

**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  
 December 2016**

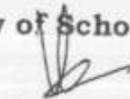
Index			
S.N.	Particulars		Page No.
(a)	Cause List of the cases taken up in December 2016 on 01.12.2016, 06.12.2016, 07.12.2016, 08.12.2016, 14.12.2016, 15.12.2016, 22.12.2016 and 23.12.2016		01 to 02
(b)	Miscellaneous/ Interim orders passed in December 2016 on above dates		03 to 58
(c)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	07.12.2016	Review application of Cambridge Primary School, New Rohtak Road (B-690) allowed on account of procedural lapses and order dated 11.09.2015 set aside. Matter to be reconsidered
	2	15.12.2016	Review application of National Public School, Jhilmil Colony, Shahdara (C-397) disposed off as not maintainable
	3	15.12.2016	Review application of St. Krishna Bodh Public School, Main Mandoli Road, West Nathu Colony (C-118) disposed off as not maintainable
	4	15.12.2016	Review application of Indraprastha World School, A-2 Block, Paschim Vihar (B-75) disposed off as not maintainable
	5	15.12.2016	Recommendation in respect of Richmondd Global School, Paschim Vihar (B-556) recommending refund of unjustified fee alongwith 9% interest
	6	22.12.2016	Review application of Puneet Public School, Vishwas Nagar (B-213) disposed off as not maintainable
	7	22.12.2016	Review application of Bhatnagar International School, Vasant Kunj (B-88) disposed off as not maintainable
	8	22.12.2016	Review application of Manav Sthali School, New Rajinder Nagar (B-118) disposed off as not maintainable
	9	23.12.2016	Recommendation in respect of Apeejay School, Saket (B-106) recommending refund of unjustified fee alongwith 9% interest

**Place:** DELHI

**Date:** 22-05-2017

**Secretary**

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



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

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

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Cause List for Thursday 1st December 2016

Regular Matters		
S. No.	Cat. No.	School Name & Address
1	B-456	Little Angels Sr. Sec. Public School, Paschim Vihar
2	B-474	Green Fields School, Safdarjung Enclave
3	B-132	St. Michael's S.S.School, Pusa Road
4	B-347	Ever Green Public School, Vasundhara Enclave
5	B-180	St. Paul's School, Safdarjung Development Area

Cause List for Tuesday 6th December 2016

Regular Matters		
S. No.	Cat. No.	School Name & Address
1	B-566	Bal Bharti Public School, Sector-12, Dwarka
2	B-414	Jindal Public School, Dashrath Puri, Dwarka
3	B-402	Gitarattan Jindal Public School, Sect.7, Rohini
4	B-249	G.D. Goenka Public School, A-2 Paschim Vihar
5	B-427	Vandana International School, Sect.10, Dwarka

Cause List for Wednesday 7th December 2016

Regular Matters		
S. No.	Cat. No.	School Name & Address
1	B-187	Balwantray Mehta Vidya Bhawan, GK-II
2	B-348	Ahlicon International School, Mayur Vihar Phase-I
3	B-492	G.D. Goenka Public School, Sect.22, Rohini
4	B-608	Cambridge Primary School, Darya Ganj
5	B-690	Cambridge Primary School, New Rohtak Road

Cause List for Thursday 8th December 2016

Regular Matters		
S. No.	Cat. No.	School Name & Address
1	B-444	C.L.Bhalla Dayanand Model School, Karol Bagh
2	B-424	Pragati Public School, Sect.13, Dwarka
3	B-500	Sahodaya Sr. Sec. School, Safdarjung Dev. Area
4	B-300	Adharshila Vidya Peeth, CD Block, Pitampura
5	B-302	Bharti Public School, Swasthya Vihar
6	B-656	St. Thomas Girls S. S. School, Mandir Marg

Cause List for Wednesday 14th December 2016

Regular Matters		
S. No.	Cat. No.	School Name & Address
1	B-389	B.G.S International Public School, Sect.5, Dwarka
2	B-341	Starex International School, Vasundhara Enclave
3	B-455	Bosco Public School, Paschim Vihar
4	B-539	Rosary Sr. Sec. School, Kingsway Camp
5	B-95	Modern Convent School, Sector 4, Dwarka
6	B-566	Bal Bharti Public School, Sector-12, Dwarka

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**Cause List for Thursday 15th December 2016**

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**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-406	Happy School, Darya Ganj
2	B-438	Springdales School, Dhaula Kuan
3	B-541	Sant Nirankari Public School, Nirankari Colony
4	B-556	Richmond Global School, Paschim Vihar
5	B-132	St. Michael's S.S.School, Pusa Road
6	B-347	Ever Green Public School, Vasundhara Enclave

**Review Applications**

S. No.	Cat. No.	School Name & Address
1	C-118	St. Krishna Bodh Public School, West Nathu Colony
2	B-88	Bhatnagar International School, Vasant Kunj
3	B-118	Manav Sthali School, New Rajinder Nagar
4	B-10	Universal Public School, Preet Vihar
5	B-618	Mount Carmel School, Anand Niketan
6	B-388	Mount Carmel School, Dwarka
7	B-147	N.K. Bagrodia Public School, Sector-4, Dwarka
8	B-75	Indraprastha World School, Paschim Vihar
9	B-615	Maxfort School, Parwana Road, Pitampura
10	C-397	National Public School, Jhilmil

