

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
October 2018

No.DHCC/2018/174

Dated: 28/11/18

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Place: Delhi


 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

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

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In the matter of:

CRPF Public School, Rohini, New Delhi-110085 (B-631)

Order of the Committee

Present : Ms. Sugna and Sh. Sanjeev Kapoor UDCs with Ms. Annu Anand, Asstt. Programmer, 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 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 vide letter dated 27/08/2012. As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and increased the salary of staff w.e.f. 01/04/2009. It submitted the details of monthly salary paid to the staff for the month of March and April 2009 which corresponded to the periods before and after implementation of the recommendations of VI Pay Commission. It also enclosed the details



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of arrears of salary payable which amounted to Rs. 1,92,70,301 against which it had paid a sum of Rs. 1,89,20,214 leaving a balance of Rs. 3,50,087.

With regard to hike in fee, it enclosed comparative charts of tuition fee charged for the year 2008-09 and 2009-10, showing that the fee had been increased by Rs. 100 per month for ORS category, 200 per month for SOS category, Rs. 200/Rs. 300 per month for GOS category and Rs. 300/Rs. 400 per month for Civil category of students. It also enclosed a statement showing that it had recovered a sum of Rs. 98,01,560 as arrear fee for the period 01/01/2006 to 31/03/2009.

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 Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess fee to the tune of Rs. 1,27,05,512. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reason that the CAs had not taken into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies.

The Committee issued a notice dated 26/05/2015 to the school requiring it to furnish the information sought in the questionnaire



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issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment.

The school furnished the required information under cover of its letter dated 05/06/2015.

The Committee issued a notice dated 28/10/2015 requiring the school to appear before it on 26/11/2015 along with its relevant financial records. Sh. Sanjeev Kapoor appeared with Ms. Anu Anand, Assistant Programmer of the school and sought adjournment on account of non availability of the accountant of the school. Accordingly the matter was adjourned to 07/12/2015 when Ms. Sugna, UDC (Accounts) appeared with Sh. Sanjeev Kapoor. The Committee examined the information furnished by the school and observed that the same was incorrect ex facie as it did not match with the audited financials of the school. The school was directed to furnish the correct information. The school furnished the revised chart showing different components of fee and salary for the years 2008-09 to 2010-11 on 09/12/2015. The matter could not be concluded on account of resignation of Justice Anil Dev Singh, as Chairman of the Committee.

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The reconstituted Committee issued a fresh notice of hearing dated 12/02/2018, requiring the school to appear before it on 08/03/2018.

Ms. Suguna, UDC (Accounts) appeared with Ms. Anu Anand, Asstt. Programmer of the school and was partly heard by the Committee.

The Committee examined the print outs of relevant ledger accounts of different components of fee and salary. The same were verified by the Committee with reference to the revised information filed by the school under cover of its letter 08/12/2015 filed on 09/12/2015.

The Committee observed that with regard to the figures furnished by the school in respect of regular salary, the school had also included salaries paid on various accounts like those paid to daily wagers, honorarium to guest faculty and salary to adhoc staff. Since these payments had no relation with the implementation of VI Pay Commission, the Committee decided to exclude from the relevant calculations to be made.

The Committee also observed that as per the audited financials of the school, it made a provision of Rs. 1,92,70,301 for payment of arrear salary to the staff in 2008-09. The payments made in 2009-10 and 2010-11 were reduced from this provision. However, there still remained a balance of Rs. 4,58,432 in the balance sheet of 2010-11



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indicating that this sum was still outstanding. However, the authorized representatives appearing for the school submitted that this had also been paid in the subsequent years. Accordingly the school was directed to produce the ledger account for Provision for Arrear salary from 2008-09 upto the date it had been fully squared up along with the bank statement showing the relevant payments.

On the next date of hearing, the school furnished the complete Provision for Arrear salary account along with copies of its bank statements showing payment of the different dates. The Committee observed that the balance of Rs. 4,58,432 which was the outstanding liability as on 31/03/2011 towards payment of arrears salary had also been subsequently paid in the years 2012-13 and 2013-14, as per the statements filed by the school.

The Committee observed that the school had not furnished its response to the supplementary questionnaire regarding development fee and instead of furnishing the employee wise details of accrued liabilities in respect of gratuity and leave encashment, the school had merely mentioned the figures of provisions made for these liabilities in the balance sheets. Further, it was observed that the school had not been filing its Receipt and Payment Accounts as part of its audited financials along with the returns filed by it under Rule 180 of the Delhi School Education Rules, 1973. The school was asked to make up the deficiencies in the information vide email dated 28/05/2018.



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On 05/06/2018, the school filed its reply to the supplementary questionnaire regarding development fee and detail of accrued liability on account of gratuity payable to staff as on 31/03/2010. However, the school did not file the details of accrued liability of leave encashment on the ground that no provision was made in the books. Copies of audited Receipt and Payment accounts for the years 2006-07 to 2010-11 were also not filed on the pretext that they were not prepared by the auditors. The Committee found the reasons to be untenable in view of the requirement of law to file audited Receipt and Payment accounts every year. The school was accordingly directed to have these statements prepared and furnish the same to the Committee within 15 days.

The Committee examined the reply to the questionnaire regarding development fee filed by the school. The school stated that it charged development fee in all the five years for which the information was sought. In particular in the years 2009-10 & 2010-11, with which this Committee is concerned, the school collected a sum of Rs.47,18,454 and Rs.58,33,575 respectively. It was further stated that the development fee was utilized (to the extent it was utilized) for purchase of furniture and fixture and equipments but no earmarked reserve fund was maintained for depreciation charged to the revenue account on the ground that the general fund of the school was in deficit. It was further submitted that although the



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school had general FDRs but they were barely sufficient to cover the liabilities of gratuity fund, caution money, development fund etc.

While examining the financials of the school, the Committee observed that the school runs a hostel, whose balance sheets were not on record. Accordingly, the school was directed to file copies of audited balance sheets of the hostel for the years 2006-07 to 2010-11 also, alongwith the Receipt and Payment accounts.

The school furnished the audited balance sheets of the hostel for the years 2006-07 to 2010-11 but the Receipt and Payment Accounts were not furnished. The school finally submitted the remaining documents during the course of hearing on 04/09/2018.

Based on the information furnished by the school and its audited financials, the Committee prepared the following calculation sheet in order to examine the justifiability of the fee hike effected by the school pursuant to order dated 11/02/2009:



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

	Particulars	Sr.Sc.School	Hostel	Total
	<u>Current Assets + Investments</u>			
	Cash in Hand	-	11,149	11,149
	Bank Accounts	2,631,599	278,017	2,909,616
	Fixed Deposits	22,995,280	647,171	23,642,451
	Principal Imprest Account	41,000	-	41,000
	Inter unit balances	218,491	(218,491)	-
	CWF Loan	1,000,000	-	1,000,000
	Loan to Staff	91,227	-	91,227
	TDS	298,649	4,444	303,093
	Total Current assets + Investments (B)	27,276,246	722,290	27,998,536
Less	<u>Current Liabilities</u>			
	Book Store	83,560	-	83,560
	Caution Money	2,299,306	520,280	2,819,586
	Bed Sheet	-	10,320	10,320
	CRPF Book Store	-	38,085	38,085
	Pocket Money	-	25,996	25,996
	PTA	120,050	-	120,050
	Liability for Scholarship	12,695	-	12,695
	Ag. Water Pump	2,168	-	2,168
	Outstanding salary	30	-	30
	Advance Fees received	1,649,845	-	1,649,845
	Total Current Liabilities (C)	4,167,654	594,681	4,762,335
	Net Current Assets + investments (B-C=D)	23,108,592	127,609	23,236,201
Less	Additional liability on implementation of 6th CPC:			
	Arrear of Salary as per 6th CPC	19,270,301	159,058	19,429,359
	Incremental Salary in 2009-10	13,594,982	50,830	13,645,812
	Total (F)	32,865,283	209,888	33,075,171
	G=E-F	(9,756,691)	(82,279)	(9,838,970)
Add	Additional recovery for 6th CPC:			
	Arrear of fee from 1.1.06 to 31.8.08	6,033,460	-	6,033,460
	Arrear of fee from 1.9.08 to 31.3.09	3,263,700	161,500	3,425,200
	Arrear of Development fee from 01.9.08 to 31.3.09	504,400	-	504,400
	Incremental fee in 2009-10	6,138,682	981,755	7,120,437
	Total amount received for implementation of 6th CPC (H)	15,940,242	1,143,255	17,083,497
	Excess / (Short) Fund After Fee Hike (I=G+H)	6,183,551	1,060,976	7,244,527
Less	Reserves required to be maintained:			
	for future contingencies (equivalent to 4 months salary)	11,148,148	87,715	11,235,863
	for accrued liability of Gratuity as on 31.03.2010	13,901,264	-	13,901,264
	for accrued liability of Leave Encashment as on 31.03.2010	3,213,099	-	3,213,099
	Total (J)	28,262,511	87,715	28,350,226
	Excess / (Short) Funds (K=I-J)	(22,078,960)	973,261	(21,105,699)

Development Fee	Rs.
For the year 2009-10	4,718,454
For the year 2010-11	5,833,575
Total amount apparently refundable	10,552,029



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Working Notes:

Main School	2008-09	2009-10
Normal/ Regular Tuition fee	23,854,522	29,993,204
Incremental tuition fee in 2009-10	6,138,682	

	2008-09	2009-10
EPF	739,705	981,438
Subsistence Allowance	101,303	-
Salary regular staff	19,008,454	32,463,006
Total	19,849,462	33,444,444
Incremental salary in 2009-10	13,594,982	

Hostel	2008-09	2009-10
Regular/ Normal Hostel fee	1,816,375	2,798,130
Incremental Hostel fee in 2009-10	981,755	

	2008-09	2009-10
EPF	21,398	23,953
Salary regular staff (excluding arrears in 2009-10)	190,916	239,191
Total	212,314	263,144
Incremental salary in 2009-10	50,830	

As per the above calculations, the school had funds available with it to the tune of **Rs.2,32,36,201** as on 31/03/2008. The school had accrued liabilities in respect of gratuity and leave encashment to the tune of **Rs.1,71,14,363**. The balance available to the school was therefore **Rs. 61,21,838** which could be utilized for implementation of the recommendations of the 6th pay commission. The total liability of the school on account of arrear salary and incremental salary in 2009-10 after implementation of the recommendations of the 6th pay commission was to the tune of **Rs. 3,30,75,171**. Thus there was gap of **Rs. 2,69,53,333** which was required to be bridged by recovering arrear fee and hike in tuition fee and development fee w.e.f. 1.09.2008. The total additional fee recovered by the school in pursuance of order dated 11/02/2009 amounted to **Rs. 1,70,83,497**. Thus, the school incurred a



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M. D. Singh
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deficit on implementation of the recommendations of the 6th Pay Commission. When the requirement of the school to keep funds in reserve for meeting any future contingency is considered, the deficit would further increase.

The development fee charged by the school in 2009-10 & 2010-11 amounted to **Rs. 1,05,52,029**. The Committee has not examined the justifiability of recovery of development fee for these two years on the touchstone of the parameters laid down by the Hon'ble Supreme Court in the case of Modern School for the reason that the deficit incurred by the school on implementation of the recommendations of the 6th Pay Commission is much more than the aggregate of development fee recovered in these two years, with which we are concerned.

Accordingly, the Committee is of the view that no intervention is required to be made with regard to recovery of arrear fee or development fee or the hike in tuition fee and development fee w.e.f. 01/09/2008, in pursuance of order dated 11/02/2009 issued by the Director of Education.

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

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

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

Dated: 03/10/2018



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

In the matter of:

**Air Force Golden Jubilee Institute, Subroto Park, New Delhi-
110010 (B-445)**

Order of the Committee

Present : Squadron Leader Ruchita S. Karthikeyan, Administrative Officer & Sh. S.K. Gaur Accountant of the school.

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools 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. Accordingly the Committee issued a fresh questionnaire dated 30/07/2013, incorporating therein the relevant queries with regard to charging of development fee, its utilisation and maintenance of earmarked reserves for development/depreciation reserve funds, in order to examine whether the school was complying

Air Force Golden Jubilee Institute, Subroto Park, New Delhi-10/Order/B-445 Page 1 of 14



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H. K. Gaur
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with the essential pre conditions for charging development fee as 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 & ors. (2004) 5 SCC 583. This was also not responded to by the school, despite reminders dated 26/08/2013, 30/09/2013, 05/12/2013 and 07/01/2014. The school finally responded and furnished its reply to the questionnaire vide letter dated 07/02/2014

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. 01/09/2008. The monthly salary expenditure prior to implementation of the VI Pay Commission Report was Rs. 23.90 lacs which rose to Rs. 35.74 lacs after its implementation.
- (b) It had also paid the arrears with effect from 01/01/2006 till the month of actual implementation. The total amount so paid was Rs. 186.20 lacs.
- (c) It had increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008 and also recovered the arrear fee from the students.



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- (d) 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.
- (e) The collection of development fee from 2006-07 to 2008-09 was treated as a revenue receipt.
- (f) The collection of development fee in the year 2009-10 amounted to Rs. 1,11,22,921 which was utilised for capital expenditure except to the tune of Rs. 7,85,195 which remained unutilised and was transferred to development fund. In 2010-11, the school collected Rs. 1,03,65,782 as development fee out of which a sum of Rs. 11,87,888 remained unutilised and was transferred to development fund.
- (g) The unspent development fund of 2009-10 and 2010-11 as well as the depreciation reserve fund on assets acquired out of development fee were kept in earmarked bank account/FDRs/Investments.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish the aggregate figures of arrear tuition fee, regular tuition fee, arrears of development fee, regular development fee, arrear salaries and regular salaries for the years 2008-09, 2009-10 and 2010-11 in a structured format which was devised by the Committee



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to facilitate calculations, duly reconciled with the audited Income & Expenditure Accounts. The school was also required to file a statement of account of the Society, as appearing in its books, details of accrued liabilities of gratuity and leave encashment.

The notice was not responded to by the school. Accordingly, the Committee issued a fresh notice dated 23/09/2015, requiring the school to appear before it on 15/10/2015 and produce its accounting records, fee records and salary records for examination by the Committee. The school was also required to furnish the information sought vide notice dated 25/05/2015. Group Captain S.M. Sachadev, Administrative Officer of the school appeared along with Ms. Geeta Shahi and filed the required information under cover of its letter dated 15/10/2015. They were partly heard by the Committee. The Committee examined the information furnished by the school. The Committee observed that the school charged different scales of fee from different categories of students depending upon whether they were children of Air Force Airmen (AFA), Air Force Officer (AFO) or Civilians (NAF). It was observed that the school had filed a circular regarding fee hike pursuant to order dated 11/02/2009 issued by the Director of Education only in respect of NAF category.



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H. Rao
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The Committee observed that in case of AFA and AFO categories, the hike in fee effected was much more than the hike permitted by order dated 11/02/2009 of the Director of Education, while in respect of NAF category, the hike was in line with the said order.

Initially, the authorized representatives contended that this was done to maintain the differential in fee between the students of different categories.

The Committee also observed that the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 had been recovered by the school @ 15% of tuition fee by recalculating the annual tuition fee w.e.f. 01/04/2008 although originally the school was charging development fee at a fixed rate which was unrelated to tuition fee.

The school was required to furnish copies of the circulars regarding fee hike for AFA and AFO categories, details of the accrued liability of the school for leave encashment as on 31/03/2010 which had not been submitted and justification for the additional hike in development fee for the period 01/04/2008 to 31/03/2009.



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The school furnished the aforesaid documents on 21/10/2015. The school sought to justify the incremental development fee by saying that it increased the same w.e.f. 01/09/2008 and not 01/04/2008 as observed by the Committee by taking the same as 15% of the annual tuition fee, which was calculated by taking the pre hike tuition fee for five months and the hiked tuition fee for seven months and reducing therefrom the fixed amount of development fee collected for the period 01/04/2008 to 31/08/2008.

The Committee prepared the following calculation sheet, a copy of which was forwarded to the school for rebuttal, if any.



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Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in Hand	883	
	Bank Balance	910,300	
	Accrued Income	1,997,158	
	Prepaid Expenses	94,248	
	Festival Advance	26,550	
	Sundry Debtors	83,071	
	Conveyance Loan	2,200	
	EDLI Advance	110	
	Deposit work with MES	9,965,372	
	PF & PPF Staff	2,248	
	Closing Stock of various Deptt.	451,595	
	Gifted Property Stock	1,926,995	
	Advance Account	7,000	
	Investment against Depreciation Fund	20,330,000	
	Investments against Gratuity/ Contingency Reserve Fund	19,510,000	
	LTC Advance	13,800	55,321,530
Less:	<u>Current Liabilities</u>		
	Current Liabilities & Provisions	3,595,824	3,595,824
	Net Current Assets + Investments		51,725,706
Less:-	Total Liabilities after implementation of 6th Pay Commission		
	Arrear of Salary as per VI th Pay Commission w.e.f. 01.01.2006 to 31.08.2008	18,489,703	
	Salary as per VI Pay Commission w.e.f. 01.09.2008 to 31.03.2009	9,809,659	
	Increased Salary in 2009-10	15,190,157	43,489,519
	Excess / (Short) Fund Before Fee Hike		8,236,187
Add:-	Total Recovery from students for implementation of 6th CPC		
	Recovery of Arrears of tuition fee w.e.f 01.01.06 to 31.08.08	2,896,331	
	Arrear of tuition fee from 01.09.2008 to 31.3.2009	10,171,983	
	Arrear of development fee from 01.09.2008 to 31.3.2009	2,742,355	
	Annual increase in Tuition Fee (FY 09-10)	17,104,435	32,915,104
	Excess / (Short) Fund After Fee Hike		41,151,291
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	18,308,001	
	for Leave encashment as on 31.3.2010	7,559,320	
	for Gratuity as on 31.03.2010	6,938,673	32,805,994
	Excess (short) Fund		8,345,297



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Development fee being treated as Capital receipt but offset against deficit in Income & Expenditure A/C:

For the year 2009-10	11,122,921
For the year 2010-11	<u>10,365,782</u>
Total	<u>21,488,703</u>

Prima facie, it appeared that the fee hike effected by the school was excessive to the tune of Rs. 83,45,297. Further, it appeared that the school was not fully compliant with the pre conditions prescribed by the Duggal Committee for charging of development fee which were upheld by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. This was on account of the fact that the school was partly utilising the development fee for acquisition of capital assets and the balance was transferred to the revenue account to offset the revenue deficit. Accordingly, the Committee was of the prima facie view that the development fee collected by the school in the years 2009-10 and 2010-11 amounting to Rs. 1,11,22,921 and Rs. 1,03,65,782 should also be refunded apart from the aforesaid amount of Rs. 83,45,297. Thus prima facie, the Committee was of the view that a total sum of **Rs. 2,98,34,000 was to be refunded.**



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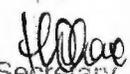
A fresh notice of hearing was given to the school for appearing on 09/12/2015. The authorized representative of the school appeared on this date and filed written submissions dated 09/12/2015 and submitted as follows:

- (a) The financial condition of the school was not healthy in terms of funds and reserves. It try to explore the possibility of utilising the existing reserves to meet shortfall in payment of salaries which rose on account of implementation of VI Pay Commission but found that it did not have any surplus fund.
- (b) The investment against depreciation fund ought not be included in the figure of funds available with the school for implementing the recommendations of VI Pay Commission as the same is earmarked for the purpose of replacement of assets in future.
- (c) The accrued liability of gratuity as on 31/3/2010 was Rs. 2,16,34,914 and not Rs. 69,38,673 which was taken by the Committee in the calculation sheet.

The final recommendations in the matter could not be finalized on account of resignation of Justice Anil Dev Singh as Chairman of



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the Committee. Accordingly a fresh notice of hearing was issued to the school by the reconstituted Committee.

Sq.Ld. Ruchika S. Karthikay, Administrative Officer of the school appeared with Sh. S.K. Gaur and submitted that the parents of the students of AFA and AFO categories got reimbursement of tuition fee from the government. In their cases, the arrear of fee was not recovered but only the fee hike w.e.f. 01/09/2008 was effected and therefore, it was hiked at a rate which was more than the rate prescribed by the Directorate of Education vide order dated 11/02/2009. She submitted that the additional hike in tuition fee in respect of these categories was to partly compensate the school on account of non recovery of arrear fee from these categories.

It was further submitted that the AFA/AFO category parents get Rs. 18,000 per month in the form of reimbursement of tuition fee as applicable to all central govt. employees and as such the hike in tuition fee was initiated in respect of AFA/AFO categories in all the three sisters schools i.e. The Air Force School, Air Force Golden Jubilee Institute and Air Force Bal Bharti School. Although not explicitly stated, it appears that the increase in tuition fee in respect of these categories at rates which were higher than those permitted by the Director of Education, was effected to enable the parents to get



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H. D. Gaur
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reimbursement from the government. Probably, the rules of the government did not permit reimbursement of the payment of arrear fees by the parents.

It was also submitted that the school has two wings i.e. General wing and special wing. The special wing caters to differently abled students. The Committee in its calculation sheet has considered the figures of both the wings and the school had no issue with that. However, the gratuity liability for the special wing amounting to Rs.20,52,084 was not communicated to the Committee on the previous occasion. The total accrued liability of gratuity for both the wings taken together along with the liability in respect of the employees who had left the school amounted to Rs. 2,37,71,430 and not Rs. 2,16,34,914, which was previously communicated to the Committee.

Discussion and Determination:

At the outset, it is worth appreciating that irrespective of the result of the calculations, if the Committee were to recommend any refund, it would result in a double benefit to the parents of the students of AFA and AFO categories as they had already got reimbursement of the fee actually paid by them from the Government. The order of the Committee should not result in any unjust enrichment of the parents. About 75 % of the



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total students of the school belong to these categories and the other categories like Army, Navy etc. who would have got reimbursement from the Government.

Having said that the Committee finds that even the calculations made by it would not result in the finding that the school charged fee which was more than its requirement to offset the liability of increased salaries and arrears which resulted on account of implementation of the recommendations of VI Pay Commission.

We first deal with the error in the calculation sheet with regard to accrued liability of gratuity as on 31/03/2010. The Committee has verified the details submitted by the school and finds that the contention of the school that it had a liability of Rs. 2,37,71,430 on this account is correct. The Committee had accounted for the same as Rs. 69,38,673 in its calculation sheet. Thus the amount apparently refundable as determined by the Committee would get reduced by **Rs. 1,68,32,757.**

We also find substance in the argument of the school that the amount held in earmarked investments against depreciation reserve amounting to **Rs. 2,03,30,000,** ought not be included in the amount determined to be available with the school for implementation of VI Pay Commission for the reason that the same are kept earmarked for replacement of fixed assets in terms of recommendations of Duggal Committee.



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If the aforesaid two amounts (1,68,32,757 + 2,03,30,000 = 3,71,62,757) are reduced from the amount provisionally determined to be refundable by the Committee which is **Rs. 2,98,34,000** (including the development fee for 2009-10 and 2010-11), the result would be that the school incurred a notional loss of Rs. 73,28,757, which has been worked out after considering the irregular charge of arrears of development fee amounting to **Rs.27,42,355**. In actual fact, the school did not incur any loss as the Committee has worked out the above notional loss after considering the reserve for future contingencies amounting to Rs. 1,83,08,001.

The Committee does not agree with the contentions of the school that it correctly recovered the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 as the school was entitled to increase the development fee w.e.f. 01/09/2008 on account of the fact that it had charged at a fixed rate which was not linked to the tuition fee. So any hike in tuition fee could not have resulted in any hike in the development fee. The amount of arrears of development fee so collected by the school was Rs. 27,42,355. However, since the school has submitted that it did not have adequate funds to fully implement the recommendations of VI Pay Commission despite hiking the tuition fee and recovering the arrear fee and the determination of the Committee is also to the same effect, the Committee hereby regularizes the excess



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charge of Rs. 27,42,355, in exercise of its mandate which includes allowing the schools to charge more fee than was permitted by the order of the Director of Education in appropriate cases.

