve for future contingencies equivalent to four months salary as taken by the Committee at Rs. 1,03,42,601. The school claims the same to be Rs.1,15,75,572 and has given its working. Here also the school has included salary paid to the contractual staff while working out the requirement of contingency reserve.

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

23/08/2019

The school has also disputed the figure of Rs.4,23,72,758 taken by the Committee as fee diverted for repayment of loans for purchase of fixed assets. It is submitted by the Learned Counsel that the Committee has not considered the sources of funds on capital account like development fee, contribution by the parent society, loans taken, sale of fixed assets. These were not considered by the Committee as the Committee has also omitted the capital expenditure incurred on purchase of fixed assets. The school has filed its own Calculation Sheet to show that the fee revenue diverted for capital expenditure amounted to Rs. 1,33,34,396 instead of Rs. 4,23,72,758 taken by the Committee.

With regard to development fee, it is submitted that the issue of development fee is beyond the mandate of this Committee as given by the judgment of Hon'ble Delhi High Court in WPC 7777 of 2009. Alternatively, it is submitted that since the school was fulfilling all the pre-conditions as laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School, no order for refund of development fee ought to be made by the Committee. He submits that the development fee was treated as capital receipt in the accounts and utilized for purchase of fixed assets. However, the details of fixed assets which were purchased out of development fund have not been furnished by the School. The Learned Counsel seeks some time to do so. The school has also filed copy of a certificate issued by Bank of Maharashtra Vasant Kunj Branch certifying that two separate accounts were opened for development fund and depreciation reserve fund on 15.05.2008 and 4.09.2008 respectively. However, he has not been able to pin point as to what was the balance in these accounts on 31.03.2009, 31.03.2010 and 31.03.2011. He submits that he will file copies of the bank statement of these accounts for these three years on the next date of hearing.

Lastly it is submitted that at any rate the development fee for the period beyond 2010 is outside the purview of this Committee as the mandate given to this committee is only for the period covered by order dated 11.02.2009 of Director of Education and that period ended on 31.03.2010.

The matter is adjourned to 13th September 2019.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA**<br>**MEMBER** | **J.S.KOCHAR**<br>**MEMBER** | **JUSTICE ANIL KUMAR (Retd.)**<br>**CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

26/08/2019



B-290

**Kasturi Ram International School, Narela, Delhi**

Present: None.

No one is present on behalf of the school. It is already 12.30 p.m. The office has intimated that a telephonic request is received on behalf of the school for adjournment on the ground that the concerned person is unable to come and attend the hearing today. In the interest of justice, last opportunity is granted to the school and the hearing is adjourned for 18/09/2019. It is clarified that in case, no one appears on the adjourned date, the hearing of the matter shall be deemed to be closed and the Committee shall proceed with the matter on the basis of the whatsoever is on the record. A copy of the order be sent to the school.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA**<br>**MEMBER** | **J.S.KOCHAR**<br>**MEMBER** | **JUSTICE ANIL KUMAR (Retd.)**<br>**CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee

27/08/2019

000162

**B-424**

**Pragati Public School, Dwarka, Delhi**

Present: Sh. N.K. Mahajan, Chartered Accountant with Sh. Anuj Mahajan, CA Associate and Sh. Rajiv Malik, Authorised Representative with Sh. Inder Pal Singh, Accounts Incharge of the school.

After arguing for some time, the Ld. authorized representative appearing for the school requests for some more time be given to substantiate the submissions made by the school. As requested, the matter is adjourned to 20th Sept. 2019 at 11.00 a.m.

| | | |
|---|---|---|
| **Dr. R.K. SHARMA**<br>**MEMBER** | **J.S.KOCHAR**<br>**MEMBER** | **JUSTICE ANIL KUMAR (Retd.)**<br>**CHAIRPERSON** |

TRUE COPY

Secretary

Delhi High Court Committee ★ School Fee

29/08/2019



B-60

**The Heritage School, Sector-23, Rohini, Delhi**

Present: Sh. Vedanta Verma, Advocate, Sh. Mannat Sandhu, Advocate with Sh, Parveen Jain, Sh. Ajay Gupta and Sh. Vikas Gupta, Chartered Accountants of the school.

The Ld. Counsel appearing for the school submits that in the preliminary calculation sheet, the Committee has inadvertently considered three months salary for the purpose of reserved to be maintained for future contingencies instead of the norms fixed by the Committee which is four months salary. It is further submitted that while calculating the reserve for future contingencies as well as incremental salary paid by the school in 2009-10 on account of implementation of the recommendations of VI Pay Commission, the Committee ought also to have considered the expenditure incurred by the school on Provident Fund, housekeeping staff, security staff and transport staff. On a query by the Committee, the authorized representative appearing for the school submits that the house keeping staff, security staff and transport staff are outsourced staff and they are not paid at the scales as per VI Pay Commission. The Ld. Counsel submits that the school is also agreed by the figure of Rs. 5,64,73,229 which represents repayment of loans and interest thereon which has been taken by the Committee as part of the funds available. However, the school is reworking on the figures taking into consideration the source of repayment of such loans which may not be entirely out of the fee revenue of the school.

With regard to development fee, it is submitted that the issue of development fee is beyond the mandate of this Committee as given by the judgment of Hon'ble Delhi High Court in WPC 7777 of 2009. Alternatively, it is submitted that since the school was fulfilling all the pre-conditions as laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School, no order for refund of development fee ought to be made by the Committee. He submits that the development fee was treated as capital receipt in the accounts and utilized for purchase of fixed assets. However, the details of fixed assets which were purchased out of development fund have not been furnished by the School. The Learned Counsel seeks some time to do so.

Lastly it is submitted that at any rate the development fee for the period beyond 2010 is outside the purview of this Committee as the mandate given to this committee is only for the period covered by order dated 11/02/2009 of Director of Education and that period ended on 31/03/2010.

TRUE COPY

Secretary

Delhi High Court Committee ★ Review of School Fee

29/08/2019

The Ld. Counsel appearing of the school requests for some more time to formulate the arguments with regard to the funds applied for repayment of secured loans for which the school has to do some more exercise. As requested, the matter is adjourned to 13/09/2019 at 11.00.

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

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

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

TRUE COPY

Secretary

30/08/2019

000165

**B-669**

**Bluebells International School, East of Kailash, New Delhi**

Present: Sh. S.S. Kalra, Auditor with Sh. N.C. Rana, Accounts Officer of the school.

The matter has been listed for seeking clarification on the issue of excess of recovery of arrears of incremental development fee for the period 01/09/2008 to 31/03/2009. The authorized representative appearing for the school submits that the school was in deficit even after hiking the fee as per order dated 11/02/2009 of the Director of Education, after implementing the recommendations of VI Pay Commission. He submits that the apparent excess recovery of development fee may be considered for utilizing it for the payment of increased salaries, as in spite of such recovery, the school remained in deficit. He submits that he would like to file written submissions to put forth the arguments on behalf of the school. Matter is adjourned to 11th Sept. 2019 at 11.00 a.m.

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

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

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

TRUE COPY

Secretary

Delhi High Court Committee For Review of School Fee