**Cause List for Thursday 22nd December 2016**

**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-185	Chinmaya Vidyalaya, Vasant Vihar
2	B-231	Vivekanand Public School, B-Block, Anand Vihar
3	B-435	Ramjas School, Pusa Road
4	B-145	Somerville School, Vasundhara Enclave
5	B-488	Queen Mary's School, Sect.25, Rohini
6	B-414	Jindal Public School, Dashrath Puri, Dwarka
7	B-402	Gitarattan Jindal Public School, Sect.7, Rohini
8	B-427	Vandana International School, Sect.10, Dwarka
9	B-348	Ahlcon International School, Mayur Vihar Phase-I
10	B-444	C.L.Bhalla Dayanand Model School, Karol Bagh
11	B-656	St. Thomas Girls S. S. School, Mandir Marg
12	B-302	Bharti Public School, Swasthya Vihar

**Cause List for Friday 23rd December 2016**

**Regular Matters**

S. No.	Cat. No.	School Name & Address
1	B-356	Notre Dame School, BTPS Staff Colony, Badarpur
2	B-560	Mamta Modern School, Vikas Puri
3	B-456	Little Angels Sr. Sec. Public School, Paschim Vihar
4	B-474	Green Fields School, Safdarjung Enclave
5	B-180	St. Paul's School, Safdarjung Development Area
6	B-424	Pragati Public School, Sect.13, Dwarka

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01/12/2016

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B-456

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

Present: Ms. Monisha Sengar, Principal, Mr. Dilip Kumar Lal, Accountant, Mr. Naveen Bhardwaj, PET of the school.

The authorized representatives appearing for the school have filed the fee and salary statement in respect of the pre primary school today. A statement showing the mode of payment to the pre primary school teachers has also been furnished. It is submitted that the school paid a total amount of Rs. 1,00,000 as arrear salary to the teachers of pre primary school as the total collection of arrear fee was only Rs. 1,14,205. However, it is conceded that the entire amount of arrear salary, purportedly paid was in cash. It is also conceded that even the regular salary of the teachers of pre primary school had been paid in cash in the year 2008-09 and also in the year 2009-10 after the recommendations of VI Pay Commission were purportedly implemented. In respect of the senior school, the audit officer of the Committee has verified the payment of arrear salary which is paid by crossed account payee cheques. Calculation sheet to be prepared. To come up for further hearing on 21/12/2016 at 11.00 a.m.

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Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR

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MEMBER

Justice Anil Kumar (Retd.)

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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01/12/2016

B-474

Green Fields School, Safdarjung Enclave, New Delhi

Present: Sh. Sabu Sebastin, Accountant of the school.

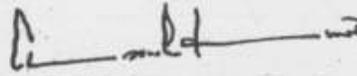
A copy of the calculation sheet prepared by the Committee has been furnished to authorized representative appearing for the school. Prima facie, it appears that the school had sufficient funds of its own and no fee hike was required for implementation of recommendations of VI Pay Commission. The school may file its rebuttal, if any. Matter will come up for hearing on 21/12/2016 at 11.00 a.m.



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



**J.S. KOCHAR**  
MEMBER



**JUSTICE ANIL KUMAR (Retd.)**  
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01/12/2016

000005

B-132

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

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

While preparing the calculation sheet, the Committee had noticed that there were some transactions with St. Michael's Junior School, Prasad Nagar, New Delhi and the school was requested to furnish the financials of that school also. The authorized representative has filed a letter dated 29/11/2016 signed by the Principal of the school vide which it is submitted that the junior school at Prasad Nagar is not part of St. Michael Sr. Sec. School and their school administration and management are entirely different. Therefore, it is submitted that the school does not have the financial statements of the junior school. In fact no transaction that has taken place with the junior school but the bank wrongly credited fee of some of their students to the account of the Sr. Sec. School which were subsequently reversed. The school has filed a copy of its ledger account with junior school for the period 01/04/2007 to 31/03/2011 which showed only the fee credited by the bank to the account of Sr. Sec. School. The Committee has perused the copy of the ledger account along with copies of the bank statements of school showing wrongful credits to their account by the bank.

It is also submitted that the feeder school of the Sr. Sec. School is the KG school whose financials are including in the financials of the parent society which the school has already furnished. The Committee is satisfied with this explanation. In the calculation sheet prepared by the Committee, the financials of the KG school have already been incorporated. The only issue in this case is regarding recovery of arrears of development fee for the period 01/09/2008 to 31/03/2009 that is the recovery of the same @ 15% of tuition fee when the school was charging development fee @ 10% of tuition fee in the year 2008-09. The authorized representative of the school seeks an opportunity to say something in rebuttal. Accordingly a copy of the calculation sheet is provided to him. The school may make its submission only on this limited aspect. Matter to come up for final hearing 15/12/2016 at 11.00 a.m.