Resultantly, the Committee is of the view that no intervention is called for in the matter of recovery of arrears of tuition fee, regular development fee for the years 2009-10 and 2010-11 or the hike in tuition fee effected by the school w.e.f. 01/09/2008 in terms of the order dated 11/02/2009 issued by the Director of Education. The Committee also regularizes the recovery of Rs. 27,42,355 recovered by the school as arrears of incremental development fee for the period 01/09/2008 to 31/03/2009.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 03/10/2018



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

In the matter of:

Navy Children School, Chanakya Puri, Delhi-110021 (B-318)

Order of the Committee

Present : Cdr. Pratyush Chauhan, Executive Director & Sh. Sarvjit Singh Jaswal, Office Asstt. of the school.

The school had submitted to the Dy. Director of Education, Distt Central, New Delhi, copies of its annual returns, fee structures, a statement showing salary paid to the staff before and after implementation of the recommendations of VI Pay Commission and a statement showing details of the arrears paid to the staff for the period 01/09/2008 to 30/09/2009 after implementation of the recommendations of VI Pay Commission w.e.f. 01/10/2009. Along with these documents, the school also submitted a copy of the order passed by the Director of Education on 09/03/2010, on the recommendations of the Grievance Redressal Committee, as per which the school was allowed to hike a further amount of Rs. 580 (average) per month per student over and above the hike that was permitted vide order dated 11/02/2009 issued by the Director of Education. These documents were transmitted to this Committee by the concerned Dy. Director of Education.



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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 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 vide email dated 28/02/2012 in which no details were furnished but it was mentioned that the details had been furnished to the Dy. Director of Education. However, it was mentioned that the school implemented the recommendations of VI Pay Commission w.e.f. 01/10/2009 and paid the arrears of salary for the period 1st September 2008 to 30th September 2009. It was also mentioned that the school had hiked the fee in terms of order dated 11/02/2009 passed by the Director of Education, as modified by the order dated 09/03/2010, w.e.f. 1st September 2008. With regard to recovery of arrear fee, it was mentioned that the arrears were charged as per DOE instructions, without mentioning the amount of arrear fee collected or the period for which the arrear fee was collected.

As the Committee did not consider the reply submitted by the school to be appropriate, it issued a revised questionnaire, which besides the queries contained in questionnaire dated 27/02/2012, also contained the relevant queries with regard to collection of



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development fee and maintenance of earmarked development fund and depreciation reserve fund.

The school submitted its reply to the revised questionnaire under cover of its letter dated 17/05/2013, as follows:

- (a) It implemented the recommendations of VI Pay Commission w.e.f. 01/10/2009 and paid the arrears of salary to the staff for the period 01/09/2008 to 30/09/2009.
- (b) The expenditure of the school on monthly salary prior to implementation of VI Pay Commission was Rs. 22,93,345 which rose to Rs. 30,80,874 after its implementation.
- (c) It paid a total sum of Rs. 2,03,15,970 as arrears for the period 01/09/2008 to 30/09/2009.
- (d) It collected Rs. 60,14,750 as arrear fee for the period September 2008 to September 2009 as per the rates prescribed by order dated 11/02/2009 and a further sum of Rs. 1,43,01,220 in pursuance of order dated 09/03/2010 of the Director of Education.
- (e) It collected development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11. In the years 2009-10 and 2010-11 with which this Committee is particularly concerned, it collected Rs. 46,94,082 and Rs. 65,36,905 respectively as development fee.



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- (f) The development fee was mainly utilised for payment of salary to staff and accordingly no earmarked development fund and depreciation reserve fund were maintained.

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 Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess to the tune of Rs. 1,65,71,314. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reason that the CAs had not taken into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies.

The Committee issued a notice dated 14/05/2015 to the school requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6th pay commission.



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The school furnished the required information under cover of its letter dated 09/07/2015.

As per the information furnished, the school neither collected the arrear period 01/01/2006 to 31/08/2008 nor paid the arrear salary for that period. It now stated that the total arrears of salary paid by the school (for the subsequent period starting from 01/09/2008) was to the tune of Rs. 1,63,87,509. Earlier in reply to the questionnaire, the school had stated that it had paid arrears of salary which amounted to Rs. 2,03,15,970.

The school also furnished the report of an actuary which estimated the gratuity liability of the school as on 31/03/2010 to be Rs. 1,74,21,236 while that for leave encashment was Rs. 61,71,199.

The Committee issued a notice dated 30/06/2016 requiring the school to appear before it on 19/07/2016 along with its relevant financial records. Cdr. Rakesh Dhall, Executive Director, Sh. Surender Singh Mehra, Accountant, Sh. Vinod Singh Bisht, Office Assistant, Sh. Sarvjit Singh Jaswal, Office Assistant of the School appeared on behalf of the school and were partly heard.

The Committee perused the circulars issued by the school regarding fee hike pursuant to the order dated 11/02/2009 issued by the Director of Education. It observed that in the first instance, the school collected arrears of fee for the period 01/09/2008 to 31/03/2009. Subsequently the school moved the Grievances



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Redressal Committee constituted by the Directorate Of Education vide order dated 11/02/2009 and after considering the case of the school, the said Committee allowed the school to collect further amount of arrear fee @ Rs. 580 per month per student for the same period. Consequent to that the school issued another circular requiring the students to pay the additional arrears. It was submitted that the school did not collect any arrear fee for period 01/01/2006 to 31/08/2008 as majority of the students had left the school. Consequently, in the first instance, the school did not pay the arrear salaries to the staff for that period. It was further submitted that subsequently certain retired teachers initiated legal proceedings against the school for payment of arrears and the Court ordered payment of arrear salary to all the teachers, whether working or retired. It was also submitted that in compliance with the order of the Court, the school paid a total amount of Rs. 1,02,03,917 to the existing teachers and a sum of Rs. 44,01,837 to the retired teachers. It was submitted that for payment of these arrears, the school did not recover any fee from the students and the same were paid out of the own funds of the school. A sum of Rs. 12,35,695 was still to be paid to the retired teachers as their whereabouts were not known to the school.

In support of its contention regarding payment of arrear salary, the school filed copy of the letter given to the bank for crediting the amount of arrears to the existing staff and detail of arrears paid and



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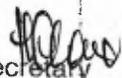
balance payable to the ex staff. The Committee also perused the statement of fee and salary filed by the school, which appeared to be not complete as the arrears paid in Dec. 2015 were not incorporated in the said statement. Further the Committee observed that an amount of Rs. 89,28,461 was shown as arrears of gratuity collected by the school which the authorized representatives were unable to explain. The school was accordingly directed to file a corrected statement of fee and salary.

With regard to Development fee, the Committee noted that the school, in its reply to the questionnaire, had vaguely mentioned that the development fee was treated as 'Capital and Revenue receipt' in the accounts of the school. However, in the subsequent fee and salary statement filed by the school under cover of its letter dated 9/07/2015, the school had stated that the regular development fee was treated as a revenue receipt. During the course of hearing, the authorized representatives of the school conceded that it was indeed treated as a revenue receipt. The amount of development fee collected in 2009-10 is stated to be Rs. 54,43,263 and in 2010-11, Rs. 67,10,058. However, in reply to the questionnaire, the school had given different figures of development fee for these years.

The Committee noticed that in the Fee and Salary statement, the school had given the figures of arrears of tuition fee and arrears of development fee for the period September 2008 to September 2009. The school was required to clarify the position as to how much was



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the arrear fee upto March 2009 and how much was the arrear fee for the period April 2009 to September 2009.

The school furnished the revised information under cover of its letter dated 20/10/2016 which was checked by the Committee with reference to the audited financials of the school. Based on the information furnished by the school and its audited financials, the Committee prepared the calculation sheet as per which it determined that the school had a sum of **Rs. 1,08,64,011** in its kitty as on 31/03/2008, as per the following details:

<u>Current Assets + Investments</u>		
Cash in hand and Bank Balance	267,599	
Investments and Fixed Deposits	12,092,009	
Advances	12,424	
Interest accrued on Fixed Deposits	823,991	13,196,023
<u>Less: Current Liabilities</u>		
Caution Deposit	1,374,200	
Fees received in Advance	331,105	
Other liabilities	167,881	
Expenses payable	458,826	2,332,012
Net Current Assets + Investments (Funds available)		10,864,011

The school had accrued liabilities of gratuity and leave encashment to the tune of **Rs. 2,35,92,435** as per the actuarial valuation reports. If these are taken into account, the school was in deficit to the tune of **Rs. 1,27,28,424** (2,35,92,435 – 1,08,64,011).

The recovery of arrear fee and incremental tuition fee w.e.f. 01/09/2008 resulted in an additional revenue of **Rs. 3,15,27,361** as under:



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Total Recovery for implementation of 6th Pay Commission:		
Arrear of tuition fee	17,268,231	
Arrear of development fee	3,047,396	
Incremental tuition fee for 2009-10 (as per calculation given below)*	11,211,734	31,527,361

*Incremental tuition fee in 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	20,385,045	31,596,779
Increase in 2009-10	11,211,734	

Thus the school had available with it a sum of **Rs. 1,87,98,937** (3,15,27,361 - 1,27,28,424) after recovering the incremental w.e.f. 01/09/2008.

The total financial impact of implementation of the recommendations of VI Pay Commission on the school on account of payment of arrear salary and incremental salary was to the tune of **Rs. 2,67,12,426** as per the following details:

Additional Liabilities after implementation of 6th Pay Commission:		
Arrear of Salary as per 6th CPC	16,387,509	
Incremental Salary for 2009-10 (as per calculation given below)*	10,324,917	26,712,426

*Incremental salary in 2009-10	2008-09	2009-10
Normal/ regular salary	24,815,068	35,139,985
Increase in 2009-10	10,324,917	



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In view of the foregoing determinations, the school was in deficit to the tune of **Rs. 79,13,489** (2,67,12,426 – 1,87,98,937). The deficit was made good by the school by utilising the development fee in 2009-10 and 2010-11, the aggregate of which was **Rs. 1,21,53,321**.

The school was admittedly not following any of the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India with regard to charging of development fee. So the question remained whether the remaining amount of development fee collected by the school in these two years (i.e. to the extent it was in excess of the requirement of the school to meet the deficit arising on account of implementation of the recommendations of VI Pay Commission) should be ordered to be refunded. The school was given a fresh hearing today to address arguments on this aspect.

Sh. Pratyush Chauhan, and Sh. Sarvjit Singh appeared on behalf of the school and submitted that the school ought also be allowed to retain a reasonable reserve for future contingencies as has been allowed by the Committee to the other schools. They contended that the above calculations made by the Committee do not factor in the said requirement of the school.

The Committee has considered the submission of the school and is inclined to accept the same. The Committee has taken a consistent



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view in the case of all the schools that the schools may not utilise the entire fund available with it for implementation of the recommendations of VI Pay Commission and ought to retain reserves for meeting its accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies. While the above calculations made by the Committee have taken into consideration the accrued liabilities of the school for leave encashment and gratuity, it has not taken into account the requirement of the school to maintain a reasonable reserve for future contingencies. After utilising a part of development fee collected by it in 2009-10 and 2010-11 for implementation of the recommendations of VI Pay Commission, the remaining amount left with the school was **Rs. 42,39,832** (1,21,53,321 - 79,13,489). The annual expenditure of the school on regular salary in the year 2009-10 was Rs. 3,51,39,985 i.e. Rs. 29,28,332 per month on an average. The surplus amount was thus a little less than one and a half month's salary. The Committee has taken consistent view that the reasonable reserves to be maintained by the school may be equal to four months salary.

In view of the foregoing discussion, the Committee does not consider it to be an appropriate case where it should order refund of any part of development fee recovered by the school in 2009-10 and 2010-11, although the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court for charging the development fee.



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Resultantly, the Committee is of the view that no intervention is called for in the matter of fee hike effected by the school pursuant to orders dated 11/02/2009 and 09/03/2010 issued by the Director of Education.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 04/10/2018



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

In the matter of:

Shah International School, Paschim Vihar, New Delhi-110087 (B-557)

Order of the Committee

Present : Sh. S.K. Gulati, Chartered Accountant with Mrs Preeti Makhija, Office Superintendent 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 salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission. However no reply was received from the school despite a reminder dated 27/03/2012.

The Committee issued a revised questionnaire on 30/07/2013 in which, besides seeking replies to the queries made vide questionnaire dated 27/02/2012, the Committee also required the school to furnish information regarding charging and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds in order to ascertain that the school was



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complying 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 vs. Union of India (2004) 5 SCC 583.

The school submitted its reply vide letter dated 08/08/2013. As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and increased the salary of staff w.e.f. 01/04/2009. It submitted the details of monthly salary paid to the staff before and after implementation of the recommendations of VI Pay Commission which indicated that the monthly salary expenditure had gone up from Rs. 5,65,943 to Rs. 8,75,846 on implementation of the recommendations. It also enclosed the details of arrears of salary paid to the staff for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/08/2009. As per the details submitted, the school paid a sum of Rs. 23,13,874 as arrear salary for the period 01/01/2006 to 31/08/2008 and Rs. 20,32,724 for the period 01/09/2008 to 31/03/2009.

With regard to hike in fee, it enclosed comparative charts of tuition fee charged for the year 2008-09 and 2009-10, showing that the fee had been increased by Rs. 400 per month for the students of all the classes. It also enclosed a statement showing that it had recovered a sum of Rs. 23,93,465 as arrear fee for the period 01/01/2006 to 31/08/2008 and Rs. 18,88,668 for the period 01/09/2008 to 31/03/2009.



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The school also filed details of recovery of development fee charged by it from 2006-07 to 2010-11 as also its utilisation in this period. For the years 2009-10 and 2010-11 with which this Committee is concerned, the school stated that it had recovered Rs. 27,81,306 as development fee for the year 2009-10 and Rs. 30,96,754 for the year 2010-11. Although the school stated that no depreciation was provided on the assets acquired out of development fee, yet in the same breath, it stated that it had earmarked funds to the tune of Rs. 26,53,587 in FDRs and Rs. 8,14,590 in saving bank account against depreciation reserve fund.

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 Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess fee to the tune of Rs. 28,69,231. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reason that the CAs had not taken into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies.

The Committee issued a notice dated 25/05/2015 to the school requiring it to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school



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was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment.

The school furnished the required information under cover of its letter dated 15/06/2015. Besides furnishing the information regarding arrear fee and regular fee charged by the school and arrear salary and regular salary paid by the school for the years 2008-09, 2009-10 and 2010-11, the school also furnished the employee wise details of its accrued liability of gratuity and leave encashment as on 31/03/2010. As per the details submitted, the liability in respect of the gratuity amounted to Rs. 15,74,030 while that in respect of leave encashment was Rs. 9,16,641.

The Committee issued a notice dated 20/09/2016 requiring the school to appear before it on 07/10/2016 along with its relevant financial records. Sh. S.K. Gulati, Chartered Accountant, appeared on behalf of the school. He was heard by the Committee.

The Committee perused the undated circular issued by the school to the parents of the students regarding fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the circular, the school hiked the tuition fee by Rs. 400 per month w.e.f. 01/09/2008 and accordingly



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recovered arrears of Rs. 2,800 per student for the period 01/09/2008 to 31/03/2009. The Committee noticed that although the school was charging development fee in the year 2008-09, there was no mention of any hike in development fee consequent to increase in tuition fee w.e.f. 01/09/2008. The authorized representatives appearing for the school clarified that the school did not hike the development fee for the period 01/09/2008 to 31/03/2009. However, the school recovered Rs. 3,500 per student as lump sum fee for the period 01/01/2006 to 31/08/2008 as permitted by order dated 11/02/2009 issued by the Director of Education.

The Ld. Authorized representative submitted that the school implemented the recommendations of VI Pay Commission w.e.f. 1/02/2009 and also submitted that it was erroneously mentioned in the reply to the questionnaire that the school had increased the salaries w.e.f. 01/04/2009. He also submitted that the back arrears were paid for the period 01/01/2006 to 31/01/2009 and the same were paid through direct bank transfers to the accounts of staff.

The Committee examined the information furnished by the school with regard to arrear fee, regular fee, arrear salary, regular salary paid in the years 2008-09, 2009-10 and 2010-11. The Committee noted that while furnishing the figure of arrears of salary for the period 01/09/2008 to 31/01/2009, the school also notionally included the incremental salary for the month of February and March 2009 in the arrear salary.



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The Committee examined the figures furnished by the school with reference to its audited financials. It noted that the school had included certain additional expenses like teaching expenses, staff welfare etc. in the figure of regular/normal salary, which had nothing to do with its increased liability on account of implementation of VI Pay Commission. After making the necessary corrections, the committee arrived at the following figures which were agreed to by the authorized representatives appearing for the school.

Arrear fee for the period 01/01/2006 to 31/03/2009	Rs. 23,93,465
Arrear of tuition fee for the period 01/09/2008 to 31/03/2009	Rs. 18,88,668
Incremental tuition fee for the year 2009-10 as a consequence of fee hike as per DOE order dated 11/02/2009	Rs. 43,86,477
Arrear salary for the period 01/01/2006 to 31/08/2008	Rs. 23,13,874
Arrear salary for the period 01/09/2008 to 31/03/2009 (including notional arrears for Feb. and March 2009)	Rs. 20,32,724
Incremental salary in 2009-10 on account of implementation of VI Pay Commission	Rs. 50,19,073

The Committee also examined the statement of account of the parent society of the school as appearing in its books for the period 01/04/2006 to 31/03/2011. The authorized representative of the school contended that as per the statements, there was no diversion of funds from the school to the society.

The Committee also examined the details of the accrued liability of the school for gratuity and leave encashment as on 31/03/2010 and noted that as per the details furnished, the school



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had an accrued liability of Rs. 15,74,030 on account of gratuity and Rs. 9,16,641 on account of leave encashment.

The Committee examined the issue of charging of development fee by the school with reference to its reply to the questionnaire issued by it. The Committee queried from the authorized representative as to how it was maintaining earmarked funds against depreciation reserve when admittedly it had not charged any depreciation on the assets acquired out of the development fee.

The authorized representative submitted that the cost of the entire assets acquired out of development fee was charged to the development fund and the earmarked FDRs and saving bank accounts in respect of development fee represented unspent amount of development fee.

In order to examine the justifiability of fee hike effected by the school as also fee arrears recovered by the school pursuant to order dated 11/02/2009 issued by the Director of Education for implementation of recommendations of VI Pay Commission, the Committee prepared a calculation sheet. As per the calculations prepared by the Committee, the school had available with it a sum of **Rs. 17,96,963** as on 31/03/2008, that is before the fee hike was effected. This was worked out as follows:



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<u>Current Assets + Investments</u>		
Cash in Hand	29,807	
Cash at Bank	191,119	
Fixed Deposits with accrued interest	2,003,050	
Fixed Deposits (Depreciation Fund)	979,181	
Advances to Staff	50,000	
TDS	22,701	3,275,858
<u>Less: Current Liabilities</u>		
Security from Students	664,500	
Bank Debit	654,518	
Fees received in advance	46,200	
Other Current liabilities	31,007	
Provision for expenses payable	82,670	1,478,895
Net Current Assets + Investments (Funds available)		1,796,963

The Committee has taken a consistent view that the entire funds available with the school ought not be considered as available for implementing the recommendations of VI Pay Commission but the school must keep in reserve adequate funds to meet its accrued liabilities of gratuity and leave encashment besides maintaining a reasonable reserve equivalent to four months salary for any future contingency.

As noticed supra, the accrued liability of the school towards gratuity was Rs. 15,74,030 and that for leave encashment was Rs. 9,16,641, totaling **Rs. 24,90,671**. Thus the funds available with the school were not sufficient even to provide for these liabilities, not to talk of any reserve for future contingencies. IN fact, these liabilities remained uncovered to the tune of **Rs. 6,93,708** (24,90,671 – 17,96,963) Thus the Committee considered that the school did not



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have any funds of its own which could be utilised for implementing the recommendations of VI Pay Commission.

The total financial impact of implementation of the recommendations of VI Pay Commission on the school was **Rs. 93,65,671** as follows:

Additional Liabilities after implementation of VIth Pay Commission:		
Arrear of Salary as per 6th CPC	4,346,598	
Incremental Salary for 2009-10 (as per calculation given below)	5,019,073	9,365,671

As against this, the fee hike effected by the school and recovery of arrear fee resulted in an additional revenue of **Rs. 86,68,610** as per the following details:

Total Recovery for implementation of 6th Pay Commission		
Arrear of tuition fee	4,282,133	
Incremental tuition fee for 2009-10 (as per calculation given below)	4,386,477	8,668,610

It is obvious that the school incurred a deficit of **Rs. 6,97,061** (93,65,671- 86,68,610) on implementation of the recommendations of VI Pay Commission.

In view of the above findings, the Committee is of the view that the fee hike effected by the school and arrear fee recovered by it pursuant to order dated 11/02/2009 was justified and no interference is called for in the matter.



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Development Fee:

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As noticed supra, the school charged Rs. 27,81,306 as development fee for the year 2009-10 and Rs. 30,96,754 in 2010-11 thus totaling Rs. 58,78,060. The school incurred a deficit of Rs. 6,97,061 on implementation of the recommendations of VI Pay Commission. After setting of this deficit, the amount of development fee for these two years that remains is Rs. 51,80,999. We have already noticed above that the school did not have any funds to keep in reserve. Besides, the accrued liability of gratuity and leave encashment, which remained uncovered amounted to Rs. 6,93,708. The requirement of the school to keep funds in reserve equivalent to four months salary was to the tune of Rs. 47,07,140, based on the total salary expenditure of Rs. 1,41,21,419 for the year 2009-10.

Since the aggregate of uncovered gratuity and leave encashment liability and reserve for future contingencies, exceeds the development fee for 2009-10 and 2010-11 that remains after setting off the deficit on implementation of VI Pay Commission, the Committee is of the opinion that it would only be undertaking an academic exercise to ascertain whether the school was fulfilling the pre conditions laid down by the Hon'ble Supreme Court for charging of development fee. In the circumstances, the Committee is of the view that no interference is required in the case of development fee also charged by the school for the years 2009-10 and 2010-11.

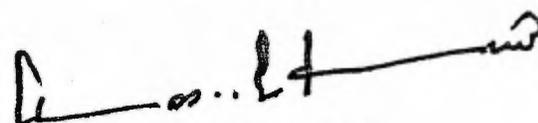


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Resultantly, the Committee is of the view that no intervention is called for in the matter of fee hike effected by the school pursuant to orders dated 11/02/2009 or the recovery of arrears of tuition fee for the period 01/01/2006 to 31/03/2009 or for the recovery of regular development fee for the years 2009-10 and 2010-11.

Ordered accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Dated: 05/10/2018



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

In the matter of:

Dayanand Public School, Model Town-III, Delhi-110009 (B-543)

Order of the Committee

Present : Sh.Jagnani, Manager of the school

The Committee had issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting the information regarding the implementation of the recommendations of VI Pay Commission, payment of arrear salaries, fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education and arrear fee collected by the school. This was followed by a reminder dated 27/03/2012. However these communications were not responded to by the school.

The school submitted to the Dy. Director of Education, Distt. North West-A, Delhi, copies of its annual returns, fee structures, details of salary paid to staff before and after implementation of the recommendations of VI Pay Commission and circular dated 18/02/2009 issued by the school to the parents of the students regarding fee hike and recovery of arrear fee pursuant to order dated 11/02/2009 of the Director of Education, under cover of its letter dated 24/05/2012. These documents were transmitted to this Committee for its perusal.



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The Committee issued a revised questionnaire on 04/06/2013 which, apart from seeking answers to the queries made by the Committee vide questionnaire dated 27/02/2012, also included the relevant 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 complying with the pre conditions laid down by the Duggal Committee for charging development fee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583.

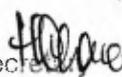
The school submitted its reply to the questionnaire vide letter dated 02/07/2013. As per its reply, the school implemented the recommendations of VI Pay Commission w.e.f. February 2009 and also enclosed a payment sheet showing payment of arrears salary without indicating the period for which the arrears have paid.

With regard to hike in fee, the school stated that it effected the hike w.e.f. September 2008 and recovered the arrear fee for the period 01/01/2006 to 31/08/2008 in terms of order dated 11/02/2009 issued by the Director of Education.

With regard to development fee, the school admitted having charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. However, the same was treated as a revenue receipt in the accounts. Further, with regard to its utilisation, the school stated that since it got merged into the revenues of the school, no specific details about its utilisation could be given. It further admitted



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that unutilised development fee was not kept in an earmarked bank account.

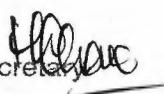
Thus at the outset itself, the school admitted that it was not fulfilling the pre-conditions prescribed by the Duggal Committee for charging development fee, which were upheld by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583.

In the first instance, the relevant calculations were made by the Chartered Accountants deputed by the Director of Education to assist this Committee (CAs). As per the calculations prepared by them, it appeared that the school recovered more fee than was required to offset the additional expenditure on account of implementation of the recommendations of VI Pay Commission. The amount of excess fee worked out by them was Rs. 45,21,388. However, on reviewing the calculations prepared by the CAs, it appeared that the same could not be relied upon for the reason that the figures taken by them did not agree with the audited financials of the school and for the reason that they had not factored in the requirement of the school to keep funds in reserve for meeting its liabilities of gratuity and leave encashment.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society



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running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment.

The school furnished the required information vide its letter dated 05/06/2015. The Committee issued a notice dated 20/09/2016 requiring the school to appear before it on 07/10/2016 along with its relevant financial records. Sh. S.K. Jagnani, Manager of the school appeared with Sh. Ashok Bhutani, and Ms. Gayatri, Accounts Executive of the school.

The Committee examined the circular dated 18/02/2009 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 Director of Education. It observed that the school hiked the tuition fee of the students of classes I to VIII by Rs. 200 per month and Rs. 300 per month for students of classes IX & X w.e.f. 01/09/2008. Accordingly, the arrears of incremental tuition fee for the seven months period of 01/09/2008 to 31/03/2009 were recovered @ Rs. 1400/2100 per student. Besides, the school also recovered arrears of incremental development fee @ Rs. 455 from students of classes I to V, Rs. 490 from students of classes VI to VII and Rs. 700 from students of classes IX & X for the corresponding period. Apart from this, the school also recovered lump sum fee arrears of Rs. 2,500/Rs. 3,000 to cover the arrears of salary for the period 01/01/2006 to 31/08/2008.



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The Committee observed that on the face of it, the arrears of incremental development fee as a percentage of arrears of incremental tuition fee, were around 33%, which was more than the cap of 15% of tuition fee prescribed by the Hon'ble Supreme Court in the case of Modern School (supra). The authorized representative of the school contended that while the development fee was originally charged @ 10% of tuition fee in the year 2008-09, the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 were recovered @ 15% of tuition fee. They contended that this was in accordance of the aforesaid order dated 11/02/2009 of the Director of Education.

During the course of hearing, the authorized representatives of the school have informed that while the regular salary was increased w.e.f. 01/02/2009 in terms of recommendations of VI Pay Commission, and the back arrears of incremental salary were paid for the period 01/01/2006 to 31/08/2008. However, the arrears for the period 01/09/2008 to 31/01/2009 have not been paid by the school. He submitted that the staff is reconciled with this situation and is not claiming any arrear salary for the aforesaid period. He also filed a copy of the bank statement of the school showing that the arrears to staff were paid through direct bank transfer to their accounts.

The school also furnished details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010, which had been



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certified by M/s. Bhawani Sharma & Co., Chartered Accountants. The accrued liabilities amounted to Rs. 53,69,794 on account of gratuity and Rs. 13,88,536 on account of leave encashment. It was submitted that the school had no financial transactions with its Parent Society i.e. Arya Smaj, Model Town-III, Delhi-110009.

During the course of hearing, it emerged that Arya Smaj, Model Town, the Parent Society of the school was also running a nursery school by the name of Daya Nand Nursery school. On being asked, the authorized representative stated that Daya Nand Nursery School was an independent identity under a different management committee. He, however, admitted that it was run from the same premises. The school, was accordingly directed to file the details as sought vide Committee's letter dated 25/05/2015 in respect of Daya Nand Nursery school also within one month.

The school furnished the details with regard to Daya Nand Nursery School on 15/11/2016. Since this school was being run by the same society from the same premises and acted as a feeder to the main school, the Committee considered it as part and parcel of the main school and accordingly, prepared its calculations by taking the funds available with the Nursery School also as available with the main school.

In order to examine the justifiability of fee hike effected by the school and recovery of arrear fee and development fee pursuant to



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order dated 11/02/2009 issued by the Director of Education, the Committee prepared the necessary calculations, which revealed that before effecting the fee hike, the school possessed a sum of **Rs. 76,67,556** as on 31/03/2008, as per the following details:

Particulars	Main School	Nursery	Total
<u>Current Assets</u>			
Cash in Hand			
Bank Balance	20,274	32,890	53,164
Fixed Deposits	332,333	294,069	626,402
Interest accrued	6,588,845	800,000	7,388,845
Advance Staff	375,602	24,604	400,206
Tuition fee & Development Fee receivable	40,100	50,500	90,600
Paramount International	40,350	7,590	47,940
TDS on FDR interest	4,935	-	4,935
	67,600	2,826	70,426
Total Current assets	7,470,039	1,212,479	8,682,518
<u>Current Liabilities</u>			
Audit Fee payable			
Liabilities Payable	5,618	5,056	10,674
Interest payable	3,117	29,675	32,792
TDS payable	340	-	340
Pupil's Welfare Fund	4,935	-	4,935
Security Deposits (Students)	34,571	-	34,571
	631,150	300,500	931,650
Total Current Liabilities	679,731	335,231	1,014,962
Net Current Assets	6,790,308	877,248	7,667,556



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The accrued liability of the school for gratuity and leave encashment as on 31/03/2010 for which the funds was required to be kept in reserve was **Rs. 79,18,546** as per the following details:

Particulars	Main School	Nursery	Total
Funds to be kept in reserve:			
Towards accrued liability for Gratuity as on 31.3.2010	5,369,794	812,040	6,181,834
Towards accrued liability for Leave Encashment as on 31.3.10	1,388,536	348,176	1,736,712
Total funds to be kept in reserve			79,18,546

Since the amount that was required to be kept in reserve was more than the funds available with the school at the threshold, the Committee considered that the school did not have available with it any funds of its own which could have been utilised for implementation of the recommendations of VI Pay Commission.

The total financial impact of implementation of the recommendations of VI Pay Commission on the school was to the tune of **Rs. 93,13,829**, as per the following details:

Particulars	Main School	Nursery	Total
Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.08.08	3,793,667	-	3,793,667
Arrear of Salary as per 6th CPC for 1.09.08 to 31.3.09	-	328,930	328,930
Incremental Salary as per 6th CPC for Feb. & Mar. 2009	611,414	-	611,414
Incremental Salary as per 6th CPC in 2009-10	4,049,608	530,210	4,579,818
Total			93,13,829



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The additional revenue generated by the school by way of fee hike and recovery of arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education was **Rs. 63,71,735** as per the following details:

Particulars	Main School	Nursery	Total
Tuition Fee Arrear from 01.01.06 to 31.08.08	1,915,875	-	1,915,875
Tuition Fee Arrear from 01.09.08 to 31.03.09	1,186,710	217,700	1,404,410
Development Fee arrear from 01.09.08 to 31.03.09	342,280	87,920	430,200
Incremental Tuition fee in 2009-10	2,282,790	338,460	2,621,250
Total			63,71,735

Thus, even without considering the requirement of the school to maintain a reasonable reserve for future contingencies, the school incurred a **deficit of Rs. 29,42,094** (93,13,829 - 63,71,735).

The Committee is, therefore, of the view that so far as the recovery of arrear fee and incremental tuition fee pursuant to order dated 11/02/2009 is concerned, the school was justified in charging/increasing the fee to the extent it did. So far as the incremental development fee is concerned, the issue will be discussed later in this order.

Regular Development Fee:

As stated supra, the school was not fulfilling the basic pre conditions of charging development fee for the purpose of incurring capital expenditure on furniture, fixture and equipments but for meeting its revenue expenses, the school was not justified in charging



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development fee. The development fee charged by the school in the year 2009-10 was Rs. 18,11,435 while that charged in the year 2010-11 was Rs. 19,68,456, thus aggregating **Rs. 37,79,891**. However, since the school incurred a deficit of **Rs. 29,42,094** on implementation of the recommendations of VI Pay Commission, the same is required to be set off against the development fee for these two years which was treated as a revenue receipt. Whether the balance amount of **Rs. 8,37,797** ought to be ordered to be refunded is a moot question to be decided by the Committee. As observed supra, the Committee while calculating funds required to be kept in reserve by the school has not factored in the requirement of the school for a reserve for future contingencies. The Committee has taken a consistent view in the case of all the schools that the school ought to maintain a reasonable reserve (equivalent to 4 months salary) for any future contingency. The total expenditure of the school on salary for the year 2009-10 was Rs. 1,22,33,722 and based on this, the requirement of the school to keep funds in reserves for future contingencies amounts to **Rs. 40,77,907**.

In view of the foregoing position, the Committee is not inclined to recommend the refund of Rs. 8,37,797 out of development fee for the year 2009-10 and 2010-11.

Incremental Development Fee for the period 01/09/2008 to 31/03/2009:

The school was charging admittedly development fee @ 10% of tuition fee in the year 2008-09. However, w.e.f. 01/09/2008, it increased



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the rate of development fee to 15% of tuition fee and accordingly recovered the differential amount as arrears. The Committee is of the view that such action on part of the school was not in consonance of the clause 15 of the order dated 11/02/2009 of the Director of Education which permitted recovery of only the consequential increase in development fee w.e.f. 01/09/2008 for payment of the increased salaries. The consequential increase could only be at the rate of 10% of the incremental tuition fee. The school was not authorized to increase the rate of development fee and calculate the consequential increase. Hence a limited notice was issued to the school to justify the additional increase in development fee which was calculated to be Rs. 2,89,759, as follows:

Particulars	Main School	Nursery	Total
Development Fee recoverable @ 10% of arrears of tuition fee for the period 1.9.08 to 31.3.09	118,671	21,770	140,441
Development fee @ 15% actually recovered	342,280	87,920	430,200
Excess amount refundable	223,609	66,150	289,759

The matter was heard today. Sh. S.K. Jagnani, Manager of the school appeared and submitted that although the school had no intention to flout the instructions of the Director of Education, the additional fee hike was necessitated on account of the fact that the school incurred deficit on implementation of the recommendations of the 6th pay commission even after increasing tuition fee at the maximum rates which were prescribed by the order dated 11/02/2009. He further submitted that in the calculations made by



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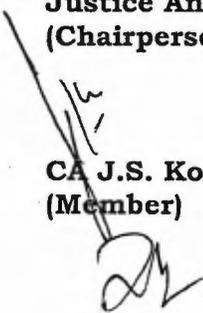
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the Committee, there remains a deficit even after considering the additional development fee recovered by the school and requested that the additional amount of incremental development fee amounting to Rs. 2,89,759 be regularized as the Committee is empowered to recommend a further hike in fee where the schools are found to have incurred deficit on implementation of the recommendations of VI Pay Commission.

Upon consideration of the submissions made by the Manager of the school, the Committee does not deem it an appropriate case where it should order refund of any amount, although irregularly recovered. The Committee in terms of its mandate, can in appropriate cases, allow the schools to recover more fee than that was permitted vide order dated 11/02/2009 if it found that the fee hike permitted to the school was not sufficient for implementation of the recommendations of the 6th Pay Commission. Accordingly the excess fee of Rs.2,89,759 recovered by the school is ordered to be regularized.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 09/10/2018



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

In the matter of:

**G.D. Goenka Public School (Formerly St. Martin's Public School),
Paschim Vihar, New Delhi-110063 (B-249)**

Order of the Committee

Present : Sh.Mithun Khatri, C.A. & Sh.Sandeep Chadha, Accountant
of the school.

The school had submitted to the Education Officer, Zone-17, New Delhi, copies of its annual returns, fee structures, details of salary paid to staff before and after implementation of the recommendations of VI Pay Commission (including arrears) and circular dated 24/02/2009 issued by the school to the parents of the students regarding fee hike and recovery of arrear fee pursuant to order dated 11/02/2009 of the Director of Education, under cover of its letter dated 24/01/2012. These documents were transmitted to this Committee for its perusal.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which, however, was not responded to by the school. However, since it appeared that the relevant calculations could be made on the basis of the information already furnished by the school, the Chartered Accountants deputed



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by the Director of Education to assist this Committee (CAs) were asked to prepare the relevant calculations. As per the calculations prepared by them, it appeared that the school incurred a deficit after implementation of recommendations of VI Pay Commission despite the fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. However, on reviewing the calculations prepared by the CAs, it appeared that the same could not be relied upon as the figures taken by them did not agree with the audited financials of the school.

The Committee issued a notice dated 13/05/2015 requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment. A revised questionnaire was also issued to the school which included the relevant queries with regard to collection and utilisation of development fee, its treatment in the accounts and maintenance of earmarked funds for development and depreciation reserve.

The school partly furnished the information required, under cover of its letter dated 13/07/2015.



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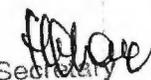

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In reply to the revised questionnaire, the school submitted that it had implemented the recommendations of VI Pay Commission w.e.f. April 2009 and paid the arrears for the prior period. The fee was hiked w.e.f. 01/09/2008 and the school also recovered the arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education. The school also stated that it charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11 and maintained an earmarked saving bank account against depreciation reserve fund . The development fee was treated as a capital receipt and utilised for permitted purposes.

The Committee issued a notice dated 27/06/2016 requiring the school to appear before it on 08/07/2016 along with its relevant financial records. Sh. Mithun Khatri, Chartered Accountant appeared on behalf of the school along with Sh. Sandeep Chadha, Accountant of the school. The matter was adjourned to 04/08/2016 on account of paucity of time. When it was taken up on the next date, the Committee observed that the information filed by the school was not in terms of notice dated 15/05/2015. The authorized representatives was provided with a copy of this notice and asked to comply with the same within two weeks. The school filed the necessary information on 17/08/2016 in the office of the Committee. The matter was examined on 22/08/2016. The authorized representatives of the school submitted that the school had not paid the full amount of arrears of



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salary to the staff, which became due to them on implementation of Sixth Pay Commission. Only 61.5% of the total amount due had been paid.

The Committee examined the details of arrear payments made to the staff which the school had filed. It was observed that out of a total of Rs. 61.24 lakhs purportedly paid on account of arrears, as much as Rs.34.28 lakhs was admittedly paid in cash. Only the remaining amount of about 26.96 lakhs was claimed to have been paid by cheques.

The Committee examined the salary records of the school and observed that even in the case of those staff members who had been paid regular salary through bank transfer, the arrears were purportedly paid in cash in those very months.

The Committee examined copies of bank statements filed by the school and it appeared that a large amount which was claimed to have been paid by cheques also, appeared to have been paid by means of bearer cheques. Accordingly, the school was required to furnish certificate(s) from the bank regarding the mode of payment of all the cheques which were claimed to have been issued for payment of arrear salary.

The Committee observed that as per the circular issued by the school to the parents regarding fee hike, the school increased the tuition fee of the students @ Rs. 300 per month for classes 1st to 8th



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w.e.f 1st Sept. 2008 while the hike for classes 9th to 12th @ Rs.400 p.m. Besides this the school also recovered lump sum fee @ Rs. 3000 per student for classes 1st to 8th and Rs.3500 p.m. for classes 9th to 12th. However, on a query raised by the Committee regarding the fee hike for the pre primary classes, the authorized representative was not able to confirm whether it was hiked or not. However, the Committee found that as per the statement of fee filed by the school for the year 2009-10 as required under sections 17 (3) of the Delhi School Education Act 1973 on 31st March 2009, the school had hiked the fee of the students of nursery and pre primary also @ 300/- per month w.e.f. 1st Sept. 2008.

On 15/09/2016, the school filed a statement giving details of cheques issued to the staff in payment of arrear salary totaling Rs. 24,08,123, which was duly endorsed by Punjab National Bank, Bhera Enclave, Paschim Vihar Branch to the effect that all these cheques had been paid either through clearing or by transfer except for one cheque for Rs. 16,770, which was paid in cash to the bearer.

On 21/09/2016, the school furnished a copy of the circular regarding fee hike for nursery and prep classes also which confirmed that the school had hiked the tuition fee for these classes also @ Rs. 300 per month w.e.f. 01/09/2008. The school also furnished the details of utilization of development fund, which had not been furnished earlier. The authorized representative of the school also produced a pass book of its bank account with Punjab National Bank



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which was earmarked for development fund. The Committee observed that the outstanding balance of this earmarked account as on 31/03/2010 was Rs. 4,70,403 and Rs. 5,00,938 as on 31/03/2011. The authorized representatives appearing for the school submitted that the development fee collected was transferred every month to this account and was utilized for the permitted purposes only.

However, the Committee observed that as per the details of utilization of development fund filed on that date, a sum of Rs. 34,65,815 was collected as development fee in the year 2009-10, the whole of which was utilized for the purpose of repayment of bank loan and outstanding creditors for the purpose of additions to building. Similarly, the sum of Rs. 39,62,395 which was collected as development fee in the year 2010-11, the entire amount was utilized for repayment of bank loan taken for building construction.

The development fee could only have been utilised for purchase or upgradation of furniture and fixtures or equipments required by the school as per the recommendations of 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. The utilisation of development fee for the purpose of repayment of loan taken for construction of building was not a permitted usage. The Committee is therefore, of the view that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra). The issue whether the Committee should



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recommend a refund of the development fee collected by the school in the years 2009-10 and 2010-11 pursuant to order dated 11/02/2009 issued by the Director of Education will be dealt with later in this order.

Based on the information furnished by the school and its audited financials, the Committee prepared a calculation sheet to examine the justifiability of fee hike effected by the school. As per the calculations prepared by the Committee, the net current assets available with the school as on 31/03/2008, were in the negative zone i.e. (-) 1,26,35,260, as per the following details:

<u>Current Assets + Investments</u>		
Cash and Bank Balance	1,352,651	
Loans and Advances	65,686	1,418,337
<u>Current Liabilities</u>		
Student Security	1,430,796	
Creditors for Expenses	514,868	
Provision for Expenses payable	5,604,972	
Receipts in advance	6,502,961	14,053,597
Net Current Assets + Investments (Funds available)		(12,635,260)

Since the net current assets i.e. the working capital + the investments are not expected to be in the negative zone, as they can be negative only if either the school is incurring cash losses or is utilising its revenue receipts for capital expenditure or is withdrawing or diverting money to its parent or sister organization, the Committee had a close look at the financials of the school and observed that the school had made additions to its fixed assets i.e. incurred capital



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expenditure by taking loans from different banks and was making repayments of such loans and interest thereon by withdrawing from the working capital. As per the judgement of the Hon'ble Supreme Court in the case of Modern School (supra), the capital expenditure incurred or to be incurred by the school cannot form part of the fee structure of the school, the Committee considered that the revenues from fee so utilised ought to be considered as part of the funds available. The Committee observed that the school had diverted a total sum of Rs. 1,04,77,822 out of its fee revenue towards capital expenditure from 2007-08 to 2010-11. However, even after considering such funds as available to the school, the net result was that the school still had negative funds to the tune of Rs. 21,57,438. Thus the Committee was of the view that the school did not have any funds of its own which will have been utilised for implementing the recommendations of VI Pay Commission.

As discussed supra, the school although claimed to have made payment of arrear salary to the staff to the tune of Rs. 61.24 lakhs, out of which only a sum of Rs. 24.08 Lacs was paid by cheques. The remaining amount was purportedly paid in cash even to the teachers who were paid regular salary in those very months by cheques or bank transfer. In the circumstances, the Committee considers that only the amounts which were paid by cheque were actually paid to the staff. Accordingly, while calculating the additional liabilities that befell on the school on implementation of the recommendations of VI



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Pay Commission, the Committee has considered only the payment of arrears which were made by cheque. The total financial impact of the implementation of the recommendations of VI Pay Commission, as calculated by the Committee was Rs. 95,82,672 as per the following details:

Additional Liabilities after implementation of 6th Pay Commission:		
Arrear of Salary as per 6th CPC (excluding the cash payments)	2,679,086	
Incremental Salary for 2009-10 (as per calculation given below)*	6,903,586	9,582,672

*Incremental salary in 2009-10	2008-09	2009-10
Normal/ Regular Salary	11,023,811	17,927,397
Increase in 2009-10	6,903,586	

The collection of arrear fee and the hike in tuition fee as per order dated 11/02/2009 issued by the Director of Education resulted in an additional revenue of Rs. 1,08,92,540, as per the following details:

Total Recovery for implementation of 6th Pay Commission		
Arrear of tuition fee for 01.01.06 to 31.8.098	2,409,365	
Arrear of tuition fee for 01.09.08 to 31.3.09	3,159,830	
Incremental tuition fee for 2009-10 (as per calculation given below)*	5,323,345	10,892,540

*Incremental tuition fee in 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	18,015,195	23,338,540
Increase in 2009-10	5,323,345	



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Thus, at first sight, it appears that the school recovered more fee than was required to offset the additional expenditure incurred by it on implementation of the recommendations of VI Pay Commission and the amount of such excess recovery was **Rs.13,09,868** (1,08,92,540 – 95,82,672).

As discussed supra, the school was not fulfilling the pre conditions for charging the development fee. The aggregate of development fee recovered by the school in 2009-10 and 2010-11 was **Rs. 74,28,210**.

Therefore, prima facie, the school was required to refund a sum of **Rs. 87,38,078** (13,09,868 +74,28,210)

However, it would be noticeable that upto this stage, the Committee has not taken into consideration the funds required by the school to meet its accrued liabilities of gratuity and leave encashment.

As per the details filed by the school on 17/08/2016, the accrued liability for gratuity was Rs. 81,64,483 and that for leave encashment, it was Rs. 34,78,523 as on 31/03/2010. Thus the school was required to keep funds in reserve to the aforesaid extent i.e. **Rs. 1,16,43,006** (81,64,483+34,78,523) which so far have not been factored into the calculations.

After factoring in the aforesaid requirement of the school to keep funds in reserves, the Committee is of the view of that no intervention is required in the matter of fee hike effected by the

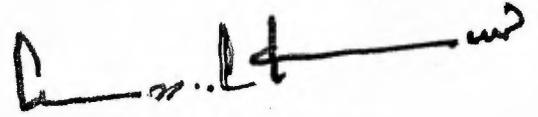


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school pursuant to order dated 11/02/2009 issued by the
Director of Education or with regard to the arrear fee and
development fee recovered in pursuance of the same.

Ordered accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)



Dr. R.K. Sharma
(Member)

Dated: 09/10/2018



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

In the matter of:

Bosco Public School, Paschim Vihar, New Delhi-110063 (B-455)

Order of the Committee

Present : Sh.Raju Duggal, Vice Principal & Sh. Shyam Sunder Verma,
Accounts Clerk of the school.