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Dr. R.K. SHARMA  
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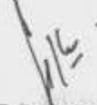
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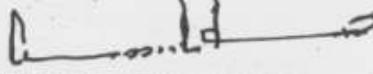
Ever Green Public School, Vasundhara Enclave, New Delhi

Present: Sh. Vipul Jain, Assistant and Sh. Vishal Kashyap, Assistant,  
of CA firm on behalf of the school.

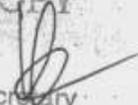
The authorized representative of the school has filed a letter  
seeking adjournment on account of their being a family function today.  
As requested, the matter will come up for hearing on 15/12/2016 at  
11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
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01/12/2016

000007

**B-180**

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

Present: Sh. Jose P.T., Accountant, Sh. Roy T. Thomas, Accountant,  
Sh. K.K. Khanna, CA of the school.

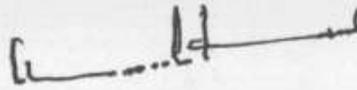
The school has filed letter dated 30<sup>th</sup> Nov. 2016 contending that there was a huge shortfall on account of implementing the recommendations of VI Pay Commission. The information furnished by the school regarding fee and salary under cover of its letter dated 25/05/2015 is ex facie incorrect as the 50% of the lump sum for the period 01/01/2006 to 31/08/2008 is shown as nil in 2008-09 whereas in the detail of arrear collection for 2008-09 filed by the school, it is shown as 17,16,588. The arrears of tuition fee for the period 01/09/2008 to 31/03/2009 is shown to be 24,43,700 and the arrear of development fee for the period 01/09/2008 to 31/03/2009 are shown to be Rs. 2,64,121 whereas the same as noted in the previous hearing the arrears of tuition fee for this period were @ Rs. 3100 while that of development fee was Rs. 2925. In the statement of arrear collection for 2008-09 also, the collection of arrears of development fee are shown to be Rs. 17,16,932. The authorized representative seeks some time to file a revised statement. The same may be filed within 15 days. Matter to come up for hearing on 21/12/2016 at 11.00 a.m.



**Dr. R.K. SHARMA**  
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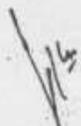
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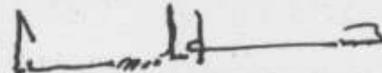
B-566

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

An application has been filed on behalf of the school seeking more time to compile the information as the Manager of the school is ill. Vide notice dated 20.09.2016 the Committee had not sought any further information except for the mode of payment of salary in the years 2008-09 and 2009-10. On the last date of hearing also an adjournment application was filed. The matter is now adjourned to 14th. Dec . 2016 at 11.00 A.M.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
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06.12.2016

000009

B-414

Jindal Public School, Dashrath Puri, Dwarka, Delhi

Present : Sh. Uttam Singh, Principal, Sh. Manava Prem, CA, Sh. Govind, CA, Sh. Arvind Kumar Singh, Accountant & Sh. Banse Singh UDC of the school.

The school has furnished a revised fee and salary statement today. This statement again does not reflect the arrears of tuition fee and arrears of development fee recovered separately for separate periods which were mentioned in the notice issued by this Committee on 22<sup>nd</sup> May 2015. In respect of arrears of salary also the school has not furnished the details of payment year wise and for different periods as per the format given by the Committee.

The information furnished by the school with regard to the payment of arrear salary on 11.6.2015 and that furnished to be are also contradictory. In the information furnished earlier certain payments were made to three teachers, were shown as arrear salary. However, in the information furnished on 8.11.2016 alongwith which a certificate of Oriental bank of Commerce was enclosed certifying that payment was made by transfer by a/c payee cheque, though the particulars of cheque have been mentioned in the bank statement has also the date of debits with the bank accounts are mentioned, but the amount shown as arrear payment is nil. In the information furnished by the school on 11.6.2015 there were shown as part of arrear payments and the amount are highlighted in the bank statement.

The school has also given its calculation in respect of the increase in development fee for different classes which on the face of it is about 36% of the increase in tuition fee for the period 0.1.9.2008 to 31.3.2009. As per the calculation submitted by the school the school recovered the differential amount of development fee @ 5% for the period 01.4.2008 to 31.8.2008 also in addition to the arrears for the period 1st Sept. 2008 to March 2009. The authorized representatives contend that this was done as per the school was charging development fee @ 10% and the same was hiked to 15% w.e.f 0.1.4.2008, purportedly in accordance with the order dated 11.2.2009 of the Directorate of Education.

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**06.12.2016**

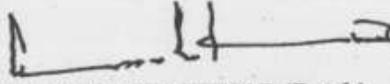
in view of the contradictory information being given by the school vide its different written submissions the information given by the school cannot be relied upon at its face value.

The school has already been given ample opportunities to furnish the correct information as per the notice issued by the Committee on 22<sup>nd</sup> May 2015 and again during the course of hearing. The committee is not inclined to give any further time to the school. However, in case the school feels it desirable, it may furnish the correct information as per the format given by the Committee without any modifications therein, within 3 days.