The school had submitted to the Education Officer, Zone-17, New Delhi, copies of its annual returns, fee structures, details of salary paid to staff before and after implementation of the recommendations of VI Pay Commission (including arrears) and circular dated 24/02/2009 issued by the school to the parents of the students regarding fee hike and recovery of arrear fee pursuant to order dated 11/02/2009 of the Director of Education, under cover of its letter dated 02/03/2012. These documents were transmitted to this Committee for its perusal.

In the meantime, the Committee had issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012. However these communications were not responded to by the school.

The Committee issued a revised questionnaire on 30/07/2013 which, apart from seeking answers to the queries made by the Committee vide questionnaire dated 27/02/2012, also included the relevant queries with regard to collection and utilisation of development fee and



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maintenance of earmarked development/depreciation reserve funds in order to examine whether the school was complying with the pre conditions laid down by the Duggal Committee for charging development fee, which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583.

The school submitted its reply to the questionnaire vide letter dated 08/08/2013. As per its reply, the school implemented the recommendations of VI Pay Commission w.e.f. March 2009 and also paid arrears of salary for the period January 2006 to February 2008.

With regard to hike in fee, the school stated that it effected the hike w.e.f. April 2009 and recovered the arrear fee for the period 01/01/2006 to 31/08/2008 and also the arrears of incremental fee for the period 01/09/2008 to 31/03/2009.

With regard to development fee, the school admitted having charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. It claimed that the development fee had been utilised in full for acquisition of furniture, fixture and equipments. However, it was treated as a revenue receipt in the accounts. It further claimed that it was maintaining a depreciation reserve fund and the unutilised development fund were also kept in earmarked bank account but the same had nominal balances.

The Committee observed that the audited financials which were received by it through the office of the Education Officer of the Directorate of Education were in respect of the parent society and not



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those of the school. Accordingly, vide letter dated 13/11/2013, the school was advised to furnish the audited financials of the school, which it did on 25/11/2013.

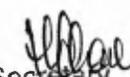
In the first instance, the relevant calculations were made by the Chartered Accountants deputed by the Director of Education to assist this Committee (CAs). As per the calculations prepared by them, it appeared that the school incurred a deficit after implementation of recommendations of VI Pay Commission despite the fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. However, on reviewing the calculations prepared by the CAs, it appeared that the same could not be relied upon as the figures taken by them did not agree with the audited financials of the school.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment.

The school furnished the required information vide its letter dated 25/06/2015. The Committee issued a notice dated 01/08/2016 requiring the school to appear before it on 29/08/2016 along with its



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relevant financial records. Sh. Raju Duggal, Vice Principal of the school appeared with Sh. Shyam Sunder Verma, a clerk working in the school.

The Committee perused the circulars dated 28 February 2009 issued by the school to the parents of the students regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. It observed that as per the circulars, the school hiked the tuition fee @ Rs. 300 per month for students of class Nursery to VIII and @ Rs. 400 per month for students of classes IX to XII. Accordingly, arrears of incremental tuition fee amounting to Rs. 2100/2800 were recovered for the period 01/09/2008 to 31/03/2009. However, the arrears of incremental development fee were recovered @ Rs. 840 for students of classes Nursery to VIII and @ Rs. 980 for students of classes IX to XII. Besides, the school also recovered lump sum arrear fee to cover the payment of arrears of salary from 01/01/2006 to 31/08/2008, as provided in the aforesaid order.

The Committee observed that the recovery of arrears of incremental development fee was @ 40% of the arrears of incremental tuition fee, which was not justifiable as there was a cap of 15% of tuition fee, which could be recovered as development fee. The authorized representatives sought some time to provide the calculations and justification of recovering of arrears of development fee in excess of 15% of arrears of tuition fee.

The Committee also perused the information furnished by the school vide its submission dated 25/06/2015. As regards payment of



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arrear salary, the Committee examined the bank statements of the school and observed that payment of 1st instalment of arrears in March 2009 was made by individual cheques while the school made payment of regular salary through a single cheque for a consolidated amount with instructions to the bank to credit individual accounts of the staff members. It also appeared that the narration of payment entry used by the bank for payment of different cheques to the staff was also different in cases of the payment made by individual cheques. Accordingly, the school was asked to furnish a certificate from the bank in respect of all the payments made through individual cheques which ought to give the mode of withdrawal of those cheques from the bank.

The Committee perused the copies of account of Bosco Educational Welfare Society, the Parent Society of the school, as appearing in its books. It observed that there had been regular transfer of funds to and from the Society.

The Committee also perused the statements of the accrued liabilities of gratuity and leave encashment as on 31/03/2008 and 31/03/2010, which were furnished by the school. It observed that as per the statements filed, the accrued liability as on 31/03/2010 was Rs. 37,61,786 in respect of gratuity and Rs. 25,15,816 in respect of leave encashment.

The authorized representatives of the school conceded during the course of hearing that the school was in fact not complying with the pre conditions for charging of development fee in as much as the same was



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treated as a revenue receipt by the school to augment its revenues and not for the purpose of purchase or upgradation of furniture and fixtures or equipments.

The matter was adjourned to 07/10/2016 for the school to file the calculation with regard to the excessive increase of development fee vis a vis the increase in tuition fee for the period 01/09/2008 to 31/03/2009 and to file bank certificate giving details of mode of payment of individual cheques issued purportedly for payment of arrear salaries.

The authorized representatives filed on 07/10/2016, the details of recovery of the arrears of incremental development fee charged for the period 01/09/2008 to 31/03/2009, as per which it was stated that while the school originally charged development fee @ 10% of tuition fee in the year 2008-09, it increased the same to 15% of the increased tuition fee w.e.f. 01/09/2008.

The school also furnished a certificate from Axis Bank giving details of 48 cheques issued to the staff which were transferred to their respective accounts through account payee cheques. Thus it was claimed that there was no apprehension of any arrear cheques being encashed through bearers.

The Committee was satisfied about the payment of arrear cheques through bank transfer/account payee cheques. With regard to diversion of funds to the parent society, it was of the view that the same was illegal in light of the judgements of the Hon'ble Supreme Court in the cases of Modern School (supra) and Action Committee 2009 (11) SCALE 77 and



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Accordingly, the same was required to be included in the funds available with the school for implementation of the recommendations of VI Pay Commission. The Committee was also of the view that the increase in development fee by the school could only be at the rate of 10% of the increase in tuition fee for the period 01/09/2008 to 31/03/2009 as the school could not have hiked the development fee to 15% in the mid session without specific approval from the Director of Education in view of the specific provision to this effect in section 17 (3) of the Delhi School Education Act, 1973. The approval granted by the Director of Education to recover consequential increase in development fee for the purpose of payment of increase salaries could not be interpreted to mean that the school could increase the rate of development fee as a percentage of tuition fee. The Committee was also of the view that in view of the concession made by the Vice Principal of the school during the course of hearing and as was apparent from the record shown that the school was not fulfilling the required pre conditions in as much as the development fee was treated as a revenue receipt, the amount of development fee recovered by the school in 2009-10 and 2010-11 was prima facie required to be refunded.

Accordingly the Committee prepared a calculation sheet to examine the justifiability of fee hike and recovery of arrear fee and development fee on the basis of the audited financials of the school and the information furnished by the school during the course of hearing. As per the calculations prepared by the Committee, the school had a nominal amount of **Rs. 3,07,079** in its kitty as on 31/03/2008 i.e.



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before effecting the fee hike. The aforesaid amount has been worked out as follows:

<u>Current Assets + Investments</u>		
Cash in Hand	239,352	
Bank Balance	194,633	
FDRs	114,236	
Reserve Fund	3,933	
Fee receivable	118,455	
TDS Refundable	3,784	
Bosco Educational Welfare Society	1,347,623	2,022,016
<u>Less : Current Liabilities</u>		
Sundry Creditors	212,325	
Fees received in Advance	598,010	
Expenses payable	904,602	1,714,937
Net Current Assets + Investments (Funds available)		307,079

The additional expenditure that the school incurred on implementation of the recommendations of VI Pay Commission was **Rs. 1,38,95,906** as per the following details:

Total Liabilities after implementation of Vith Pay Commission:		
Arrear of Salary as per 6th CPC from Jan. 2006 to Feb. 2009	7,947,784	
Incremental Salary for 2009-10 (as per calculation given below)*	5,948,122	13,895,906

*Incremental salary in 2009-10	2008-09	2009-10
Normal/ regular salary	11,710,097	17,658,219
Increase in 2009-10	5,948,122	

Thus there was a gap of **Rs. 1,35,88,827** (1,38,95,906 - 3,07,079), which the school was required to bridge by recovering arrear fee and increasing tuition fee and development fee w.e.f. 01/09/2008.



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However, the school generated only a sum of **Rs. 1,06,29,360** as additional revenue by recovering arrear fee and increasing tuition fee and development fee w.e.f. 01/09/2008, as per the following details:

Total Recovery after VI th Pay Commission		
Arrear of tuition & development fee from 1.1.06 to 31.3.09	4,141,790	
Incremental tuition fee for 2009-10 (as per calculation given below)*	6,487,570	10,629,360

*Incremental tuition fee in 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	17,153,130	23,640,700
Increase in 2009-10	6,487,570	

Thus apparently, the fee hike effected by the school as well as the arrears recovered by it for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009, in fact, the school incurred a deficit of **Rs. 29,59,467** (1,35,88,827 - 1,06,29,360) on implementation of the recommendations of VI Pay Commission.

The recovery of regular development fee by the school in the years 2009-10 and 2010-11 was Rs. 38,23,640 and Rs. 41,97,240, which as we have observed was not justified in view of the fact that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra). However, the aforesaid sum of Rs. 29,59,467, to which extent the school incurred deficit, is required to be adjusted against the development fee recovery as aforesaid. The apparent net amount of refund would be **Rs. 50,61,413**. However, it is



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noticeable that the Committee has so far not taken into account the accrued liability of the school for gratuity and leave encashment, which together amount to **Rs. 62,77,612**. In view of this, the Committee concludes that no part of development fee charged by the school in 2009-10 and 2010-11 would be required to be refunded by it.

The school was given a limited notice to explain as to why the Committee should not order the refund of Rs. 7,39,130, which the school illegally recovered as arrears of incremental development fee @ 15% of the incremental tuition fee instead of 10% which the school was entitled to as per clause 15 of order dated 11/02/2009 of the Director of Education.

During the course of hearing today, the school has contended that the aforesaid amount of Rs. 7,39,130 has also been taken into consideration by the Committee while working out the net deficiency and the school mistakenly recovered this amount by inaccurate interpretation of para 15 of the aforesaid order dated 11/02/2009. Further since the Committee has also the mandate to recommend recovery of a fee higher than that stipulated in the order dated 11/02/2009, the excess recovery of a small amount of Rs. 7,39,130 ought to be regularized by the Committee.

Upon consideration of the submissions made by the school and the determinations made by the Committee that despite recovery of the aforesaid amount of Rs. 7,39,130 by the school, it was still in deficit on implementation of the recommendations of VI Pay Commission, it is of the view that no refund is required to be made



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by the school and the Committee hereby regularizes the excess recovery of Rs. 7,39,130 made by the school towards arrears of development fee for the period 01/09/2008 to 31/03/2009.

Ordered accordingly.



Justice Anil Kumar (R)
(Chairperson)



CA J.S. Kochar
(Member)

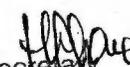


Dr. R.K. Sharma
(Member)

Dated: 12/10/2018



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

In the matter of:

St. Michael's Sr. Sec. School, Pusa Road, New Delhi-110005 (B-132)

Order of the Committee

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

The school had submitted to the Dy. Director of Education, Distt Central, New Delhi, copies of its annual returns, fee structures etc. under cover of its letter dated 10/01/2012. These documents were transmitted to this Committee by the concerned Dy. Director of Education.

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 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 vide letter dated 07/03/2012. As per the reply submitted by the school, it implemented the



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recommendations of VI Pay Commission and increased the salary of staff w.e.f. 01/01/2006 (sic). It submitted the details of monthly salary paid to the staff before and after implementation of the recommendations of VI Pay Commission which indicated that the monthly salary expenditure had gone up from Rs. 9,93,629 to Rs. 15,22,095 on implementation of the recommendations . It also enclosed the details of arrears of salary paid to the staff for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/08/2009 indicating that the actual increase in salary took place w.e.f 01/09/2009. The total amount of arrears paid to the staff for the aforesaid two periods was Rs. 72,55,229 and Rs. 69,53,174 respectively.

With regard to hike in fee, it enclosed copy of a circular dated 24/02/2009 issued to the parents, which indicated that the school had hiked the tuition fee @ Rs. 300 per month w.e.f. 01/09/2008 for all the classes except XI & XII for which the hike was to the tune of Rs. 400 per month. Accordingly the school recovered the arrears of fee for the period 01/09/2008 to 31/03/2009 (seven months) @ Rs. 2100/2800 per student. The lump sum arrear fee for the period 01/01/2006 to 31/08/2008 was recovered @ Rs. 3,000/Rs.3,500 per student.

In the first instance, the relevant calculations to examine the justifiability of fee hike effected by the school were made by the



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Chartered Accountants (CAs) deputed by the Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess fee to the tune of Rs. 1,16,42,756. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reason that the CAs had not taken into consideration the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies.

The Committee issued a notice dated 13/05/2015 to the school requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust / Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment. A supplementary questionnaire was also issued to the school in respect of collection and utilisation of development fee, its treatment in the accounts and maintenance of earmarked funds for development and depreciation reserve.

The school furnished the required information under cover of its letter dated 29/05/2015. Besides furnishing the information regarding arrear fee and regular fee charged by the school and arrear



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salary and regular salary paid by the school for the years 2008-09, 2009-10 and 2010-11, the school also furnished an employee wise details of its accrued liability of gratuity and leave encashment as on 31/03/2010. As per the details submitted, the liability in respect of the gratuity amounted to Rs. 74,85,881 while that in respect of leave encashment was Rs. 27,92,807.

In reply to the questionnaire regarding development fee, the school admitted that it also recovered arrears of incremental development fee for the period 01/09/2008 to 31/03/2009, although such demand was not raised in the circular issued to the parents. The total amount recovered on this account was stated to be Rs. 8,55,735.

The school also stated that 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. In the years 2009-10 and 2010-11 for which the Committee is examining the issue, it stated that it recovered Rs. 41,64,158 and Rs. 43,55,655 respectively. The same was treated as a revenue receipt and no earmarked depreciation reserve fund was maintained in respect of depreciation on assets acquired out of development fee.

Thus at the outset itself, the school effectively stated that it was not following the pre conditions laid down by the Duggal Committee for charging development fee, which were affirmed by the Hon'ble



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Supreme Court in the case of Modern School vs. Union of India (2004)

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5 SCC 583.

The Committee issued a notice dated 23/06/2016 requiring the school to appear before it on 01/07/2016 along with its relevant financial records. Sh. Devender Kumar, Accountant of the School appeared . He was asked to clarify the issue of recovery of arrears of development fee for the period 01/09/2008 to 31/03/2009 as the demand for the same was not reflected in the circular issued to the parents. He sought some time. When the matter was taken up on the next on 19/07/2016, he submitted that the Chartered Accountant of the school was not available and requested for further time which was granted and the matter was directed to be relisted on 29/08/2016.

Sh. J.A. Martins, Chartered Accountant appeared with Sh. Devender Kumar on that date. He filed copy of another circular dated 23/09/2009 that was issued to the parents vide which they were asked to deposit the arrears of incremental development amounting to Rs. 490 per student for the period 01/09/2008 to 31/03/2009. He was partly heard.

The Committee again perused the circular dated 24/02/2009 and the circular dated 23/09/2009 filed on that date. The Committee also examined the fee schedules for the years 2008-09, 2009-10 & 2010-11 which were filed by the school as part of its annual returns under Rule 180 of Delhi School Education Rules 1973.



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It noted that the school had seven different slabs of charging the fee from the students depending upon the various concessions, which were not been spelt out in the fee schedules. The school was accordingly required to furnish the basis of charging different fee from different students of the same class. The Committee also noted that the school was also charging development fee from the students where the tuition fee charged was nil. It noted that at the highest slab, the development fee was around 9.5% of the tuition fee. Even the fee that was hiked pursuant to the order dated 11/02/2009 issued by the Directorate of Education was not uniform for all slabs. In the initial circular issued on 24.2.2009 there was no mention of any hike of development fee w.e.f 01/09/2008. However, the school subsequently issued another circular on 23/09/2009 whereby arrears of development fee were demanded from the parents @ Rs.490 per student for the period 01/09/2008 to 31/03/2009. It appeared that the hike of development fee vis. a vis hike in tuition fee w.e.f. 01/09/2008 was more than 15%, which was the maximum development fee any school could charge. Accordingly the school was required to furnish the basis of arriving at Rs.490 as arrear of development fee as well as to furnish explanation on the development fee from certain category of students which was more than even 15% of the tuition fee.

The Committee also noted that the information furnished by the school in response to the notice dated 13/05/2015 did not appear to



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be correct, as the school actually implemented the recommendations of VI pay commission w.e.f Sept. 2009 but the arrears of salary were shown to have been paid only on 31/03/2009. The authorized representatives of the school submitted that the date had been wrongly mentioned and that it should be read as 31/08/2009 instead of 31/03/2009. The school was directed to furnish the details of arrears paid for the period 01/09/2008 to 31/03/2009 and 01/04/2009 to 31/08/2009 separately, as the payment of arrears for the period 01/04/2009 to 31/08/2009 was required to be shown as regular salary for the year 2009-10. The authorized representatives sought sometime to furnish a corrected statement. Accordingly, the matter was directed to be relisted for further hearing on 17th October 2016 which was postponed to 24/10/2016.

In the meantime, the school filed its written submissions dated 18/10/2016 in response to the queries raised by the Committee on 29/08/2016. It was submitted that the fee structure of the school was uniform. However, some concessions were allowed to the deserving students for the tuition fee but no concession was given in development fee. It was submitted that it was not a fact that the development fee charged was in excess of 15% of tuition fee in case of any student.



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With regard to the arrears of development fee for the 7 months period of 01/09/2008 to 31/03/2009, it was submitted that the school was earlier charging development fee at a rate which was a little less than 10% of tuition fee. However, w.e.f. 01.09.2008 the development fee was increased to 15% of tuition fee and accordingly the arrears for the differential amount were recovered. That was the reason for the apparent anomaly of the arrears of development fee which appeared to be in excess of 15% arrear of tuition fee. The school made good the deficiency in development fee calculated at the rate of 15% of tuition fee by clubbing it with the arrears of development fee. It was further submitted that the school had depreciation reserve fund in its books against which the fixed deposits were held. However, it was conceded that the fixed deposits were not specifically earmarked for depreciation reserve fund.

With regard to development fee treated as a revenue receipt it was submitted that the same was only an accounting issue as the net income of the school had been in excess of the development fee every year. Therefore, it was submitted that the amount of development fee was always available with the school for capital purposes and it had also been actually utilized for that purpose.

The school also furnished the break up of arrears of salary paid to the staff for different periods.



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While preparing the calculation sheet, the Committee observed that the school was also running a separate KG school and a separate junior school, whose financials had not been made available to the Committee. Accordingly, the school was required to furnish the audited financials of these schools also for incorporation in the calculation sheet.

While the school furnished the audited financials of KG school, those in respect of junior school were not submitted. The school vide its email dated 29/11/2016 submitted that the junior school at Prasad Nagar was not part of St. Michael's Sr. Sec. School, Pusa road and its administration was entirely different and the same was a separate entity. It submitted that the balance of the junior school as appearing in the audited financial of the Sr. Sec. School was on account of a mistake committed by the bankers of the school who were also the bankers of the junior school. They mistakenly debited a sum of Rs. 6,230 to the account of Sr. Sec. School which entry actually pertained to the junior school. The mistake was on account of the names of the two schools being similar.

The Committee verified this aspect with reference to the books of accounts of the school and its bank statement which was produced by the school on the next date of hearing which was 01/12/2016 and found the contention of the school to be correct. Accordingly, the



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Committee prepared the calculation sheet by taking the audited financials of the Sr. Sec. school and its feeder KG school.

As per the calculation sheet prepared by the Committee, the school had available with it a sum of **Rs. 1,25,28,619** as on 31/03/2008 i.e. before the hike in fee was effected. The details of the same are as follows:

Current Assets + Investments			
Cash in Hand	44	-	44
Bank Balance	48,583	293,647	342,230
Cheques in hand	15,313	-	15,313
Staff Advances	1,294,374	172,645	1,467,019
Mr. Mandeep Singh	20,000		20,000
St. Michael's Jr. School, Prasad Nagar	6,230		6,230
St. Michael's KG cum Society	99,360	(99,360)	-
Recoverable from Eco Fund	10,350		10,350
Term deposits with banks in provision of Fund Accounts other than Scholarship Fund received from Chuni Lal	11,432,517	-	11,432,517
Total Current assets	12,926,771	366,932	13,293,703
Less: Current Liabilities			
Caution Money refundable	587,880	-	587,880
Amounts payable	168,403	8,801	177,204
Total Current Liabilities	756,283	8,801	765,084
Net Current Assets+ Investments	12,170,488	358,131	12,528,619



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The school had accrued liabilities of gratuity and leave encashment amounting to **Rs. 1,02,78,688**. Thus the funds that were available with the school for implementation of the recommendations of VI Pay Commission were **Rs. 22,49,931** (1,25,28,619 – 1,02,78,688).

The total additional expenditure that the school incurred on implementation of the recommendations of VI Pay Commission was **Rs. 1,94,70,267**, as per the following details:

Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.08.08	7,438,939
Arrear of Salary as per 6th CPC w.e.f. 01.09.06 to 31.03.09	7,296,140
Incremental Salary as per 6th CPC in 2009-10	4,735,188
Total impact of 6th Pay Commission	19,470,267

Thus the school had a shortfall to the tune of **Rs. 1,72,20,336** (1,94,70,267 – 22,49,931), which the school was required to make good by way of fee hike and recovery of arrear fee as per order dated 11/02/2009 issued by the Director of Education.

The additional revenue generated by the school by way of fee hike and recovery of arrear fee amounted to **Rs. 86,63,846** as per the following details:

Tuition Fee Arrear from 01.01.06 to 31.08.08	4,154,200
Tuition Fee Arrear from 01.09.08 to 31.03.09	3,010,700
Development Fee arrear from 01.09.08 to 31.03.09	855,735
Incremental Tuition fee in 2009-10	4,797,411
Total receipts for implementation of 6th Pay commission	8,663,846



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Thus the school incurred a shortfall of **Rs. 85,56,490** on implementation of the recommendations of VI Pay Commission. The total development fee recovered by the school in the years 2009-10 and 2010-11 amounted to **Rs. 85,19,813**. Thus the issue whether the school was fulfilling the pre conditions for recovery of development fee becomes academic in view of the shortfall incurred by the school on implementation of the recommendations of VI Pay Commission which was more than the aggregate amount of the development fee recovered by the school in these two years.

The school was show caused only on the limited issue of the recovery of arrears of incremental development fee at a rate exceeding 15% of the arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009 when the school was charging development fee @ 10% of the tuition fee. As per the details submitted by the school, the arrears of development fee which were apparently recovered in excess were to the tune of Rs. 5,54,665 as per the following details:

Development fee recovered @ 15%	855,735
Less : Development fee @ 10%	301,070
Excess development fee recovered	554,665

In response, the school filed written submissions, vide which it was stated that the school was indeed entitled to increase



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development fee to 15% of tuition fee w.e.f. 01/09/2008 , if para 14 and 15 of the order dated 11/02/2009 are read collectively. It was further submitted that in any case, the incremental development fee as actually recovered by the school has been taken into account by the Committee while examining the justifiability of fee hike for the purpose of implementation of the VI Pay Commission and despite such inclusion in the additional fee recovered by the school, the net result as per the Committee's calculations is that the school incurred a deficit after implementation of the recommendations of VI Pay Commission.