The matter will come up further hearing on 22.12.2016 at 2.30 p.m.

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

  
**J.S. KOCHAR**  
MEMBER

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

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06.12.2016

B-402

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

Present : Sh.R.N. Jindal, Chairman, Ms.Niti, Accountant, Ms. Seema, Accts Asstt. of the school.

Sh. R. N. Jindal , Chairman of the school submits that the information asked for by the Committee on 9.11.2016 could not be prepared on account of illness of his daughter and seeks some more time to furnish the same As requested the matter will come up for further hearing on 22.12.2016 at 2.30 p.m. The information may be furnished before the next date of hearing.

*Sh*

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

*J/S*

**J.S.KOCHAR  
MEMBER**

*Anil Kumar*

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

*Recd  
Anil*

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*[Signature]*  
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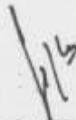
G.D. Goenka Public School, Paschim Vihar, Delhi

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

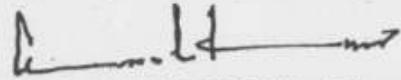
Arguments heard. Recommendations reserved.



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



**J.S. ROCHAR**  
MEMBER



**JUSTICE ANIL KUMAR (Retd.)**  
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06.12.2016

B-427

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Vandana International School, Sector-10, Dwarka, Delhi

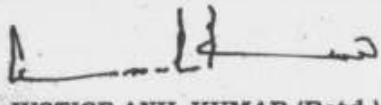
Present : Sh. Manu R.G. Luthra CA and Sh.Kumar Accountant of the school.

The Committee has examined the books of accounts of Ved Educational Welfare Society for the year 2006-07 and has observed that almost entire cash accrual with the society is on account of corpus donations. The authorized representatives contend that these such donations are not linked with the admission of the student of the school,

The Committee has examined the audited financials of the school and finds that the school had taken heavy amounts from the student for creation of its fixed assets. The loans and interest thereon are being paid out of the revenues of the school which are only the fee receipts from the students except for a miniscule amount received with bank interest. Based on the information furnished by the schools and its audited financials, the Committee has prepared a calculation sheet and consider the amount of loans and interest as diversion for incurring capital expenditure. As per the calculation sheet, the school has apparently recovered more fee than was required to the financial aspect of the recommendations of the 6<sup>th</sup> pay commission . Copy of the calculation sheet has been furnished to the authorized representatives appearing for the school for rebuttal if any. Matter to come up for further hearing on 22.12.2016 at 2.30 p.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
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07.12.2016

000014

B-187

**Balwantray Mehta Vidya Bhawan, GK-II, New Delhi**

Present : GP Capt. S.C. Bahri, Director, Smt. Geeta Mallick, Coordinator, Mr. Piyush Tyagi, Office Asstt., Ms. Alka Sharma, Accountant of the school.

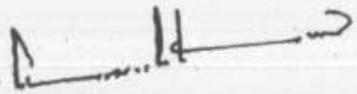
The authorized representatives appearing for school submit that the calculation sheet prepared by the Committee is based on the balance sheet and information regarding incremental fee and salary of one school i.e. ASMA (Angoori Devi Sher Singh Memorial Academy). They submit that this is just a part of Balwantray Mehta Vidya Bhawan school which has been recognized by Directorate of Education as an integrated school comprising general and physically handicapped children. A copy of the recognition letter has been filed today. They further submit that there are two more units of the integrated school namely a special wing and IEDS ( Integrated Education for Disabled students). They submit that the accounts of these two units are prepared separately and are not part of ASMA. It is further submitted that the balance sheets of these three individual units are consolidated into the balance sheet of the parent society i.e. Servants of People Society, GK-II, New Delhi and therefore, the consolidated balance sheet of the society should be taken as the basis for calculation.

The Committee notes that the entire information provided by the school in response to the notice dated 13/05/2015 was in respect of ASMA and the school also filed balance sheets of only ASMA. The Committee also notes that the school had been filing balance sheets and other returns of only ASMA under Rule 180 of the Delhi School Education Rules, 1973. The plea of the school being an integrated one comprising of two more units had never been taken earlier nor any record in respect there off is available in the file of the school.

Be that as it may, since the school has been recognized as an integrated school, the Committee is of the view that the relevant calculations need to be made in respect of the integrated school comprising all the three units. The school is directed to file the audited financials of the integrated school as consolidated in the balance sheet of the parent society as well as the information sought vide notice dated 13/05/2015. The same may be done within four weeks. Fresh calculation sheet to be prepared thereafter.