The Committee on consideration of the submissions made by the school vide its written submissions which were repeated during the course of hearing held today, is of the view that this is not a fit case where the school should be asked to refund the aforesaid amount of Rs. 5,54,665 in view of the fact that the arrears of development fee recovered at a rate which was more than what was permitted by the order dated 11/02/2009 issued by the Director of Education vide clause 15 thereof as per which the school could only increase the development fee which was consequent to the increase in tuition fee and not by increasing the rate of development fee as a percentage of tuition fee. This is on account of the fact that the school incurred a deficit on implementation of the recommendations of VI Pay Commission despite recovering the arrears of development fee at an excessive rate. The Committee in terms of its mandate can also, in



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appropriate cases, recommend the recovery of additional fee over and above what was permitted by the Director of Education vide its aforesaid order. In exercise of such authority, the Committee hereby regularizes the recovery of excess arrears of development fee for the period 01/09/2008 to 31/03/2009 which amounted to Rs. 5,54,665.

Resultantly, the Committee is of the view that no intervention is called for in the matter of fee hike effected by the school pursuant to orders dated 11/02/2009 or the recovery of arrears of tuition fee and development fee for the period 01/01/2006 to 31/03/2009 or for the recovery of regular development fee for the years 2009-10 and 2010-11. The Committee also regularizes the recovery of excess arrears of development fee for the tune of Rs. 5,54,665 for the period 01/09/2008 to 31/03/2009.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 12/10/2018



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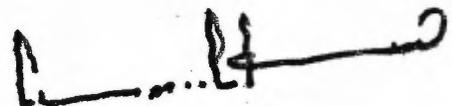
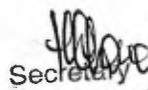
15.10.2018**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF
SCHOOL FEE AT NEW DELHI**

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

In the matter of**Aadharshila Vidyapeeth,
Pitampura, Delhi (B-300)****And in the matter of****Application dated 14.3.2018 for
reconsideration / review of
recommendations dated 13.06.2017
in the matter of school.**

Present: Sh.A.K. Rungta, Advocate of the school with Sh.Byomakesh Mishra, Principal, Sh.Ramesh Garg, Data Entry Operator.

The learned counsel appearing for the school seeks to withdraw the review application as the school has already filed the writ petition in the Delhi High Court challenging the original order of the Committee. The matter is accordingly disposed off as withdrawn.

**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON****J.S.KOCHAR
MEMBER****TRUE COPY**
Secretary**R.K. SHARMA
MEMBER**

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

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

In the matter of:

**SHANTI GYAN NIKETAN PUBLIC SCHOOL, (B-390)
NAJAFGARH, GOYLA (Dwarka),
Sector-19, New Delhi 110071.**

And in the matter of:

**Application for review dated
24th April, 2018 seeking
review of recommendations
dated 31st August, 2017 in
the matter of school (B-
390).**

ORDER

15.10.2018

Present : K.P. Sunder Rao Advocate & Sh. N.K.
Mahajan CA of the School

**ORDER ON APPLICATION DATED 24TH APRIL,
2018 seeking review of order/
recommendation dated 31ST August, 2017.**

1. The Shanti Gyan Niketan Senior Secondary Public School (B-390), hereinafter referred as "The School" has sought review of order dated 31st August, 2017 by present application for review dated 24th April, 2018.



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2. 'The School' has sought review of order dated 31st August, 2017 passed by the Committee inter-alia on the grounds that the implementation of the VI CPC to the staff has not been considered by the Committee taking into consideration high level of cash by the school throughout the year as daily cash holding was found to be 20,21 lacs which rose to as high as 33,60 lacs; the Committee had not found any justification for withholding the salary of the staff for the month of June, 2009 and the Committee also noted that 'school' did not have any funds available with it which it could be permitted to keep in reserve for gratuity, leave encashment or future contingencies.

3. The Committee by its order dated 31st August, 2017 had held:

"The Committee observes that the school was maintaining a very high level of cash in hand throughout the year. The average daily cash holding for the entire year was Rs. 20.21 lacs, while the average daily cash receipt was Rs. 0.41 lacs only. On some dates, the cash in hand was as high as Rs. 33.60 lacs.

On the other hand, the average daily balances in the bank account of the school was just Rs. 4.19 lacs. The authorized representatives of the school have no explanation to offer for such heavy cash balances. The total expenditure of the school for the year 2009-10 was Rs. 2,12,02,908 out of which the total expenditure on salary was Rs. 1,20,67,124 which the school claims was entirely paid through its bank account. This leaves a sum of Rs. 91,35,784, out of which also not many expenses are incurred through bank. The average cash holding of Rs. 20.21 lacs is highly disproportionate to the requirements of the school. Maintenance of such heavy cash balances, when there is no requirement for that can only lead to a conclusion that either the same was utilised by the management for personal use or was diverted for some other purposes for generating additional income which is not reflected in the accounts of the school.

Vide its submissions dated 20/07/2015, the school claimed that on account of implementation of the recommendations of VI Pay Commission, it had to incur an additional expenditure of Rs. 31.28 lacs in the year 2009-10 which was spread over a period of 9 months i.e. 01/07/2009 to 31/03/2010. Given the average cash holding and



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bank balance of the school, the Committee is of the view the school could have absorbed this additional expenditure out of its own funds and there was no necessity for the school to hike any fee for the purpose of implementation of the recommendations of VI Pay Commission.

Even otherwise, the Committee has reservations whether the recommendations of VI Pay Commission have at all been implemented as the Committee finds no justifiable reason for withholding the salary of the staff for the month of June 2009. In all probability, this was not paid (or paid and received back in cash) and the amount thus saved was paid as additional salary in the remaining 9 months. However, this is immaterial as the Committee has determined that the school always maintained enough liquid funds despite its purportedly implementing the recommendations of VI Pay Commission leading to the conclusion that no fee hike was necessary at all.

The Committee also notes that the school did not have any funds available with it which it could be permitted to keep in reserve for gratuity, leave encashment or future contingencies as the school did not pay any arrears of salary to the staff and the school cannot be allowed to hike the fee to create such reserves.

Accordingly, the Committee is of the view that the school ought to refund the entire hike in tuition fee for the year 2009-10 which was effected pursuant to order dated 11/02/2009 issued by the Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.

4. Regarding the order of the Committee directing refund of development fee it is contended by the 'school' that it has been following the conditions for collecting the development fee except the condition of maintaining Depreciation Reserve fund (DRF). According to the 'school' it has now opened the Depreciation Reserve fund (DRF) and the school is regularly operating the said account. The 'school' has also now produced the documents to show that the school is operating Depreciation Reserve fund (DRF). With these facts the



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'school' has sought reconsideration as according to the 'school' in case of other schools where Depreciation Reserve fund (DRF) was open subsequently, the other schools have not been held to have violated the preconditions for the Development Fee.

5. While considering the case of the 'school' the Committee had held as under:

" Further, the school conceded that it was not maintaining any earmarked development fund account in 2009-10 and 2010-11, which was opened only on 16/09/2013. With regard to maintenance of depreciation reserve funds, the school in its reply to the questionnaire had stated that since the school had not charged any depreciation on fixed assets that was purchased out of development fee, it has not maintained any depreciation reserve fund account also.

The Committee has considered the contention of the school. the Delhi School Education Act or the Rules make no provision for charging development fee by unaided private schools. Rule 151 of the Rules provides for development fee to be charged only by "Aided schools". The issue of allowing unaided private schools to charge development fee was considered for the first time by Duggal Committee. It made the following recommendations regarding charging of development fee by unaided schools:

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

Pursuant to the report of the Duggal Committee, the Government of National Capital Territory of Delhi passed an order dated December 15, 1999



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in order to give effect to its recommendations. One of the directions (no. 7) given vide the aforesaid order was:

"Development fee, not exceeding 10% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with any income generated from the investment made out of this fund, will be kept in a separately maintained Development fund account."

The Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 admitted, inter alia, the following point for determination

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

The Hon'ble Supreme Court, on this issue, held as follows:

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



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It is manifest on reading the aforesaid extract from the judgment of the Hon'ble Supreme Court that unaided private schools were permitted to charge development fee only if the school maintained a depreciation reserve fund.

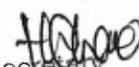
The requirement of creating a Depreciation Reserve fund is not an empty formality but is meant to ensure that funds are available to the schools to replace the assets created out of development fund when they become worn out or obsolete so that the schools do not resort to collecting the development fee again. Thus development fee can be collected only for purchase of furniture and fixture & equipments subject to the condition that the school maintains a depreciation reserve fund. Maintenance of such a fund would ensure that the school does not charge the development fee once again when the time for replacement of such assets come i.e. when they are worn out. The school cannot be heard to say that since it did not charge any depreciation to the revenue account, it was not required to maintain a depreciation reserve fund. If this contention of the school is allowed, the very purpose of making creation of a depreciation reserve fund as a pre condition for charging development fee would be defeated. Therefore, the Committee rejects the contention of the school that since it was not charging any depreciation to its revenue account, it was not required to maintain a depreciation reserve fund. The Committee is of the view that in the absence of creation of depreciation reserve fund, the school cannot charge development fee at all.

So far as development fee charged in 2009-10 is concerned, since the Committee has proceeded on the basis that the school had sufficient liquid funds available with it at all times, and has accordingly recommended refund of the hike in tuition fee in 2009-10, the development fee recovered by the school would also have contributed to the surplus liquid funds available with the school. Accordingly, the Committee considers that the development fee charged in 2009-10 already stands covered by the refund of hike in tuition fee, as recommended supra.

However, the development fee collected by the school in 2010-11, amounting to Rs. 27,44,600, the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.



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6. This cannot be disputed by the 'school' that the Committee had provided a detailed calculation to 'The School' and also gave a reasonable opportunity to 'The School' to rebut the inferences drawn by the Committee. Now reliance of 'The School' on the recommendations/order of the Committee in the matter of some other school is also misplaced. Apparently the facts and circumstances of other schools are distinguishable with that of the applicant School. The order/recommendation of the committee in one case is not a precedent for other cases. However, an uniform practice and interpretation is followed by the Committee. Even in case of precedent it is no more res integra that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. Considering the present facts and circumstances, it may not be necessary to deal with recommendations/orders of the Committee in detail referred to by the 'school'. The Supreme Court in Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr., AIR 2004 SC 778 had observed:-

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

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of



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a case by blindly placing reliance on a decision is not proper. Even a minor difference in the factual matrix, may render an earlier decision inapplicable in a later case.

7. In the application for review the 'school' has contended new facts and circumstances without disclosing any sufficient reason for not producing the same before the order/recommendation was passed by the Committee in the case of the 'school'. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order, further, it must be established that the applicant had acted with due diligence and that the existence of the evidence, which he has now discovered, was not within his knowledge when the order was passed. If it is found that the petitioner has not acted with due diligence then it is not open to the Tribunal to admit evidence on the ground of sufficient cause. The party seeking a review should prove strictly the diligence he claims to have exercised. In a review application a party cannot be allowed to introduce fresh documents merely to supplement evidence which might possibly have had some effect on the result. Perusal of the application of the applicant shows that even any averment to this effect has been made. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.



8. In any case before deciding the application of review the 'school' on merits, the committee has to consider and decide whether it has power to review its own orders. Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble High Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 only permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"



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9. Though there is difference between the procedural review and a review on merits. A procedural review which is either inherent or implied in a Court or Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal. From these principles it is apparent that where a Court or quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi judicial authority is vested with power of review by express provision or by necessary implication.

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



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quasi judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding.

11. Applying these principles it is apparent that where a Court or Quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the Quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or Quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. He has to establish that the procedure followed by the Court or the Quasi



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12. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and not a procedural review. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel Narshi Thakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970 MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication.

13. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 31st August, 2017 not on the ground that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant in the application for review dated 24th April, 2018 are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly. Apparently the recall or review sought is not a procedural review, but



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a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.

14. It is also to be noted that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P RamanathaAiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio". "Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision." Black's Law Dictionary (6thEdn., p 673) gives the meaning of functus officio as follows:

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

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

15. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had



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sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. The 'school' is seeking that the order of the Committee directing the 'school' to refund Rs.58,73,574 with interest @ 9% per annum to the students be reviewed. The 'school' also seeks that the finding of the Committee that the school had not implemented the VI Pay Commission which was arrived at on the basis of preponderance of probability be also reviewed after considering all the pleas and contentions on merits. Apparently the Committee does not have such powers as has been invoked by the 'school'.

16. In the circumstances the application of the applicant dated 12th June, 2018 seeking review is not maintainable and is disposed of as not maintainable and the said application for review dated 24th April, 2018 seeking review of order dated 31st August, 2017 is therefore, dismissed.

15.10.2018

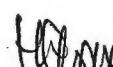
Justice Anil Kumar (R)
(Chairperson)

J.S.Kochar
(Member)


R.K.Sharma
(Member)



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

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

In the matter of:

**DEV SAMAJ MODERN SCHOOL (B-633)
NEHRU NAGAR (OPP. SRINIVASPURI),
NEW DELHI 110065.**

And in the matter of:

**Application for review dated
13th JULY, 2018 seeking
review of recommendations
dated 31st January, 2018 in
the matter of school (B-
378).**

ORDER

22.10.2018

Present : Sh. Mubarak Hussain, Accountant of the
School.

**ORDER ON APPLICATION DATED 13th July,
2018 seeking review of order/recommendation
dated 31st January, 2018.**

1. Dev Samaj Modern School (B-633), hereinafter referred as 'The School' has sought review of order dated 31st January, 2018 by present application for review dated 13th July, 2018.

Application for Review dt. 13.7.2018 of Dev Samaj Modern (B-633) Page 1 of 11



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2. The Committee by order/recommendation dated 31st January, 2018 had held as under:

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

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

In 2015-16 even after the payment of Rs. 38,35,643 towards arrear salary, the school had a net cash accrual (Cash Profit i.e. net profit + depreciation, of Rs.14,87,161). Similarly in the year 2016-17, even after payment of Rs. 33,66,067 towards arrear salary, the school had a net cash accrual (Cash Profit of Rs.25,44,329). Obviously the arrear fee collected by the school was only partly utilized for payment of arrear salary and the balance which the school transferred as its own income in 2010-11 was not utilized for the payment of arrear salaries in 2015-16 & 2016-17. Accordingly, the Committee rejects the claim of the school that the arrear salary paid subsequent to 2010-11 ought to be considered in order to examine the justifiability of the collection of arrear fee by the school.

As per the documents and ledger accounts filed by the school today, the school paid further amount of Rs. 62,339 as arrear salary in the year 2010-11 itself in addition to Rs.36,73,058 paid by the school which the Committee has taken in its calculations. The balance appropriated as a income of the school was Rs. 24,73,823 instead of Rs, 25,35,543, taken by the Committee. The calculation sheet was prepared by the Committee on the basis of the information furnished by the school itself on 18.8.2015. However, in view of the documents filed by the school today the arrear paid upto 31.3.2010 would be considered as Rs. 37,35,357 instead of Rs.36,73,677 taken by the committee in its calculation. Accordingly, the refund provisionally determined by the Committee would stand reduced by Rs. 61,720.

(c) With regard to the contention raised by the school at Sl. No. (c), the Committee observes that the school had not been mentioning annual charges in its fee schedules filed under Rule 180 of the Delhi School Education Rules 1973 . However, the same cannot also be considered as part of tuition fee and the differential on this account will be excluded by the



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Committee from its calculations. With regard to the other component of fee taken by the Committee to work out the incremental fee in 2009-10 i.e. amalgamated fee and computer fee, the Committee considers the same as part of tuition fee recovered under different heads. The net effect of this would be that the incremental fee recovered by the school in the year 2009-10 would get reduced from Rs. 60,82,638 to Rs. 52,68,738. This would have an effect of reducing the amount of refund provisionally determined by the Committee by Rs. 8,13,900.

No other contention has been raised by the school. Accordingly, the Committee determines that the school ought to refund a sum of Rs. 41,41,952 (50,17,572 - 8,13,900) instead of Rs. 50,17,572 which was provisionally determined by the Committee. The aforesaid amount of Rs. 41,41,952 ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

3. 'The School' has sought review of order dated 31st January, 2018 passed by the Committee inter-alia mainly on the grounds that the Committee should consider/reconsider certain facts inter alia that the founders of school have clear cut aim of providing quality education to the lower middle class of the area on very affordable costs; school has always followed the principle of its founder; a number of students have been given concession in full and in partial fees; arrear of tuition fee for the period 1 September 2008 to 31 March 2009 was not shown as a part of income and expenditure account as it was being treated as Current liabilities; there are no transactions of the society in the books of the school further. 1st April, 2006 to 31st March, 2011. 'The School' has contended that it submitted detailed facts with documentary proof that it does not have surplus funds of ₹ 5,017,572 but it has the deficit of ₹ 3,404,239; the school had paid Rs. 111,00,919 though the committee has again for that 'The School' had paid ₹ 3,673,677 only; 'The School' had had parked arrear of total fee collected in safe custody in a nationalized bank as per the sentiments of the Act and orders issued by the Director of education; and in fact 'The School' has a deficit of ₹ 3,404,239 instead of ₹ 5,017,572 as had been computed by the Committee. 'The School' has given fresh details of salary arrears paid to the staff and it is



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contended that the delay in payment of salary arrears was not intentional; the Committee can direct 'The School' for payment of interest on the amount of area of fee recovered for the period 1st January, 2006 to 31st March, 2009. The applicant has challenged the inferences drawn by the Committee and has sought reconsideration on the grounds that the retired staff were to be paid arrears only on the receipt of written request as per order on the subject. It is contended that most of the requests submitted by the retired and ex-staff were time barred and the Management of the school was duty bound to finalize their claims on the basis of provisions indicated under Rule 264, 265 of General Financial Rules, 2005 and Rule 266 applicable in the case of Non—Government servants. It has again been contended that there was no intention for generating profit as the funds have been In a scheduled bank. According to the school the Committee has erred in not considering the salary paid after 2010-11 and the conclusions are not correct and contrary to documentary proof produced before order/recommendation dated 31st January, 2018 were passed and the documents produced along with the application seeking review. Thereview of order/recommendation is also sought on the ground that the Committee has not been consistent in its recommendation in respect of various other schools.

4. This cannot be disputed by the 'school' that the Committee had provided a detailed calculation to 'The School' and also gave a reasonable opportunity to 'The School' to rebut the inferences drawn by the Committee. Now reliance of 'The School' on the recommendations/order of the Committee in the matter of some other schools is misplaced. Allegation of "The School" that the Committee's approach has been inconsistent and relying on the order/recommendation of some other schools is apparently incorrect and not sustainable in the facts and circumstances. Apparently the



facts and circumstances of other schools are distinguishable with that of the applicant School. The order/recommendation of the committee in one case is not a precedent for other cases. However, an uniform practice and interpretation is followed by the Committee. Even in case of precedent it is no more res integra that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. Considering the present facts and circumstances, it may not be necessary to deal with recommendations/orders of the Committee in detail referred to by the 'school'. The Supreme Court in Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr., AIR 2004 SC 778 had observed:-

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

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not proper. Even a minor difference in the factual matrix, may render an earlier decision inapplicable in a later case.



5. A review of an order/recommendation is also a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier decisions. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order, further, it must be established that the applicant had acted with due diligence and that the existence of the evidence, which he has now discovered, was not within his knowledge when the order was passed. If it is found that the petitioner has not acted with due diligence then it is not open to the Tribunal to admit evidence on the ground of sufficient cause. The party seeking a review should prove strictly the diligence he claims to have exercised. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.

6. In any case before deciding the application of review of the 'school' on merits, the committee has to consider and decide **whether it has power to review its own orders**. Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. Some other schools namely N.K. Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L. Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar



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

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

The Hon'ble High Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 only permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"

7. Though there is difference between the procedural review and a review on merits. A procedural review which is either inherent or implied in a Court or Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. In Patel NarshiThakershi and Ors.v.PradyumansinghjiArjunsingji MANU/ SC/0433/1970the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a



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procedural defect, the inadvertent error committed by the Tribunal it must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every Court or Tribunal. From these principles it is apparent that where a Court or quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

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



passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding.

9. Applying these principles it is apparent that where a Court or Quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the Quasi judicial authority is vested with power of review by express provision or by necessary implication.
10. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and not a procedural review. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. PradyumansinghjiArjunsingji MANU/SC/0433/1970 MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication.
11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 31st January, 2018 not on the ground that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant in the application for review dated 13th July, 2018 are that some matters which ought to have been considered by the committee or apparently were not duly considered or apparently considered incorrectly.



Apparently the recall or review sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.

12. It is also to be noted that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P RamanathaAiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio". "Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision." Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

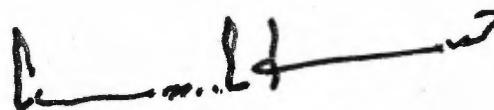
"Having fulfilled the function, discharged the office, or accomplished the purpose, and therefore of no further force or authority"

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



13. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. The 'school' is seeking that the order of the Committee directing the 'school' to refund Rs. 41,41,952 (50,17,572 – 61,720 – 8,13,900) with interest @ 9% per annum to the students be reviewed. Apparently the Committee does not have such powers as has been invoked by the 'school'.

14. In the circumstances the application of the applicant 'The School' dated 13th July, 2018 seeking review is not maintainable and is disposed of as not maintainable and the said application for review dated 13th July, 2018 seeking review of order dated 31st January, 2018 is therefore, dismissed.



Justice Anil Kumar (R)

(Chairperson)



J.S. Kochar

(Member)



R.K. Sharma

(Member)

22.10.2018

(Member)



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

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

In the matter of:

**DEV SAMAJ MODERN SCHOOL NO.2, (B-378)
OKHLA (SUKHDEV VIHAR),
NEW DELHI 110025.**

And in the matter of:

**Application for review dated
13TH JULY, 2018 seeking
review of recommendations
dated 31st January, 2018 in
the matter of school (B-
378).**

ORDER

22.10.2018

Present : Sh. Mubarak Hussain, Accountant of the
School.

**ORDER ON APPLICATION DATED 13th July,
2018 seeking review of
order/recommendation dated 31st January,
2018.**



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1. Dev Samaj Modern School No.2 (B-378), hereinafter referred as "The School" has sought review of order dated 31st January, 2018 by present application for review dated 13th July, 2018.

2. The Committee by order/recommendation dated 31st January, 2018 had held as under:

The Committee noticed that the school had not utilised the full amount of arrear fee collected by it for the purpose of arrear salary, as contended by it but had actually appropriated a sum of Rs. 34,43,945 as its own income in the year 2010-11. The contentions of the school that it paid a sum of Rs. 24,08,353 in 2015-16, Rs. 21,29,660 in 2016-17 and Rs. 1,69,668 in 2017-18 were examined with reference to the audited financials of the school for these years which were filed by it. The Committee observes that the payments claimed to have been made in 2015-16, 2016-17 and 2017-18 have not been sourced from the arrear fee collected by the school in 2008-09 and 2009-10 but have been sourced from the current years fees for these years. This is apparent from the fact that in 2015-16 when the school paid a sum of Rs. 24,08,353 towards arrear salary which was charged to its Income & Expenditure Account for that year, the school had a net cash profit i.e. the net profit + depreciation amounting to Rs. 1,06,72,580 even after paying the arrear salary as aforesaid. Similar was the case in respect of the payment claimed to have been made in 2016-17. The school had a net cash profit of Rs. 61,51,460 even after paying the sum of Rs. 21,29,660 towards arrear salary.