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

  
**J.S.KOCHAR**  
MEMBER

  
**JUSTICE ANIL KUMAR (Retd.)**  
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07.12.2016

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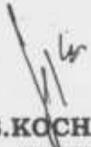
B-348

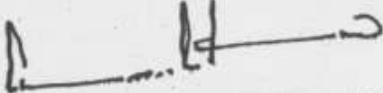
Ahlcon International School, Mayur Vihar, Phase-I, New Delhi

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

The authorized representative appearing for the school has been provided with copy of the preliminary calculation sheet prepared by the Committee, as it appears that the school would be required to make a refund of fee. The submission in rebuttal of calculation sheet may be filed within two weeks. Matter will come up for further hearing on 22/12/2016 at 2.30 p.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
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07.12.2016

.. 000016

B-492

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

Present: Sh. Vipul Garg, Chairman, Sh. Mahavir Garg, V. Chairman, Sh. Deepak Kumar, Accountant, Sh. Mubarak Hussain, Accounts Asstt. of the school.

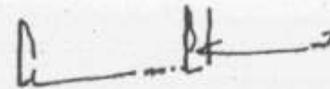
Pursuant to the directions given on the last date of hearing, the school has filed receipt and payment account of the school for the years 2007-08 to 2010-11. This direction was given as the school has contended that it started functioning from 2007-08 only. However, the Committee observes from the receipt and payment account for the year 2007-08 that the school had cash and bank balances amounting to Rs. 1,37,21,435 as opening balance on 1<sup>st</sup> April 2007. Obviously, the school was either in operation before 01/04/2007 or had generated funds in the year prior to 2007-08. The school is required to file its complete audited financials (including Receipt and Payment Account) since the year it started collecting funds. This may be done within ten days. The Committee also observes that the school has treated the contribution made by the parent society to it for establishment of its infrastructure as an unsecured loans and not as corpus fund. The unsecured loans seems to have been repaid in the subsequent years. The school will provide the source of repayment of both the secured as well as unsecured loans made by it from the year of its establishment i.e. the year when it started collected funds upto 31/03/2011. The school has also furnished its explanation regarding the arrears of development fee charged for the period 01/09/2008 to 31/03/2009. Vide its written submission dated 23/11/2016, it is submitted that from 01/04/2008 to 31/08/2008, the school charged a fixed amount of development fee of Rs. 5100 for all the classes i.e. pre school to VIII. However, w.e.f. 01/09/2008, it increased the development fee to 15% and recovered the differential amount as arrears for the period 01/09/2008 to 31/03/2009. During the course of hearing, the authorized representatives appearing for the school however, have clarified that Rs. 5100 was not development fee for the period 01/04/2008 to 31/08/2008 but for the whole year 01/04/2008 to 31/03/2009 which was recovered in advance in the month of April 2008. After the receipt of the aforesaid documents from the school, calculation sheet to be prepared. The date of next hearing will be intimated in due course.



Dr. R.K. SHARMA  
MEMBER

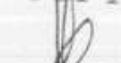


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

07.12.2016

000017

B-608

Cambridge Primary School, Darya Ganj, New Delhi

Present: Sh. Ravi Arora, Office Asstt. of the school.

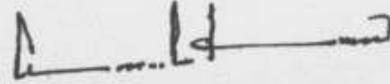
Pursuant to the application seeking review of the original recommendations dated 11/09/2015 filed by the school, the order has been set aside vide detailed order passed separately. The proceeding will start afresh from the stage of non delivery of notice dated 26/05/2015. The authorized representatives appearing for the school have been furnished the copy of notice for compliance within 4 weeks. After the receipt of the required information from the school, a fresh date will be notified for hearing the matter. The future notices will be sent at the address of the parent society.



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

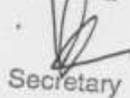


**J.S. KOCHAR  
MEMBER**



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

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Secretary



07.12.2016

000018

B-690

Cambridge Primary School, New Rohtak Road, New Delhi

Present: Ms. Purnima Mehta, Ex Headmistress of the school.

Pursuant to the application seeking review of the original recommendations dated 11/09/2015 filed by the school, the order has been set aside vide detailed order passed separately. The proceeding will start afresh from the stage of non delivery of notice dated 26/05/2015. The authorized representative appearing for the school have been furnished the copy of notice for compliance within 4 weeks. After the receipt of the required information from the school, a fresh date will be notified for hearing the matter. The future notices will be sent at the address of the parent society.

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Dr. R.K. SHARMA  
MEMBER

14

J.S.KOCHAR  
MEMBER

14

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



08.12.2016

000019

B-444

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

Present: Ms. Sharda Rani, Principal & Sh. B.K. Awasthi, UDC of the school.

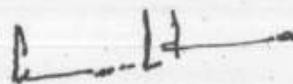
Consequent to the directions given to the school vide order dated 8.11.2016, the school filed a letter dated 10.11.2016 along with copies of 3 circulars dated 3.2.2009, 2.3.2009 & 17.2.2010, regarding recovery of fee arrears pursuant to order dated 11.2.2009 issued by the Director of Education. The authorized representatives appearing for the school have clarified that initially the school hiked the fee w.e.f. 1.1.2009 by Rs. 300 p.m. and the recovery of arrears of Rs.900 for the period January 2009 to March 2009 was made during the financial year 2008-09. Besides the school also recovered the first installment of Rs.1500 towards lump sum fee arrears for the period 01.1.2006 to 31.08.2008. This circular was issued on the basis of a decision taken by the DAV College Managing Committee, even before the order dated 11.2.2009 was issued by the Director of Education. After the aforesaid order dated 11.2.2009 was issued, the school recovered the arrears of tuition fee for the period Sept. 2008 to Dec. 2008 amounting to Rs. 1200 per student and circular to this effect was issued to the parents on 17.2.2010. However, the recovery of full amount of arrears from Sept. 2008 to March 2009 from the students of class 10<sup>th</sup> and 12<sup>th</sup> was made during 2009 itself pursuant to another circular dated 2.3.2009 issued by the school. The second installment of the lump sum fee arrear amounting to Rs. 1500 was also recovered in the year 2009-10.