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

3. The School has sought review of order dated 31st January, 2018 passed by the Committee inter-alia mainly on the grounds that the Committee did not consider the arrear of salary paid after 2010 - 11; the conclusions drawn by the Committee are not correct for the reason detailed in the application and "The School" wants that the Committee to consider/reconsider certain facts founders of school have clear cut aim of providing quality education to the lower middle class of the area on very affordable costs; school has always followed



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the principle of its founder; a number of students have been given concession in full in EWS category and partial concession ranging from 20% to 40%; the amount as shown in the application for 2008 - 09 and 2009 - 10 as arrears of tuition fee for the period from 1 September 2008 to 31 March 2009 was not shown as a part of Income and Expenditure account as being treated as Current Liabilities. The applicant has challenged the inferences drawn by the Committee and has sought reconsideration on the grounds that the retired staff were to be paid arrears only on the receipt of written request as per order on the subject. It is contended that most of the requests submitted by the retired and ex-staff were time barred and the Management of the school was duty bound to finalize their claims on the basis of provisions indicated under Rule 264, 265 of General Financial Rules, 2005 and Rule 266 applicable in the case of Non—Government servants. It has again been contended that there was no intention for generating profit as the funds have been parked in a scheduled bank. According to the school the Committee has erred in not allowing salary arrears of ₹ 7,071,476 paid to the staff instead of ₹ 2,363,795. According to 'The School' the Committee can direct the school for payment of normal saving bank interest on the amount of arrear fee collected. There view of order/recommendation is also sought on the ground that the Committee has not been consistent in its recommendation in respect of various other schools.

4. This cannot be disputed by the 'school' that the Committee had provided a detailed calculation to 'The School' and also gave a reasonable opportunity to 'The School' to rebut the inferences drawn by the Committee. Now reliance of 'The School' on the recommendations/order of the Committee in the matter of some other



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school is misplaced. Allegations of 'The School' that the Committee approach has been inconsistent and relying on the order/recommendation of some other schools is apparently incorrect. Apparently the facts and circumstances of other schools are distinguishable with that of the applicant School. The order/recommendation of the committee in one case is not a precedent for other cases. However, a uniform practice and interpretation is followed by the Committee. Even in case of precedent it is no more res integral that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. Considering the present facts and circumstances, it may not be necessary to deal with recommendations/orders of the Committee in detail referred to by the 'school'. The Supreme Court in Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr., AIR 2004 SC 778 had observed:-

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



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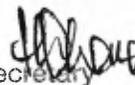
Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not proper. Even a minor difference in the factual matrix, may render an earlier decision inapplicable in a later case.

5. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order, further, it must be established that the applicant had acted with due diligence and that the existence of the evidence, which he has now discovered, was not within his knowledge when the order was passed. If it is found that the petitioner has not acted with due diligence then it is not open to the Tribunal to admit evidence on the ground of sufficient cause. The party seeking a review should prove strictly the diligence he claims to have exercised. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.

6. In any case before deciding the application of review the 'school' on merits, the committee has to consider and decide whether it has



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power to review its own orders. Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble High Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 only permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"



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7. Though there is difference between the procedural review and a review on merits. A procedural review which is either inherent or implied in a Court or Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. In Patel NarshiThakershi&ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every Court or Tribunal. From these principles it is apparent that where a Court or quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi judicial authority is vested with power of review by express provision or by necessary implication.

8. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or Quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the



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ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding.

9. Applying these principles it is apparent that where a Court or Quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the Quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or Quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed



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10. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and not a procedural review. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. PradyumansinghjiArjunsingji MANU/SC/0433/1970 MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication.



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11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 31st January, 2018 not on the ground that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant in the application for review dated 13th July, 2018 are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly. Apparently the recall or review sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.
12. It is also to be noted that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced Law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio". "Thus a judge, when he has decided a question brought before him, is functus officio, and cannot review his own decision." Black's Law



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

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

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

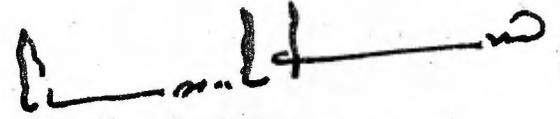
13. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. The 'school' is seeking that the order of the Committee directing the 'school' to refund Rs.58,73,574 with interest @ 9% per annum to the students be reviewed. The 'school' also seeks that the finding of the Committee that the school had not implemented the VI Pay Commission which was arrived at on the basis of preponderance of probability be also reviewed after considering all the pleas and contentions on merits. Apparently the Committee does not have such powers as has been invoked by the 'school'.



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14. In the circumstances the application of the applicant dated 13th July, 2018 seeking review is not maintainable and is disposed of as not maintainable and the said application for review dated 13th July, 2018 seeking review of order dated 31st January, 2018 is therefore, dismissed.



Justice Anil Kumar (R)

(Chairperson)



J.S.Kochar

(Member)

22.10.2018



R.K.Sharma

(Member)



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

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

In the matter of:

**KALKA PUBLIC SCHOOL, (B-665)
ALAKNANDA, KALKAJI,
NEW DELHI 110019.**

And in the matter of:

**Application for review dated
13th July, 2018 seeking
review of recommendations
dated 11th April, 2017 in the
matter of school (B-665).**

ORDER

22.10.2018

Present : Sh. Vasudev Sharma , P/T Accountant of
the School.

**ORDER ON APPLICATION DATED 13th July,
2018 seeking review of
order/recommendation dated 11th April,
2017.**

1: Kalka Public School (B-665), hereinafter referred as 'The School'
has sought review of order dated 31st January, 2018 by present
application for review dated 13th July, 2018.

Application for Review dt. 13.7.2018 Kalka Public School(B-665) Page 1 of 14



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2. The Committee by its order/recommendation dated 11th April, 2017 had held that the school had transferred huge amounts of funds through its Parent Society and the fee recovered from the students was diverted to other sister institutions of the school. The Committee had held as under:

We have also noticed that the school had transferred huge amount of funds to its Parent society i.e, Kalka Education Society (Rs. 3,10,10,321) and other sister institutions like Kalka Public School Meerut (Rs,6,84,87,64), Kalka Institute of Research and Advanced Study (30,96,886) and Kalka Dental College (Rs.88,83,964). Thus the fee recovered from the students was diverted to these sister institutions of the school.

With regard to development fee, the committee notices that the school was charging development fee every year and treating it as a revenue receipt. In the year 2009-10 it recovered a sum of Rs. 67,20,576 as development fee while in the year 2010-11 it recovered a sum of Rs. 83,48,063 on this account. Since the school was not fulfilling the basic pre condition of treating development fee as a capital receipt and creating a fund for the purpose of purchase or up gradation of furniture and fixtures' equipments. The school was also not maintaining any earmarked depreciation reserve fund . The school was not entitled to charge any development fee in terms of the recommendations of the 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. The Committee is therefore of the view that the school ought to refund the development fee charged in these two years amounting to Rs.1,50,68,639 in pursuance of order dated 11/02/2009 issued by Director of Education alongwith a interest @9% per annum from the date of collection to the date of refund.

3. The committee had also considered the record produced before the Committee and considering the figures heading for that the school is running on commercial lines and is profiteering from the fee charged from the students. "The School" had earned huge profits year after year but did not pay arrears of salary even though the total arrear free recovered was in access of its total liability. The Committee had held as under by its order/recommendation dated 11th April, 2017 as under:

"The above figures speak for themselves. The school is running on commercial lines and is profiteering from the fee charged from the students. While it was earning huge profits year after year it did not pay arrears of



salary even though the total arrear fee recovered by the school was in excess of its total liability of arrear payment to the staff.

The school was clearly capable of absorbing the effect of implementation of the recommendation of 6th pay commission out of its own resources . The total impact of implementing the recommendations of 6th pay commission was Rs.86,55,250 by way of arrear salary and Rs. 72,52,651 by way of incremental salary during the year 2009-10 (The regular normal salary for the year 2008-09 was Rs. 1,64,33,930 which rose to Rs.2,36,86,581). The school had cash profit of Rs. 4,02,72,808. Even if the additional fee recovered by the school by way of arrears or incremental fee in the year 2009-10 amounting to Rs. 2,37,98,792 is excluded from this, the school still had a cash surplus of Rs. 1,64,74,016 in that year itself.

In view of the forgoing reasons the committee is of the view that the school did not need to hike any fee at all for the purpose of implementation of the recommendations of 6th pay commission nor to recover any arrear fee. The entire amount of arrear fee recovered amounting to Rs. 1,15,35,691 and also the incremental fee during the year 2009-10 amounting to Rs. 1,22,63,101 ought to be refunded to the students alongwith interest @ 9% per annum from the date of collection to the date of refund."

4. 'The School' has sought review of order dated 11th April,2017 passed by the Committee inter-alia on the grounds that the school is running since 1983 and a number of respondents were given full/part concession in fee and the school did not have funds to implement the VI CPC; that the committee has not considered the arrear salary to the staff without making any provision for future contingencies; the balance amount with 'The School' it is in process of being returned and for other reasons as detailed in the application the recommendation of the Committee to refund arrear of fee be reconsidered/reviewed. According to 'The School' the order/recommendation has an apparent mistake on record. The applicant has also challenged the inferences drawn by the Committee that the school is running on commercial lines and is profiteering from the fee charged from the students.'The School' has also made grievance alleging that the Committee has not allowed for future contingencies of gratuity and leave encashment and for 4 months salary. It is also alleged that 'The School' has been discriminated with a number of other schools.



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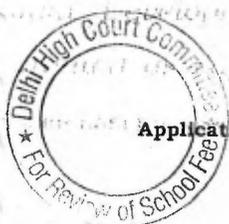
5. "The School" has also challenged the competence of the committee to go into the questions involved about Development Fee. According to "The School" the Committee could not go into the question of Development Fee. The grievance of "The School" is that it has been discriminated with many other schools whose instances have been cited in the application seeking review. According to "The School" accounting of Development Fee is a procedural lapse and treating the Development fee as a revenue receipt instead of capital receipt does not mean that the school is not entitled to charge the Development Fee
6. While considering the case of the 'school' the Committee had also noticed as under:

The Committee examined the audited financials of the school and observes that the school is indulging in profiteering as would be evident from the following figures:-

Financial Year	Fee Charged from the students	Net Profit	Depreciation	Total Cash Profit	% of cash profit to fees
2006-07	4,26,77,730	1,27,31,344	48,14,340	1,75,45,684	41.11%
2007-08	4,58,19,378	1,58,65,526	40,80,889	1,99,46,415	43.53%
2008-09	6,64,03,237	2,29,48,461	46,36,127	2,75,84,588	41.54%
2009-10	9,43,20,324	36394521	3878288	4,02,72,809	42.69%
2010-11	10,29,54,937	5,7443034	33,18,629	6,07,61,663	59.01%

7. Pursuant to the report of the Duggal Committee, the Government of National Capital Territory of Delhi passed an order dated December 15, 1999 in order to give effect to its recommendations. One of the directions (no. 7) given vide the aforesaid order was:

"Development fee, not exceeding 10% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be



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

8. The Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 admitted, inter alia, the following point for determination

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

The Hon'ble Supreme Court, on this issue has held as follows:

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



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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.(emphasis supplied by us)

It is manifest on reading the aforesaid extract from the judgment of the Hon'ble Supreme Court that unaided private schools were permitted to charge development fee only if the school maintained a depreciation reserve fund. The requirement of creating a Depreciation Reserve fund is not an empty formality but is meant to ensure that funds are available to the schools to replace the assets created out of development fund when they become worn out or obsolete so that the schools do not resort to collecting the development fee again. Thus development fee can be collected only for purchase of furniture and fixture & equipment subject to the condition that the school maintains a depreciation reserve fund. Maintenance of such a fund would ensure that the school does not charge the development fee once again when the time for replacement of such assets come i.e. when they are worn out. The school cannot be heard to say that since it did not charge any depreciation to the revenue account, it was not required to maintain a depreciation reserve fund. If this contention of the school is allowed, the very purpose of making creation of a depreciation reserve fund as a pre-condition for charging development fee would be defeated. Therefore, the Committee rejected the contention of the school that since it was charging the Development Fee to its revenue account and not as Capital receipt, it will not have ramification. In any case this cannot be termed as an error apparent in the order/recommendation of the Committee.

9. This cannot be disputed by the 'school' that the Committee had provided a detailed calculation to 'The School' and also gave a



reasonable opportunity. Now reliance of The School' on the recommendations/order of the Committee in the matter of some other school is also misplaced. Apparently the facts and circumstances of other schools are distinguishable with that of the applicant School. The order/recommendation of the committee in one case is not a precedent for other cases. However, a uniform practice and interpretation is followed by the Committee. Even in case of precedent it is no more res integra that a decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. Considering the present facts and circumstances, it may not be necessary to deal with recommendations/orders of the Committee in detail referred to by the 'school'. The Supreme Court in Bharat Petroleum Corporation Ltd and Anr. v. N.R.Vairamani and Anr., AIR 2004 SC 778 had observed:-

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

Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not



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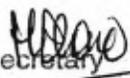
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proper. Even a minor difference in the factual matrix, may render an earlier decision inapplicable in a later case.

10. In the application for review the 'school' has contended new facts and circumstances without disclosing any sufficient reason for not producing the same before the order/recommendation was passed by the Committee in the case of the 'school'. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order, further, it must be established that the applicant had acted with due diligence and that the existence of the evidence, which he has now discovered, was not within his knowledge when the order was passed. If it is found that the petitioner has not acted with due diligence then it is not open to the Tribunal to admit evidence on the ground of sufficient cause. The party seeking a review should prove strictly the diligence he claims to have exercised. In a review application a party cannot be allowed to introduce fresh documents merely to supplement evidence which might possibly have had some effect on the result. Perusal of the application of the applicant shows that even any averment to this effect has been made. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.



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11. In any case before deciding the application of review of the 'school' on merits, the committee has to consider and decide whether it has power to review its own orders. Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

The Hon'ble High Court, however, by its order dated 19th March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 only permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura and not of other schools. The Hon'ble Court passed the following order:

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

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

The writ petition shall be re-notified on 09.05.2014"



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12. Though there is difference between the procedural review and a review on merits. A procedural review which is either inherent or implied in a Court or Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. In *Patel Narshi Thakershi & ors.* (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected ex debito justitiae to prevent the abuse of its process, and such power inheres in every Court or Tribunal. From these principles it is apparent that where a Court or quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi judicial authority is vested with power of review by express provision or by necessary implication.

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



party has to establish that the procedure followed by the Court or the quasi judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. Merely alleging that there are procedural mistake, the grounds raised by the applicant will not make them to be procedural mistakes. Apparently the School is challenging the order on its merits.

14. Applying these principles it is apparent that where a Court or Quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the Quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or Quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of



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

15. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and not a procedural review. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. PradyumansinghjiArjunsingji MANU/SC/0433/1970 MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication.
16. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 11th April, 2017 not on the ground that in passing the order the committee has committed any



procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant in the application for review dated 13th July, 2018 are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly. Apparently the recall or review sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.

17. It is also to be noted that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P RamanathaAiyar's Advanced law Lexicon (3rd Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio". "Thus a judge, when he has decided a question brought before him, is functus officio, and cannot review his own decision." Black's Law Dictionary (6th Edn., p 673) gives the meaning of functus officio as follows:

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



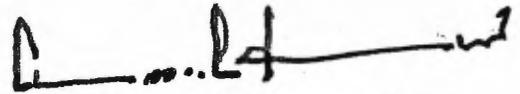
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Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

18. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except in the case of Rukmani Devi Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation. Apparently the Committee does not have such powers as has been invoked by the 'school'.

19. In the circumstances the application of the applicant dated 13th July, 2018 seeking review is not maintainable and is disposed of as not maintainable and the said application for review dated 13th July, 2018 seeking review of order dated 11th April, 2017 is therefore, dismissed.



Justice Anil Kumar (R)

(Chairperson)



J.S. Kochar

(Member)



R.K. Sharma

(Member)

22.10.2018



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Secretary

000148

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

CAUSE LIST FOR OCTOBER 2018

Cause List for Wednesday, 3rd October 2018

S. No.	Cat. No.	School Name & Address
1	B-348	Review- Ahlcon International School, Mayur Vihar, Phase-I
2	B-86	Delhi Police Public School, safdarjung Enclave
3	B-137	St. Mary's School, Safdarjung Enclave
4	B-177	Bloom Public School, Vasant Kunj
5	B-237	S.D. Public School, Kirti Nagar
6	B-631	CRPF Public School, Rohini
7	B-286	Mount Abu Public School, Sect.5, Rohini
8	B-414	Jindal Public School, Dashrathpuri

Cause List for Thursday, 4th October 2018

S. No.	Cat. No.	School Name & Address
1	B-541	Review - Sant Nirankari Public School, Nirankari colony
2	B-318	Navy Children School, Chanakya Puri
3	B-429	M.D.H. International School, Dwarka
4	B-304	Mother Teressa Public School, Preet Vihar
5	B-285	Mann Public School, Holambi Kalan
6	B-402	Gitarattan Jindal Public School, Sect.7, Rohini

Cause List for Friday, 5th October 2018

S. No.	Cat. No.	School Name & Address
1	B-309	N K Bagrodia Public School, Sect.9, Rohini
2	B-557	Shah International School, Paschim Vihar
3	B-146	Vishwa Bharti Public School, Dwarka
4	B-615	Maxfort School, Parwana Road, Pitampura
5	B-469	St. Peter's Convent, Vikas Puri

Cause List for Tuesday, 9th October 2018

S. No.	Cat. No.	School Name & Address
1	B-543	Dayanand Public School, Model Town-III
2	B-249	G.D. Goenka Public School, Paschim Vihar
3	B-389	BGS International School, Dwarka
4	B-77	Vishal Bharti Public School, Paschim Vihar
5	B-290	Kasturi Ram International School, Narela

Cause List for Friday, 12th October 2018

S. No.	Cat. No.	School Name & Address
1	B-455	Bosco Public School, Paschim Vihar
2	B-132	St. Michael's Sr. Sec. School, Pusa Road
3	B-406	Happy School, Darya Ganj
4	B-632	St. Colombo Public School, Pitampura
5	B-296	M.M. Public School, Pitampura
6	B-615	Maxfort School, Parwana Road, Pitampura



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[Signature]
Secretary

Cause List for Monday, 15th October 2018

000149

S. No.	Cat. No.	School Name & Address
1	B-300	Review - Aadharshila Vidyapeeth, Pitampura
2	B-302	Bharti Public School, Swasthya Vihar
3	B-427	Vandana International School, Dwarka
4	B-474	Green Fields School, Safdarjung Enclave
5	B-650	St. Columba's School, Ashok Place
6	B-176	Vivekanand School, D-Block, Vivek Vihar

Review orders for pronouncement of Judgment

1	B-390	Shanti Gyan Niketan, Goyla Village
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Cause List for Tuesday, 16th October 2018

S. No.	Cat. No.	School Name & Address
1	B-665	Review - Kalka Public School, Alaknanda
2	B-378	Review - Dev Samaj Modern School No.2, Sukhdev Vihar
3	B-633	Review - Dev Samaj Modern School, Nehru Nagar
4	B-301	Review - Bharti Public School, Kondli, Mayur Vihar
5	B-286	Mount Abu Public School, Sect.5, Rohini
6	B-414	Jindal Public School, Dashrathpuri
7	B-406	Happy School, Darya Ganj

Cause List for Monday, 22nd October 2018

S. No.	Cat. No.	School Name & Address
1	B-348	Review- Ahlcon International School, Mayur Vihar, Phase-I
2	B-541	Review - Sant Nirankari Public School, Nirankari colony
3	B-564	Columbia Foundation School, Vikas Puri
4	B-335	Bhai Parmanand Vidya Mandir, Surya Niketan
5	B-177	Bloom Public School, Vasant Kunj
6	B-632	St. Colambo Public School, Pitampura

Review orders for pronouncement of Judgment

1	B-378	Dev Samaj Modern School No.2, Sukhdev Vihar
2	B-633	Dev Samaj Modern School, Nehru Nagar
3	B-665	Kalka Public School, Alaknanda



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Secretary

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

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

In the matter of

**Ahlcon International School,
Mayur Vihar, Delhi (B-348)**

And in the matter of

**Application dated 14.06.2018 for
reconsideration / review of
recommendations dated 22.03.2017
in the matter of school.**

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

The authorized representative appearing for the school makes an oral request for adjournment on the ground that the counsel engaged for the schools is not available today. Accordingly the matter is adjourned for 22nd October 2018 at 11.00 A.M.



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



**J.S. KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**



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Secretary

Delhi Police Public School, Safdarjung Enclave, Delhi

Present : Sh.S.N. Joneja, Ex. Secretary, Sh.Salim, Admn. Officer,
Sh.Trilochan Singh, Accountant of the school.

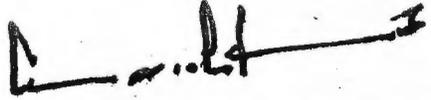
The school had conceded that the arrears of development fee recovered by it for the period 1.09.2008 to 31.3.2009 were not recovered in accordance with order dated 11.2.2009 issued by the Director of Education. The amount which the school has agreed to refund is as follows :

	Category P1	Category P2	Public
Development fee for the period 1.09.2008 to 31.03.2009 unauthorisedly increased per student, as conceded by school	Rs.210	Rs.210	Rs.420
Development fee on existing tuition fee unauthorisedly increased as conceded by school.	Rs.449	Rs.531	Rs.1114
Total amount refundable per student	Rs.659	Rs.741	Rs.1534

The authorized representative appearing for the school submits that they would refund the amount within two months. The matter is listed for 5th December 2018 at 11.00 A.M. The school will file the details of the refund given to the students alongwith evidence of the same.

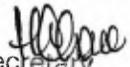

R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

St. Mary's School, Safdarjung Enclave, Delhi

Present: : Sh.P.A.Sivichen, Accounts Supdt. & Sh.Nikhil , Admn.
Incharge of the school.

The matter has been re fixed to examine the contention of the school that the amount of FDRs and the balance of saving account which were held against the welfare fund maintained by the school ought not be considered to be part of funds available for the purpose of meeting the additional expenditure on salary on account of implementation of the recommendations of the 6th pay commission.

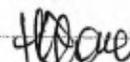
In this regard the Committee notes that the school was maintaining a welfare fund and the balance in this account as on 31.3.2008 was Rs.95,73,718. As against this the school had a sum of Rs.91,16,563 in FDRs earmarked against welfare fund and a sum of Rs.22,04,919 in the earmarked saving bank account against welfare fund. Thus the total that was purportedly held against the welfare fund was Rs.1,13,21,482, which is more than the balance in welfare fund. It is obvious that the school had incurred certain welfare expenses but instead of withdrawing the amount 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.

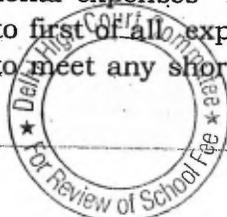
Further on perusal of the ledger account of the welfare fund the Committee observes that the accretion to this fund is mainly on account of the following :

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 has put up its stall in the school.
4. The income from organizing programmes like Foundation Day etc.
5. Income from allowing certain groups like Dance Works to conduct classes for the students.

It is obvious that the school has credited 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 letter dated 11.2.2009 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 exerted the schools to first of all explore the possibility of utilizing the existing reserves to meet any shortfall in payment of salaries and allowances

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Secretary



as a consequence of the increase in the salaries and allowances of the employees. Further, vide Para-11 of the order it had been 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.

In view of these stipulations in the order dated 11.2.2.009, the Committee cannot accept the contention of the school to exclude the balance in welfare fund account which mainly consists of the other sources of revenue.

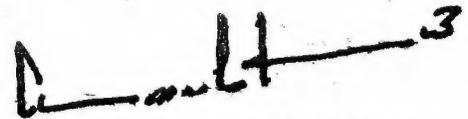
Hearing is concluded. Order reserved.