Thus effectively the school hiked the tuition fee by Rs. 300 per month w.e.f. 01. Sept. 2008 for all the classes. The arrears for Spt. 2008 to March 2009 amounting to Rs. 2100 was recovered at different stages. The lump sum fee arrears for the period 1.1.2006 to 31.8.2008 were also recovered in two installments of Rs. 1500 each.

Calculation sheet to be prepared. Matter to come up for further hearing on 22.12.2016 at 2.30 p.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



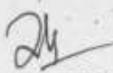
08.12.2016

B-424

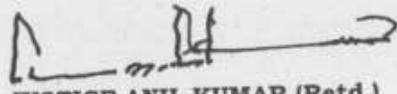
Pragati Public School, Sec. 13, Dwarka, Delhi

000020

An application has been filed on behalf of the school seeking adjournment on account of non availability of the authorized representatives of the school. The Committee observes, the school has been seeking adjournment for one reason or the other and not filing the information for which itself sought adjournment. The school has not been producing its books of accounts, fee and salary records despite specifically asked to do so. One last opportunity is given to the school to furnish the information for which it itself sought adjournment and to produce the books of accounts and fee and salary records. Matter will be heard on 21.12.2016 at 11.00 A.M.

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

  
**J.S. KOCHAR**  
MEMBER

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

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Secretary

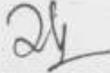


08.12.2016

B-500 000021

Sahodaya Sr. Sec. School, Safdarjung Dev. Area, Delhi

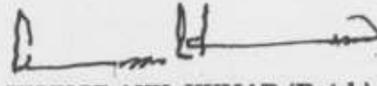
An application has been filed on behalf of the school seeking adjournment for a date in the 2<sup>nd</sup> week of January 2017 on account of the illness of the Accountant of the school and the ensuing winter vacation. Fresh date of hearing will be intimated to the school in due course.



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

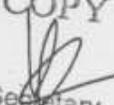


**J.S. KOCHAR**  
**MEMBER**



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

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Secretary



08.12.2016

000022  
B-300

Adharshila Vidya Peeth, CD Block, Pitampura, Delhi

Present : Sh. Byomakesh Mishra, Principal, Ms. Ruchika Khattar, Teacher, Sh. Vijay Kumar Sharma, Accountant & Ms. Pooja Aggarwal, Consultant of the school.

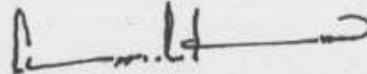
Copy of the preliminary calculation sheet prepared by the Committee has been given to the authorized representatives appearing for the school as prima facie it appears that the school recovered more fee than which was required and it may have to make a refund. Submissions in rebuttal may be filed by 22.12.2016 . A fresh date of hearing will be intimated to the school in due course.



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

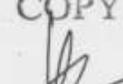


**J.S. KOCHAR**  
MEMBER



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

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Secretary



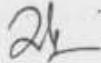
08.12.2016

B-302 000023

Bharti Public School, Swasthya Vihar, Delhi

Present: Sh. HC. Bhalla, President & Sh. Puneet Batra, Advocate of the school.

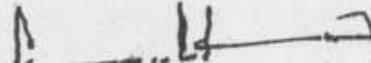
Copy of the preliminary calculation sheet prepared by the Committee has been given to the authorized representatives appearing for the school as prima facie it appears that the school recovered more fee than which was required and it may have to make a refund. Submissions in rebuttal may be filed on or before the next date of hearing. Matter will come up for further hearing on 22.12.2016 at 2.30 p.m.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



08.12.2016

000024

B-656

St. Thomas Girls S.S. School, Mandir Marg, Delhi

Present : Sh. R.K. Khanna, C.A. & Sh. Vinod Kr. Accountant of the school,

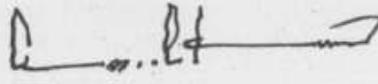
Copy of the revised calculation sheet prepared by the Committee has been given to the authorized representatives appearing for the school as prima facie it appears that the school recovered more fee than which was required and it may have to make a refund. Submissions in rebuttal may be filed on or before the next date of hearing. Matter will come up for further hearing on 22.12.2016 at 2.30 p.m.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



14.12.2016

000025

B-389

B.G.S. International Public School, Sec.5, Dwarka, Delhi

Present: Sh. Boregowda G.D. Accountant, Sh. Mubarak Hussain, Account Assistant of the school.

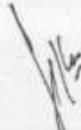
The school has filed written submission dated 14/12/2016 in rebuttal of the calculation sheet prepared by the Committee as per which the school was prima facie required to refund the entire increase in tuition fee, annual charged in 2009-10 and development fee for the year 2009-10 and 2010-11 on account of same having been treated as a revenue receipt.

The school is contesting only the amount of Rs. 4,42,48,123 as part of funds available to it for the purpose of implementation of the recommendations of VI Pay Commission. The aforesaid sum of Rs. 4,42,48,123 was the amount of repayment of loans and interest during the years 2006-07 to 2009-10. The authorized representatives submit that the entire repayment and payment of interest was not out of the fees recovered by the school from the students over the years but part of the same was contributed by parent society as would be apparent from the receipt and payment account of the school. Secondly they contend that during the year 2006-07 and 2007-08, the school also raised fresh loans which ought to have been taken into consideration by the Committee. The school has also furnished break up of repayment of vehicle loans and term loan for construction of building. It is contended that the buses have to be made available to the students in regular course of school and the school building was also a necessary part of the school infrastructure which was required and as such the school was justified in repaying the loans and paying interest out of school fund to the extent it was not covered by the contribution of the parent society.

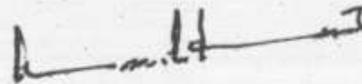
While making the above submission, the school has not taken into the fact that fresh loans were taken for the purpose of creating new fixed assets and not for the purpose of repaying the earlier loans. Representatives of the school have been heard. Recommendations reserved.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



14.12.2016

000026

B-341

Starex International School, Vasundhara Enclave, Delhi

Present : Ms. Anita Gupta, Principal, Sh. Pramod Kumar, Superintendent, Sh. Rajiv Gupta, C.A., Sh. Dilip Jha, Accountant & Sh. Bhanu Kashyap, Assistant of the school.

The Committee has examined the circulars issued by the school to the parents regarding fee hike in pursuance of order dated 11.2.2009. As per the circulars, the school hiked the tuition fee of classes 1<sup>st</sup> to 8<sup>th</sup> of Rs. 300 per month and development fee by Rs. 45 per month. The hike in tuition fee was @ Rs 400 per month for classes 9<sup>th</sup> to 12<sup>th</sup> and for pre primary classes Rs. 60 per month as development fee. Besides the school also recovered lump sum arrear fee @ Rs.3000/3500 to cover the period of 1.1.2006 to 31.08.2008. From the fee schedule for the year 2008-09 the Committee observes that the development fee was charged originally also around 15%.

In compliance with the directions given by the Committee on 15.11.2016 the school filed the corrected statements under cover of its letter 28.11.2016. The authorized representatives submit that the accounting policy with regard to the arrear fee recovered and arrear salary paid on implementation of the recommendations, of the 6<sup>th</sup> Pay Commission was as follows :-

1. The total arrear fee due as per order dated 11.2.2009 issued by the Director of Education was credited to "6<sup>th</sup> Pay Commission" account and the same was treated as a current liability.
2. The arrear salary paid pursuant to the implementation of the recommendations of the 6<sup>th</sup> Pay Commission was debited to the same 6<sup>th</sup> Pay Commission account.
3. Thus the balance remaining in the 6<sup>th</sup> Pay Commission account was carried forward as a liability to the next year and was shown as a current liability in the balance sheet.
4. The entire amount of arrear fee collected was paid as arrear salary upto the 31.3.2013 when the balance in the 6<sup>th</sup> Pay Commission account became zero.
5. However, the arrear salary due which was over and above the arrear fee collected was paid in the years 2013-14 and 2014-15 by treating it as an expense for those years and was accordingly debited to the Income and Expenditure accounts.

However, this position is not clearly discernable from the balance sheet of the school as certain amounts have been aggregated in the current liabilities head. **The school is required to file a reconciliation with reference to the balance sheet of the different years highlighting the amount of arrear fee collected and the arrear salary paid from 2008-09 to 2014-15.**

The Committee observes that the bulk of arrear fee was collected up to 2009-10 but the salary and the arrear salary paid up to 31. 03.2010



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14.12.2016

000027

B-341

was just Rs.6,97,728. The payment of arrear salary was deferred to the subsequent next three years. It is submitted that since the school was in the process of expanding the existing building of the school, part of the arrear fee was utilized for that purpose.

It is also submitted that the payment of all installment of arrear salary was made either through direct bank transfer or through account payee cheques. The Committee observes that some of the individual cheques issued to individual teachers seems to have been withdrawn through other branches of Bank of Baroda. **The authorized representatives of the school undertake to file a certificate of the bank confirming the mode of payment of all individual cheques issued to the staff for payment of arrears.**

With regard to the regular fee and salary for the years 2008-09, 2009-10 & 2010-11 it is submitted that the figures reflected in the Income and Expenditure account for fee and salaries for those particular years as the arrear fee and salary is not routed through Income & Expenditure account.