R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON


Secretary

Bloom Public School, Vasant Kunj, Delhi

Present : Ms. Tarveen Kaur, Incharge Admn. of the school

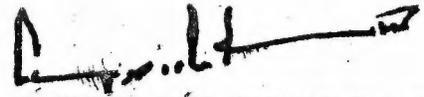
The matter had been re fixed as the school had made submissions regarding maintenance of earmarked FDRs against development fund. But no submissions were made with regard to maintenance of earmarked FDRs against Depreciation Reserve Fund. The authorized representative appearing for the school submits that the school was maintaining earmarked FDRs against Depreciation Reserve Fund also and seeks sometime to furnish the details thereof. Accordingly the matter is adjourned to 22nd October 2018 at 11.00 A.M.



**R.K. SHARMA
MEMBER**



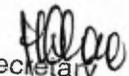
**J.S. KOCHAR
MEMBER**



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



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Secretary

03/10/2018

000155

B-237

S.D.Public School, Kirti Nagar, Delhi.

Present: Sh.S.K. Saini, Accountant & Sh.Ravi Chauhan, Assistant of the school.

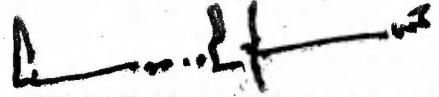
The calculation sheet is not yet ready. The matter is adjourned for 1st November. 2018 at 11.00 A.M.



**R.K. SHARMA
MEMBER**



**J.S. KOCHAR
MEMBER**



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



Secretary



CRPF Public School, Rohini, Delhi

Present: Sh.Sanjeev Kapoor, UDC of the school.

The Committee has prepared a calculation sheet to examine the justifiability of the hike in fee and recovery of arrear fee for implementation of the recommendations of the 6th pay commission and recovery of development fee.

As per the calculations made by the Committee, the school had funds available with it to the tune of Rs.2,32,36,201. The school had accrued liabilities in respect of gratuity and leave encashment to the tune of Rs.1,71,14,363. The balance available to the school was therefore 61,21,838 which could be utilized for implementation of the recommendations of the 6th pay commission. The total liability of the school on account of arrear salary and incremental salary in 2009-10 after implementation of the recommendations of the 6th pay commission was to the tune of Rs.3,30,75,171. Thus there was gap of Rs.2,69,53,333 which was required to be bridged by recovering arrear fee and hike in tuition fee and development fee w.e.f. 1.09.2008. The total additional fee recovered by the school in pursuance of order dated 11.2.2009 amounted to Rs. 1,70,83,497. Thus the school incurred a deficit on implementation of the recommendations of the 6th pay commission. When the requirement of the school to keep funds in reserve for meeting any future contingency is considered, the deficit would further increase. The development fee charged by the school in 2009-10 & 2010-11 amounted to Rs. 1,05,52,029. The Committee has not examined the justifiability of recovery of development fee for these two years on the touch stone of the parameters laid down by the Hon'ble Supreme Court in the case of Modern School for the reason that the deficit incurred by the school on implementation of the recommendations of the 6th pay commission is much more than the aggregate of development fee recovered in these two years with which we are concerned.

Accordingly, the Committee is of the view that no intervention is required to be made with regard to recovery of arrear fee or development fee or the hike in tuition fee and development fee w.e.f. 1.09.2008 in pursuance of order dated 11.2.2009 issued by the Director of Education. Detailed order to be passed separately.

21
R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON
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Secretary

03/10/2018

000157

B-286

Mount Abu Public School, Rohini, Delhi.

Present: Nemo.

Ab inference
No adverse ~~influence~~ has been made on account of non appearance by anybody on behalf of the school. In the interest of justice matter is adjourned to 16th October 2018 at 11.00 A.M.

Ab

**R.K. SHARMA
MEMBER**

1/14

**J.S.KOCHAR
MEMBER**

Justice Anil Kumar

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



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H. K. Singh
Secretary

03/10/2018

000158

B-414

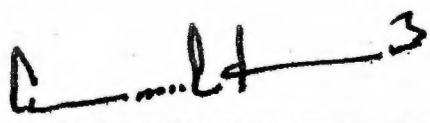
Jindal Public School, Pitampura, Delhi.

Present: Sh.Banne Singh, UDC of the school.

The school seeks adjournment on the ground that it has yet not been able to get the certified copies of the orders of the Tribunal. As requested, the matter is adjourned to 16.10.2018 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

04/10/2018

000159

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

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

In the matter of

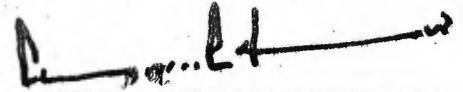
**Sant Nirankari Public School,
Nirankari Colony, Delhi (B-541)**

And in the matter of

**Application dated 20.08.2018 for
reconsideration / review of
recommendations dated 21.03.2018
in the matter of school.**

Present: Ms.Sonia, LDC & Ms. Madhu Malhotra, Accountant of the school.

The authorized representative seeks adjournment on behalf of the school on the ground that the school is consulting with its counsel in the matter and requires some more time. As requested the matter is adjourned to 22.10.2018.

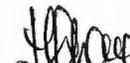

**JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON**


**J.S. KOCHAR
MEMBER**


**R.K. SHARMA
MEMBER**



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Secretary

Navy Children School, Chanakyapuri, Delhi

Present : Cdr. Pratyush Chauhan, Executive Director & Sh. Sarvjit Singh Jaswal, Office Asstt. of the school.

The Committee has prepared calculation sheet as per which it is determined that the school incurred a deficit on implementation of the recommendations of the 6th pay commission despite recovering the arrear fee, increasing the tuition fee and development fee in terms of order dated 11.2.2009 issued by the Director of Education. The Committee also observes that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India. However, no order for refund of development fee charged by the school in the years 2009-10 and 2010-11 is being made as the deficit incurred by the school on implementation of the recommendations of the 6th pay commission is more than the aggregate amount of development fee recovered by the school in these two years with which this Committee is concerned.

Detailed order to be passed separately.

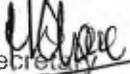

R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

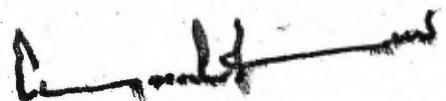
M.D.H. International School, Dwarka, Delhi

Present: Sh.R.N.Rai, Secretary Trust, Sh.R.K. Wadhwa, Manager & Sh.Sarbeswar Nayar, Accountant of the school.

The hearing has been re-fixed to ascertain the position with regard to earmarking of development fund and depreciation reserve fund, which the school had claimed that it was done in the financial year 2015-16 but had not produced any evidence with regard to that. The authorized representative appearing for the school submits that one more opportunity may be given to the school to do the needful. Further during the course of hearing the authorized representative appearing for the school submits that with regard to surplus arising on account of recovery of arrear fee and hike in tuition fee in terms of order dated 11.2.2009 issued by the Director of Education, no order for refund may be made as the school is willing to pay the amount of arrears to staff to the extent it collected the arrear fee from the students and after such payment the surplus could be wiped out. He seeks two weeks time to do that. Accordingly the matter will be taken up for further hearing on 1.11.2018 at 11.00 A.M. when the school will produce the evidence of payment of arrear salary to the staff alongwith with copies of the bank statements of the relevant period and Challan of TDS, if deducted.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

Mother Teresa Public School, Preet Vihar, Delhi

Present : Sh.Ashok K. Jethy, Chairman, Sh. Manu Luthra, CA & Mrs. Neeta Jethy, Manager of the school.

After the hearing was concluded on the last occasion the school filed written submissions raising various contentions with regard to development fee and charging of arrears of development fee for the period 1.09.2008 to 31.3.2009, when originally the school was not charging any development fee. The school has submitted that in view of the deficiency on account of implementation of the recommendations of the 6th pay commission, it had become necessary to raise further amount from the students in order to implement the recommendations of the 6th pay commission. It is submitted that the recovery of development fee for the period 1.09.2008 to 31.3.2009 was in accordance with Para 14 & 15 of the order dated 11.2.2009 issued by the Director of Education.

The school has also submitted that the so called arrears of development fee for the aforesaid period were utilized only for payment of salary/arrears based on the recommendations of the 6th pay commission. The authorized representative appearing for the school submits that the deficit as determined by the Committee is more as some FDRs were in the joint names of the school and the Department of Education/CBSE and were not available for implementing the recommendations of the 6th pay commission. However, no details of such FDRs has been given either today or earlier when the matter was heard. He seeks one more opportunity to furnish the details of such FDRs. Accordingly the matter is adjourned to 1.11.2018 at 11.00 A.M.



R.K. SHARMA
MEMBER



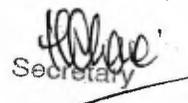
J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

04/10/2018

000163

B-285

Mann Public School, Holambi Kalan, Delhi.

Present: Sh.N.K. Mahajan, CA, Sh.Bharat Rattan, CA & Sh.Brijesh Kumar Sharma, Accountant of the school.

After some arguments the authorized representative appearing for the school seeks more time to give submissions controverting the calculation sheet prepared by the Committee. As requested the matter is adjourned to 2.11.2018 at 11.00 A.M.



**R.K. SHARMA
MEMBER**



**J.S. KOCHAR
MEMBER**



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



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Secretary

B-402

Gitarattan Jindal Public School, Rohini, Delhi

Present: Sh.Dharmendra Singh, Lab Asstt. of the school.

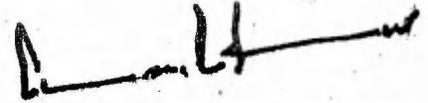
A request letter has been received from the school seeking more time for filing rebuttal of the calculation sheet. As requested the matter is adjourned to 1.11.2018 at 11.00 A.M.



**R.K. SHARMA
MEMBER**



**J.S.KOCHAR
MEMBER**



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



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Secretary

N.K.Bagrodia Public School, Sec.9, Rohini, Delhi

Present : Sh.S.K. Gulati, C.A. of the school.

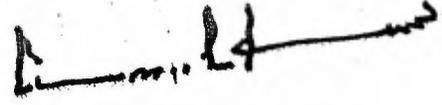
The authorized representative appearing for the school submits that he needs to re visit the issue of utilization of arrears of development fee for the period 1.09.2008 to 31.3.2009 by referring to the books of the accounts of the school. He seeks sometime . The matter is accordingly adjourned to 15th November 2018 when the books of accounts which are reported to be maintained in tally software will also be produced for examination of the Committee.



**R.K. SHARMA
MEMBER**



**J.S. KOCHAR
MEMBER**



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



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Secretary

Shah International School, Paschim Vihar, Delhi

Present: : Sh.S.K.Gulati, C.A. & Mrs Preeti Makhija, Office Suptd. of the school.

The Committee has prepared a calculation sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11.2.2009 issued by the Director of Education. As per the calculations it appears that though the school generated a surplus after effecting the fee hike and recovered the arrear fee as per the aforesaid order, when the requirement of the school to keep funds reserve for accrued liabilities of gratuity, leave encashment and reserve for future contingencies is taken into account, the Committee does not deem it an appropriate case for refund of any fee.

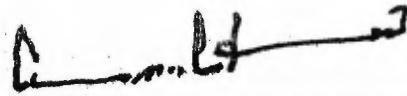
Detailed order to be passed separately.



**R.K. SHARMA
MEMBER**



**J.S. KOCHAR
MEMBER**



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



TRUE COPY


Secretary

B-146

Vishwa Bharti Public School, Dwarka, Delhi

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

After the conclusion of hearing, the school filed further documents claiming some more amount to be deducted from the figure of funds available for the purpose of implementation of the recommendations of the 6th pay commission, in calculation made by the Committee.

The school had claimed that a sum of Rs.23,86,600 ought to have been deducted from the funds available as this amount represented development fee charged in the years prior to 2008-09 and which was wrongly treated as a revenue receipt. On a query by the Committee whether this amount has been refunded to the students, the authorized representative submits that it has not been refunded but it is required to be set aside on creation of development reserve fund. It is submitted that the school has created such a fund in the year 2016-17 after the irregularity was pointed out by the auditors appointed by the Delhi Government. On a further query by the Committee, the authorized representative submits that the gross amount of development fee received in the previous years has been transferred to the Development Fund Reserve without taking into account the cost of eligible fixed assets acquired during those years. However, as per his submission, no Depreciation Reserve Fund was created. The school will furnish the audited financials of the year 2016-17, statement showing the year wise collection of development fee and the year wise purchase of eligible fixed assets and also the depreciation charged in respect of such assets on a year to year basis. The school will also file copies of statement of accounts of the earmarked balances kept in the shape of FDRs/saving bank accounts.

The school had disputed the figure of salary for the year 2008-09 as taken by the Committee in the calculation sheet on the ground that it included a sum of Rs.53,40,190 which were paid on account of arrears of 5th pay commission in that year. The Audit Officer of the Committee was asked to verify this payment and after verification she has reported that an amount of Rs.44,82,789 was paid as arrears of salary for the period March 2004 to June 2008 in the year 2008-09. A further sum of Rs.8,57,401 was paid towards provident fund. Accordingly the Committee accepts this contention of the school, the exclusion from the figure of salary of 2008-09 will be limited to the period ending March 2008 only as the arrears for the period April 2008 to June 2008 would in any case formed part of the salary of 2008. This will be worked out by the Audit Officer of the Committee.



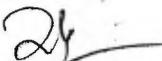
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Secretary

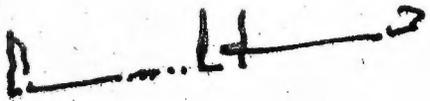
The school had submitted that arrears amounting to Rs. 15,89,718 for the period January 2006 to August 2008 were paid in 2011-12. However, the same have not been taken into consideration by the Committee. The Committee has verified this aspect and finds that the contention raised by the school is correct, accordingly necessary adjustment will be made while making the final determination.

The school also claimed that an additional demand of Rs.11,82,191 was raised by LIC from whom it has taken a group gratuity policy on account of the upper limit of gratuity being revised from Rs.3.50 lacs to Rs. 10 lacs, which the school has paid subsequently. The school has filed copy of a demand raised by LIC to this effect. It is submitted that this additional contribution has been paid in subsequent years in parts. Accordingly necessary adjustment to be made while working out the funds available with the school.

Matter is adjourned to 27th November 2018 at 11.00 A.M.


R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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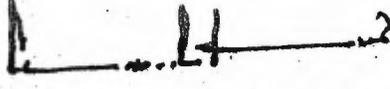
B-615**Maxfort School, Parwana Road, Pitampura, Delhi.**

Present: Sh.Sachin Vasudeva, A.R. & Sh.Manish Hasija, Accountant of the school.

After some arguments the authorized representative appearing for the school seeks some more time to clarify the issue regarding creation of depreciation reserve fund and development fund in the year 2015-16 and also the bank balances held against them. The school will file copy of the audited financials of the year 2015-16 alongwith the statement showing the amount of development fee received, amount of eligible fixed assets purchased and the depreciation on eligible fixed assets from 2006-07 to 2015-16. The school will also file either Balance Confirmation Certificates from the banks in which the FDRs/saving bank accounts are maintained or copy of statements of accounts showing the balance as on 31.3.2016, alongwith reconsideration statement, if any. Matter is adjourned to 12.10.2018 at 11.00 A.M.

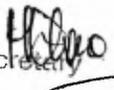

R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

St.Peter's Convent, Vikas Puri, Delhi

Present: Sh.Manmohan Sharma, C.A. and Sh.Jitendra Sharma,
Accountant of the school.

The school has filed copies of the speed posts tracking reports in respect of pay orders for arrear salaries which were sent to the staff members who have left the school. The Committee observes that out of 6 pay orders which were sent, 5 have been delivered. Only 1 pay order for Rs.23,033 in the name of Geeta Awasthi has been returned undelivered. The school may try to locate her whereabouts and have the pay order delivered to her. It is submitted that after taking into consideration the payments made to the staff during the course of hearing, the apparent refund which has been determined by the Committee would stand reduced to Rs. 1,91,308 after making the correction in the calculation sheet as submitted by the school on 07.09.2018. It is further submitted that the school was fulfilling all the pre conditions regarding charging of development fee as laid down by the Hon'ble Supreme Court in the case of Modern School except that the funds represented by unutilized development fund and depreciation reserve fund were not lying in the earmarked account but were the part of general pool of the funds of the school.

However, the submission made by the school is not supported by the audited financials of the school. The authorized representative submits that the development fund as appearing in the balance sheet represent the gross amount of development fee credit to this account and does not take into account the utilization of development funds over the years for purchase of eligible fixed assets. He seeks sometime to re work the balances in the development fund account and depreciation reserve fund account. As requested the matter is adjourned to 15th November 2018 at 11.00 A.M.



R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

Dayanand Public School, Model Town-III, Delhi

Present: Sh.Jagnani, Manager of the school.

The only issue in this matter was the recovery of arrears of incremental development fee for the period 1.9.2008 to 31.3.2009, which was in excess of the arrears which the school was entitled to recover as per Clause 15 of the order dated 11.2.2009 issued by the Director of Education. After the conclusion of hearing the school filed written submissions stating that the development fee was increased at a rate which was 15% of the incremental tuition fee instead of 10% which the school was charging earlier. This was necessitated on account of the facts that the school incurred deficit on implementation of the recommendations of the 6th pay commission even after increasing tuition fee at the maximum rates which were prescribed by the order dated 11.2.2009.

The Committee has gone through the calculations prepared by it to examine the justifiability of the hike in fee for the purpose of implementation of the recommendations of the 6th pay commission. The excess development fee recovered to the tune of Rs.2,89,759 only, while the school incurred a much larger deficit on implementation of the recommendations of the 6th pay commission. As such the Committee does not deem it an appropriate case where it should order refund of any amount, although irregularly recovered. The Committee in terms of its mandate, can in appropriate cases allow the schools to recover more fee than that was sufficient for implementation of the recommendations of the 6th pay commission. Accordingly the excess fee of Rs.2,89,759 recovered by the school is order to be regularized.

Detail ^{ed} order to be passed separately.

24

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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H. Choudhary
Secretary

09/10/2018

000172

B-249

G.D.Goenka Public School, Paschim Vihar, Delhi

Present : Sh.Mithun Khatri, C.A. & Sh.Sandeep Chadha, Accountant of the school.

The Committee has gone through the calculation sheet prepared by it to examine the justifiability of fee hike effected by the school in pursuance of order dated 11.2.2009 issued by the Director of Education. The Committee observes that the school incurred a deficit after considering its requirements to keep funds in reserve for accrued liabilities of gratuity, leave encashment and for future contingencies. Though the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School for charging development fee, the Committee finds that the total fee recovered by the school in 2009-10 and 2010-11 was Rs.74,28,210 while the deficit on implementation of the recommendations of the 6th pay commission was larger than that, indicating that the school utilized the development fee for these years also for implementing the recommendations of the 6th pay commission and yet had insufficient funds to maintain the aforementioned reserves.

Accordingly, the Committee does not consider it to be a fit case where it should order any refund of fee.

Detailed order to be passed separately.

Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

09/10/2018

000173

B-348

BGS International School, Dwarka, Delhi

Present: Sh. Boregowda GD, Accountant & Sh. Mubarak Hussain, Asstt. Accountant of the school.

On the last date of hearing the school had raised certain contentions regarding the amount considered by the Committee as having been diverted for incurring capital expenditure. It was contended that the entire amount was not out of the fee receipts but was partially contributed by the parent society and partially by the loans taken by the school in the prior years, the repayment of which was made in the years considered by the Committee. The Committee considers that in order to test this contention raised by the school the calculation sheet requires to be re visited and a fresh one to be prepared. Accordingly the Committee will prepare a fresh calculation sheet taking on board the contention raised by the school. Matter will be taken for further hearing on 16.11.2018 at 11.00 A.M.



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



**J.S. ROCHAR
MEMBER**



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



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Secretary

09/10/2018

000174

B-77

Vishal Bharti Public School, Paschim Vihar, Delhi

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

A copy of the revised calculation sheet has been given to the authorized representative appearing for the school. The school may file its rebuttal to the calculation sheet on or before the next date of hearing. Matter will come up for further hearing on 15.11.2018 at 11.00 A.M.

Sh

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

J.S.

**J.S.KOCHAR
MEMBER**

Anil Kumar

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



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Secretary

09/10/2018

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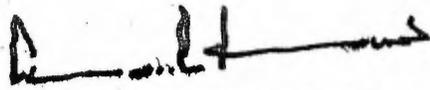
Kasturi Ram International School, Narela, Delhi

Present : Sh.Sunny Bansal, Manager of the school.

While preparing the calculation sheet, the Committee has observed that the school has not furnished its Receipt and Payment Accounts for the years 2007-08, 2008-09, 2009-10 & 2010-11 as part of its audited financials alongwith the annual returns filed under Rule 180 of the Delhi State Education Rules. The authorized representative appearing for the school submits that the same shall be filed within one week. The matter will come up for further hearing on 15.11.2018 at 11.00 A.M.


Dr. R.K. SHARMA
MEMBER


J.S.KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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12.10.2018

000176

B-455

Bosco Public School, Paschim Vihar, Delhi

Present : Sh.Raju Duggal, Vice Principal & Sh. Shyam Sunder Verma,
Accounts Clerk of the school.

The only issue in this matter is with regard to the recovery of incremental development fee for the period 1.9.2008 to 31.3.2009, which prima facie appeared to be in excess of what was permitted by Clause 15 of the order dated 11.2.2009 issued by the Director of Education. As per this clause, the school could have recovered only the incremental development fee which resulted as a consequence of increase in tuition fee w.e.f. that date. The school increased tuition fee @ Rs.300 per month for classes Nursery to 8th and Rs. 400 per month and for classes 9th to 12th. The school was charging development fee @ 10% of tuition fee, therefore, the consequential increase in development fee would have been Rs. 30 & Rs. 40 per month respectively. However, the school increased the development fee from 10% to 15% of tuition fee w.e.f. 1.9.2008, which was not permitted by the aforesaid order dated 11.2.2009. The school had admitted this fact vide its written submissions dated 14.12.2016 but has contended that it rightly increased the rate of development fee to 15% of tuition fee w.e.f. 1.9.2008. The school has also submitted that the incremental development fee recovered by it was utilized for payment of the arrears of salary resulting on account of implementation of the recommendations of the 6th pay commission and therefore no adverse influence be drawn against it for this reason.

The Committee has reviewed the calculation sheet prepared by it and observes that even after taking into account the incremental development fee recovered by the school @ 15% of tuition fee, it incurred a deficit after payment of the arrears and increased salary to the staff. In view of this the Committee does not consider it a fit case where the school should be ordered to refund the apparent excessive development fee which amounts to Rs.7,59,130. In view of this the Committee regularize the excessive increase in development fee for the period 1.9.2008 to 31.3.2009.

Detailed order to be passed separately.

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Dr. R.K. SHARMA
MEMBER

J.S.KOCHAR
MEMBER

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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12.10.2018

000177

B-132

St. Michael's S.S. School, Pusa Road, Delhi

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

The only issue in this matter is with regard to recovery of incremental development fee for the period 1.9.2008 to 31.3.2009, which prima facie appeared to be in excess of what was permitted by Clause 15 of the order dated 11.2.2009 issued by the Director of Education. As per this Clause, the school could have recovered only the incremental development fee which resulted as a consequence of increase in tuition fee w.e.f. that date. The arrears of incremental tuition fee for the period 1.9.2008 to 31.3.2009 recovered by the school amounted to Rs.30,10,700. The school was charging development fee @ 10% of tuition fee, therefore, the arrears of consequential increase in development fee would have been Rs. 3,01,070. However, the school increased the rate of development fee from 10% to 15% of tuition fee w.e.f. 1.9.2008, which was not permitted by the aforesaid order dated 11.2.2009. The amount of arrears of tuition fee recovered by the school was Rs.8,55,735. Thus apparently the school recovered a sum of Rs. 5,54,665 in excess of what was permitted by Clause 15 of the circular.

Vide its written submissions dated 15.12.2016, the school contended that the development fee was rightly increased to 15% of tuition fee w.e.f. 1.9.2008 by relying upon Para 14 of the aforesaid order. It is further submitted that the additional increase in development fee was utilized for meeting the shortfall on account of increased salary/arrears on account of implementation of the recommendations of the 6th pay commission and despite recovery of such additional development fee, the school remained in huge deficit, as is apparent from the calculation sheet prepared by the Committee. It is further submitted that in view of the deficit, no order for refund be made.

The Committee has reviewed its calculation sheet and observes that the school indeed remained in deficit even after increasing development fee @ 15% of tuition fee instead of 10%. Although the Committee is not impressed by the argument of the school that increase in development fee @ 15% instead of 10% of tuition fee was permitted by Clause 14 of the order dated 11.2..2009, which applied prospectively for charging of development fee in future and not increasing the development fee in the middle of the session w.e.f. 1.9.2008. The Committee finds that this is not a fit case where the excess amount of Rs.5,54,665 recovered by the school towards development fee for the period 1.9.2008 to 31.3.2009 should be



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Secretary

12.10.2018

000178

ordered to be refunded in view of the large deficit the school incurred on implementation of the recommendations of the 6th pay commission.

Detailed order to be passed separately.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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12.10.2018

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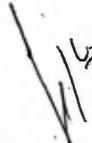
Happy School, Darya Ganj, Delhi

Present: Sh. Shreesh Sharma, Accountant & Sh. P.C. Pandey, Office Incharge of the school.

The authorized representative appearing for the school seeks some time to take instructions from the Principal/Manager of the school as whether to refund the amount of Rs.14,03,812 which the Committee determined as refundable, or not. Accordingly, the matter is adjourned to 16.10.2018 at 11.00 A.M. when either the principal or manager of the school should be present.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

12.10.2018

000180

B-632

St.Colambo Public School, Pitampura, Delhi

Present : Sh. Ramesh Wadhwa, Supervisor of the school.

A request for adjournment has been received from the school on the ground that its principal who was out of India has still not come back and is due to arrive on 15.10.2018. Accordingly, the matter is adjourned to 22.10.2018 at 11.00 A.M.

Sh

Dr. R.K. SHARMA
MEMBER

J.S.

J.S.KOCHAR
MEMBER

Anil Kumar

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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[Signature]
Secretary

12.10.2018

000181

B-296

M.M.Public School, Pitampura, Delhi

Present : Ms. Kavita Garg, LD C of the school.

A request has been received from the school for adjournment for 3 weeks for submission of the documents required by the Committee. As requested the matter is adjournment to 16.11.2018 at 11.00 A.M.

Rh

Dr. R.K. SHARMA
MEMBER

J.S. Kochar

J.S.KOCHAR
MEMBER

Justice Anil Kumar

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary
Secretary

Maxfort School, Pitampura, Delhi

Present : Sh.Sachin Vasusdeva, A.R. & Sh. Manish Hasija, Accountant of the school.

The school has filed a chart showing development fee received from 2006-07 to 2015-16 and also the amount utilized for the purchase of eligible assets and accumulated depreciation on purchase of such assets. As per the chart filed, the school received development fee amounting to Rs.17 lacs in 2006-07, the whole of which was utilized in that year, leaving no balance in the notional development fund account. In 2007-08, the school received Rs. 24,33,383 which was also utilized in full in that year. In 2008-09 also the amount received towards development fee was fully utilized. However, in 2009-10 out of Rs.29,33,805 received by the school as development fee, the utilization was only to the tune of Rs.13,41,363. In 2010-11 as against the receipt of Rs.43,32,302, the utilization was to the tune of Rs.28,98,450. Thus the unutilized balance in the notional development fund as on 31.3.2011 amounted to Rs.30,26,295. The accumulated depreciation up to 31.3.2011 amounted to Rs.26,81,547.

The learned authorized representative appearing for the school submits that the accumulative deprecation has also come from the unutilized development fund and accordingly the unutilized development fund as on 31.3.2011 would have been Rs.3,44,748. Thus a total amount which the school ought to have maintained in earmarked bank accounts or investments would have been Rs.30,26,295 as against which the school had a sum of Rs.25,84,663 in its bank accounts. It is further submitted that so long as the school had sufficient balance in its bank accounts, the requirement to keep the same in earmarked development fund/depreciation reserve fund account would only be a technicality since the school possessed ample funds.

Arguments heard. Recommendations reserved.

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Dr. R.K. SHARMA
MEMBER

Jk

J.S.KOCHAR
MEMBER

A. K. K.

JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

15.10.2018

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B-302

Bharti Public School, Swasthya Vihar, Delhi

Present: Sh.Puneet Batra, Advocate & Sh.H.C. Batra, President of the school.

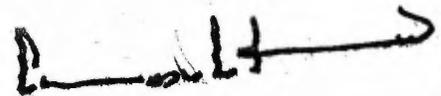
The learned counsel appearing for the school submits on instructions from Sh.H.C.Batra President of the school that the school will file a fresh rebuttal to the calculation sheet prepared by the Committee in supersession of the rebuttal dated 22.12.2016 filed by the school. The same is permitted. The school will file a fresh rebuttal along with necessary supportive documents on or before the next date of hearing. The matter will be taken up for further hearing on 16.11.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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15.10.2018

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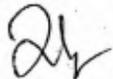
B-427

Vandana International School, Dwarka, Delhi

Present: Sh.Manu R.G.Luthra, C.A., Sh.Hitesh, Accountant & Sh.Sanjeev Kumar, Accountant of the school.

The school had 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 is the contention of the school that the Committee has omitted to consider the fresh infusion of funds by the parent society which were utilized for the aforesaid purpose.

The Committee will prepare a fresh calculation sheet to take on board the contention raised by the school only with respect to this item as the remaining calculation sheet is not disputed by the school. Matter will come up for further hearing on 15.11.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

Green Fields School, Safdarjung Enclave, Delhi

Present : Sh.Sabu Sebastian, Accountant & Sh. Anil Khanna, Member of the society of the school.

The matter was re-fixed for hearing to seek certain clarifications with regard to the submissions made by the school by way of rebuttal to the calculation sheet. The school claims that the following amounts are to be considered while determining the surplus or deficit arising on account of implementation of the recommendations of the 6th pay commission after recovering the arrear fee and hiking the tuition fee and development fee in pursuance to order dated 11.2.2009 issued by the Director of Education :

- A. Four months contribution on account of employers share of contribution to provident fund - Rs.8,65,710.
- B. Gratuity liability of the school to the tune of - Rs.43,39,900.
- C. Incremental expenditure on account of employers share of PF contribution for the year 2009-10 -Rs.40,697.
- D. Amount payable to the parent society- Rs.84,88,380.
- E. Designated funds- Rs.2,36,29,795.

So far as items A & C are concerned , the Committee accepts the contention of the school as there was omission in taking these amounts in the calculation sheet prepared by the Committee.

So far as gratuity liability of Rs.43,39,900 is claimed by the school, the Committee notes that it had already taken into consideration the liability for accrued gratuity as on 31.3.2010 amounting to Rs. 75,79,067 into consideration. It appears that on account of a misunderstanding, the school is claiming the incremental liability in the year 2009-10 by reducing the opening balance as on 1.4.2009 from the accrued liability as on 31.3.2010. We don't see as to how the stand taken by the school will benefit as the Committee has taken the gross amount of accrued liability which is more than what the school is claiming.

So far as the amount payable to the society amounting to Rs.84,88,380 has been examined, the Committee on perusal of the balance sheet of the school notes that the school had capital fund to the tune of Rs.3,90,64,139 as on 31.3.2008 while its investments in capital assets as on that date was amounting to Rs.1,92,95,324. This indicates that part of capital funds were invested in current assets of the school which have already been considered as funds available with the school for implementation of the recommendation of the 6th pay



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Secretary

15.10.2018

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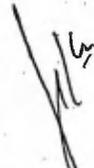
accepts the contention of the school that the amount it owed to the parent society as on 31.3.2008 ought to be reduced from the figure of funds available , as worked out by the Committee.

So far as the designated funds of Rs.2,36,29,795, as claimed by the school is concerned, the Committee observes from the audited Balance Sheet of the school that it comprises of the amounts purportedly set apart by the school for school vehicles and equipments, building maintenance, contingencies, gratuity fund, development fund, staff and student welfare fund and purchase and up gradation of computers and peripherals, however the amount actually held against such designated funds as on 31.3.2008 were FDRs of Rs. 33,82,616 and a saving bank account for gratuity with a balance of Rs.2,35,336. Although the Balance Sheet does not state as to against which funds FDRs are held, the Committee has not included the same in its calculations. Further since the Committee has taken the gross amount of accrued liability of gratuity while determining the funds available with the school, balance in the earmarked saving bank account for this purpose has rightly been included in the funds available with the school. Therefore, the amount which the school actually held against the designated funds already only stands excluded from the calculations. To that extent the claim of the school has already been taken care of in calculation sheet. Since with regard to the remaining designated funds set apart from the profits of the school have not been superficially earmarked, the claim of the school in respect of the balance amount cannot be accepted.

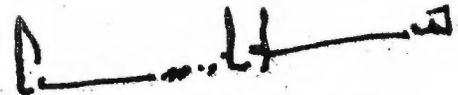
The school claims that it had not created a deprecation reserve fund in the years 2009-10 & 2010-11 under an honest belief that it was not required to be created, the same was created in the subsequent years. The school will produce the audited financials of the year in which such fund was created and also evidence of maintaining earmarked accounts in respect of development fund and deprecation reserve fund. The matter is adjourned to 16.11.2018 for this purpose.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

15.10.2018

000187

B-650

St. Columba's School, Ashok Place, Delhi

Present : Sh. Samuel George, Accountant, Mrs. Renu Rana Jaswal, P.A.
& Sh. J.S. Martins C.A. of the school.

The school has filed written submissions dated 15.10.2018 alongwith the copies of FDRs and balance confirmation certificates from the banks in respect of the two earmarked savings bank accounts against development fund and depreciation reserve fund. It is submitted that the school rectified its earlier errors of treating development fee as a revenue receipt and not creating a development fund and depreciation reserve fund accounts, in the financial year 2017-18. It is submitted that the entire amount of unutilized development fee from 2006-07 till 31.3.2018 and the amount of depreciation charged on eligible fixed assets i.e. furniture and fixtures, and equipments, has been transferred to earmarked FDRs/saving bank accounts. Accordingly, it is submitted that since the school has put aside the funds in earmarked accounts, which include the development fee receipt in 2009-10 and 2010-11 which was provisionally determined to be refundable by the Committee on account of these technicalities, may not be ordered to be refunded as the refund would entail withdrawing money from the earmarked bank accounts.

On the last date of hearing, the school had made a submission that a reserve equivalent of 10% of saving as per Rule 177 accumulated over the years ought to be taken into consideration by the Committee while determining the funds available with the school. However, no calculations were given by the school and it had sought time for giving the calculations. Today the school in its written submissions submitted that as on 31.3.1973 the school had a cash in hand balance of Rs.7784 and a bank balance of Rs.82,906 which if invested on that date would have resulted in a fund of Rs. 47,88,471 taking a notional rate of interest of 12% as on 31.3.2008. The school submits that this amount may be considered as a reasonable reserve, since it has been held by the school before the commencement of the Delhi school Education act 1973.

The committee has considered the submissions made by the school. So far as the refund of development fee received by the school in 2009-10 and 2010-11 is concerned, admittedly the school was not fulfilling the pre conditions laid down by the Hon'ble supreme court in the case of modern school with regard to treating development fee as capital receipt and maintaining earmarked development fund and depreciation reserve fund. However, the committee notes that despite treating development fe as a revenue receipt, the same got capitalized as part of the capital fund of the school as the revenue surplus had been more than the development fee credited to the income and expenditure accounts. Therefore instead of development fund, it got reflected as part of capital fund. The committee considers it a technical



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Secretary

accounting irregularity as the development fee was reflected as a capital fund in the balance sheet of the school and was not consumed for meeting the revenue expenses of the school. The school also utilized the development fee for purchase of eligible fixed assets i.e. furniture and fixtures and equipments which were shown as part of fixed assets i.e. on capital account. The requirement of the school to maintain earmarked development fund and depreciation reserve fund, although not fulfilled in the years 2009-10 & 2010-11, was ultimately fulfilled in the year 2017-18 when the school transferred the accumulated amounts to the earmarked saving bank and fixed deposit accounts.

Therefore the committee considers that any order for refund of development fee for the years 2009-10 and 2010-11 would entail withdrawal of the amount from the earmarked bank accounts and that would not be justified now as the school has complied with the necessary pre conditions for charging of development fee. Therefore the committee accepts the contention of the school that no order for refund of development fee for the years 2009-10 & 2010-11 should be made.

With regard to the reasonable reserve which the school claims, the committee notices that it has already allowed a sum of Rs.1,70,01,313 as a reasonable reserve for future contingencies as against the amount of Rs.47,88,471 claimed by the school. Therefore without discussing the issue whether the amounts held by the school prior to the coming into force of the Delhi School Education Act 1973, the committee considers that it has allowed a greater relief to the school that it had actually asked for and no further relief can be allowed on this issue.

The school has not disputed the part of calculation sheet vide which it was determined that the school had sufficient funds of its own out of which it could have paid the arrear salary as well as the incremental salary for the year 2009-10 and therefore it did not require to recover any arrear fee from the students or increase tuition fee and development fee w.e.f. 1.9.2008. The school has also conceded that the reserves already available with the school had to be utilized for the purpose of implementation of the recommendations of the 6th pay commission and any shortfall which the school would incur was required to be met out of the arrear fee incremental fee as per order dated 11.2.2009 issued by the Director of Education. The Committee has determined and in fact the school has admitted that the following amounts were recovered by it pursuant to order dated 11.2.2009 towards arrears fee and incremental fee:

- A. Arrear of tuition fee from 1.9.2008 to 31.3.2009 -Rs.57,75,891.
- B. Arrear of development fee for the period 1.9.2008 to 31.3.2009- Rs.29,25,461 .
- C. Incremental tuition fee for the year 2009-10 Rs. 1,20,95,100.



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Secretary

15.10.2018

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The aggregate of the above amounts to Rs. 2,07,96,452. The authorized representative appearing for the school submits that he will seek instructions from the school management as to how this amount is to be refunded to the students and accordingly seeks sometime.

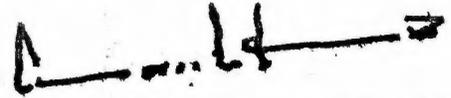
The matter is adjourned to 1.11.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

15.10.2018

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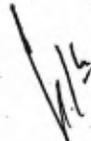
Vivekanand School, D-Block, Vivek Vihar, Delhi

Present : Sh. Manu R.G. Luthra, Chartered Accountant with Sh. Pradyumn Ahuja, Chairman of the School.

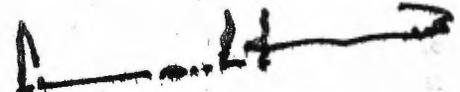
The Committee had noticed on the last date of hearing that the school had filed revised information sheet with regard to different component of fee and salary, duly reconciled with Income & Expenditure Account after the hearing was concluded. It was also noticed that the Committee had not considered the accrued liability of gratuity and leave encashment and reserve required for future contingencies after taking notice of them in the calculation sheet as the net current asset + investments were in negative zone, indicating that the school had diverted its fee revenues either for creating capital assets or transfer to parent society and the said facts could not be verified as the school had not been filing its Receipt and Payment Accounts as part of its audited financials. Today the school has filed its unaudited Receipt and Payment Accounts for the years 2006-07 to 2010-11. Accordingly a fresh calculation sheet is required to be prepared on the basis of the revised information sheet furnished by the school and its audited financials including Receipt and Payment Accounts. The matter is adjourned to 19/11/2018 at 11.00 a.m.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

16.10.2018

000191

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

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

In the matter of

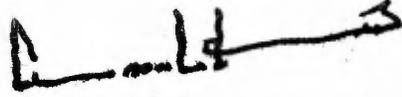
**Kalka Public School,
Alaknanda, Delhi (B-665)**

And in the matter of

**Application dated 13.07.2018 for
reconsideration / review of
recommendations dated 11.04.2017
in the matter of school.**

Present: Sh.Mubarak Hussain, Accountant of the school

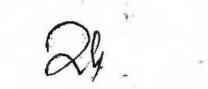
Arguments heard. Order reserved.



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



**J.S.KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**



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16.10.2018

000192

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

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

In the matter of

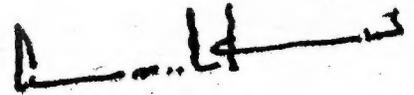
**Dev Samaj Modern School No.2,
Sukhdev Vihar, Delhi (B-378)**

And in the matter of

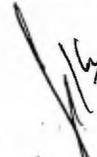
**Application dated 13.07.2018 for
reconsideration / review of
recommendations dated 31.01.2018
in the matter of school.**

Present: Sh.Mubarak Hussain, Accountant of the school

Arguments heard. Order reserved.



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



**J.S.KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**



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16.10.2018

000193

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

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

In the matter of

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

And in the matter of

**Application dated 13.07.2018 for
reconsideration / review of
recommendations dated 31.01.2018
in the matter of school.**

Present: Sh.Mubarak Hussain, Accountant of the school

Arguments heard. Order reserved.

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

**J.S. KOCHAR
MEMBER**

**R.K. SHARMA
MEMBER**



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16.10.2018

000194

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

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

In the matter of

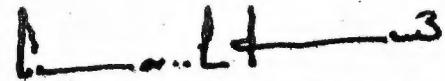
**Bharti Public School,
Mayur Vihar, Delhi (B-301)**

And in the matter of

**Application dated 27.08.2018 for
reconsideration / review of
recommendations dated 20.03.2018
in the matter of school.**

Present: Sh.Mridul, Admn. Officer of the school.

An application has been filed on behalf of the school seeking adjournment on the ground that the counsel appearing to the school is indisposed. Accordingly, the matter is adjourned. The matter will come up for further hearing on 19.11.2018.



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



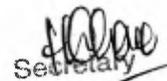
**J.S. KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**



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16.10.2018

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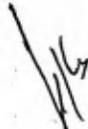
Mount Abu Public School, Rohini, Delhi

Present: Sh. Brij Mohan, Care Taker of the school

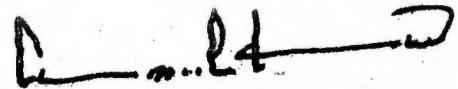
An application has been filed on behalf of the school seeking adjournment on the ground that the counsel appearing to the school is indisposed. Accordingly, the matter is adjourned. Matter will come up for hearing on 27.11.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



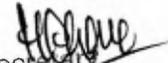
J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

16.10.2018

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B-414

Jindal Public School, Dashrathpuri, Delhi

Present: Sh.Mubarak Hussain, Accountant, Sh. Banne Singh, UDC & Sh.Sansar Katoch. Accountant of the school.

The authorized representative appearing for the school submits that the calculation sheet prepared by the Committee is based on the Receipt and Payment Accounts which were filed by the school which itself were defective and as such errors have crept in the calculation sheet prepared by the Committee. He seeks some time to file correct Receipt and Payment Accounts. Accordingly, the matter is adjourned to 28.11.2018 at 11.00 A.M.



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



**J.S.KOCHAR
MEMBER.**



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



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16.10.2018

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B-406

Happy School, Darya Ganj, Delhi

Present : Sh.Shreeshi Sharma, Accountant & Sh. P.C. Pandey Office Incharge of the school.

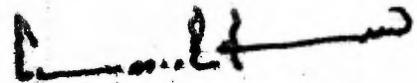
The matter was adjourned for today to enable the authorized representative who appeared for the school to get instructions as to whether the refund of Rs.14,03,812 would be made during the course of hearing or not. An application has been filed today seeking some further time in view of the holidays that have intervened. Accordingly the matter is adjourned to 16.11.2018 at 11.00 A.M.



Dr. R.K. SHARMA
MEMBER



J.S.KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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Secretary

22.10.2018

000198

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

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

In the matter of

**Ahlcon International School
Mayur Vihar, Delhi (B-348)**

And in the matter of

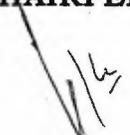
**Application dated 22.10.2018 for
reconsideration / review of
recommendations dated 22.03.2017
in the matter of school.**

Present: : Sh. Rahul Jain Chartered Accountant and Sh. Nitin Goel
Chartered Accountant and Ms. Anita Negi, Accountant Assistant of the
school

Arguments heard. Order reserved.



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



**J.S. KOCHAR
MEMBER**



**R.K. SHARMA
MEMBER**



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22.10.2018

000199

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

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

In the matter of

**Sant Nirankari Public School
Nirankari Colony, Delhi (B-541)**

And in the matter of

**Application dated 22/10/2018 for
reconsideration / review of
recommendations dated 21/03/2018
in the matter of school.**

Present: Ms. Sonia, LDC and Ms. Madhu Manocha, Accountant of the school.

The authorized representatives appearing for the school seeks more time as the school is in process of working out the exact amount which would be refundable to the student pursuant to the recommendations of the Committee dated 21/03/2018. The matter is accordingly adjourned to 28/11/2018.



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



**J.S. KOCHAR
MEMBER**



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**R.K. SHARMA
MEMBER**

22.10.2018

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B-564

Columbia Foundation School, Vikas Puri, New Delhi

Present: Sh. Pradeep Singh, Head Clerk of the school.

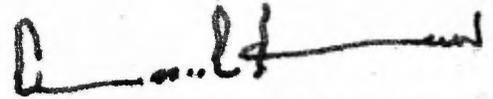
An application has been filed on behalf of the school seeking adjournment on the ground that its CA has been preoccupied in the tax matter and therefore could not appear today. As requested the matter is adjourned to 26/11/2018.



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



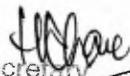
**J.S. KOCHAR
MEMBER**



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



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Secretary

22.10.2018

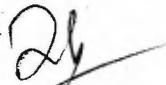
000201

B-335

Bhai Parmanand Vidya Mandir, Surya Niketan, Delhi

Present: Sh. Rahul Jain, Chartered Accountant and Sh. Nitin Goyal, Chartered Accountant of the school.

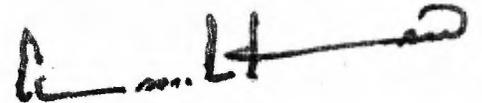
The school again seeks adjournment on the ground that Sh. Mahender Singh, Advocate who is one of Member of the Managing Committee is not yet prepared to make submissions before the Committee. Application filed is allowed. Matter will come up for further hearing on 26/11/2018.



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



**J.S. KOCHAR
MEMBER**



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



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22.10.2018

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B-177

Bloom Public School, Vasant Kunj, Delhi

Present : Ms. Tarveen Kaur, Manager of the school.

The school has filed written submissions dated 22.10.2018 stating that the school was maintaining earmarked FDRS against Depreciation Reserve Fund and in support of its contention, it has filed copies of the extract of the balance sheet and copies of the ledger accounts and FDRs.

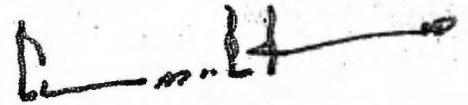
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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22.10.2018

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B-632

St. Colombo Public School, Pitampura, Delhi

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

The school has filed written submissions dated 22.10.2018 in rebuttal of the revised calculation sheet prepared by the Committee. The school has 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 is in order. As regard the diversion of fee towards capital expenditure, the school submits 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 observes that the school has 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 is present at the time of hearing, submits that although the figures worked out by the Committee for these two years are 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.

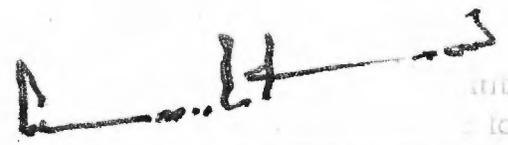
Arguments heard. Recommendations reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON



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