As regards the regular development fee charged by the school, the school in its reply to the revised questionnaire stated that the school was charging development fee in all the 5 years for which the information is sought by the Committee and the same was fully utilized. It is also stated that the development fee was treated as capital receipt by the school. However during the course of hearing the authorized representatives submit that in the years 2006-07 & 2007-08 it was treated as a revenue receipt. From 2008-09 onwards it has been treated as a capital receipt. The school has conceded in its reply that no separate accounts are maintained for development fund and depreciation reserve fund. On perusal of the statement of utilization of development fee, the Committee observes that the same has been utilized solely for the purpose of the additional construction in the school building. The authorized representatives of the school have also conceded this position during the course of hearing.



The school had furnished a detail of its accrued liabilities, gratuity and leave encashment as on 31.3.2010 on 23.09.2016. On perusal of the same the Committee observes that in the statement of accrued liability of gratuity the school has included a number of staff members who have not completed five years of service. The school will file a revised statement excluding such employees. The school had also furnish a statement of its accrued liability of leave encashment amounting to Rs. 10, 52,420 as on 31.3.2010.

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Secretary

The Committee has also perused the copies of ledger accounts of East Point Education Society in the books of the school. East Point

14.12.2016

000028

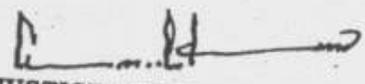
B-311

Education society is a parent society of the school, it is observed that the school has been transferring funds to the parent society also most every year.

The school is required to furnish the information/documents as noted earlier in the order within 10 days . Calculation sheet to be prepared thereafter. Next date of hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



14.12.2016

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B-455

**Bosco Public School, Paschim Vihar, Delhi**

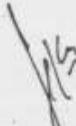
Present : Sh. Raju Duggal, Vice Principal and Sh. Shyam Sunder Verma  
Accounts Clerk of the school

The school has filed written submissions dated 14.12.2016 in rebuttal  
of the calculation sheet prepared by the Committee. The authorized  
representatives of the school have been heard.

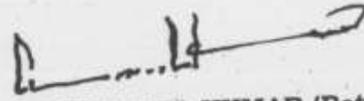
Recommendations reserved.



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



**J.S. KOCHAR  
MEMBER**



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

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14.12.2016

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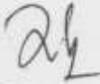
B-539

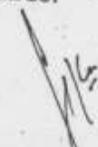
Rosary Sr. Sec. School, Kingsway Camp, Delhi

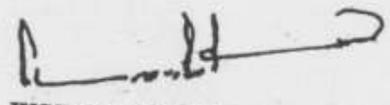
Present : Sh. Joseph Prabhakar Rayan, Accountant & Sh. Rajneesh Grover, Office Assistant of the school.

The school had furnished an explanation with regard to the balance amount of arrears of Rs. 87,68,642 which are appearing in the balance sheet as on 31.3.2010. The authorized representatives appearing for the school contend that the same was paid in the year 2010-11 and have furnished copy of the ledger account of 6<sup>th</sup> pay salary appears payable for 2010-11 alongwith copies of the bank statements showing that the entire amount was paid either by direct bank transfer or through accounts payee cheques to the teachers who had left the school. A revised fee and salary statement duly reconciled is taken on record.

Calculation sheet to be prepared. Next date of hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



14.12.2016

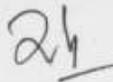
000031

B-95

Modern Convent Schol, Sector 4, Dwarka, Delhi

Present : Sh.R G Luthra, CA/AR & Ms. Sheetal Maan, HOS of the School of the school.

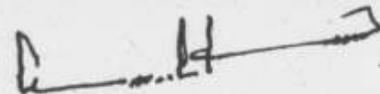
The authorized representatives appearing of the school contend that the Committee ought not to have included the funds applied in payment of interest and payment of loan for purchase of fixed assets as Rule 177 permits incurring of capital expenditure by the school. However no calculations have been filed with regard to the savings available with the school as per Rule 177 out of which capital expenditure could be referred. The authorized representatives seeks time to file the calculations as per Rule 177. He further contends that the liability of the school to the society have not been taken into account by the Committee in preliminary calculations. In the same breath he contends that the society does not have any activity apart from running of the school. When asked about the source of the funds available with the society, he mentioned that the society received donations which are not linked to the admission of the students made by the school. **He seeks time to file the audited balance sheet of the society. The school may file its written submissions along with the calculations under rule 177 of the Delhi School Education Rule 1973 as well as audited financials of the society for the years 2006-07 to 2010-11 within 10 days. Next date of hearing will be intimated to the school in due course.**



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

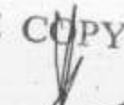


**J.S. KOCHAR  
MEMBER**



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

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Secretary



14.12.2016

000032

B-566

**Bal Bharti Public School, Dwarka, Delhi**

Present: Ms. Suruchi Gandhi, Principal, Sh. Satish Pokhriyal, Finance Manager, Ms. Charua Handa, Office Assistant, Ms. Amarpreet Kaur, Office Assistant of the school.

The Committee has examined circulars issued to the parents dated Feb. 12, 2009 & Feb. 18, 2009 regarding fee hike pursuant to the order dated 11/02/2009 issued by the Director of Education. As per the circulars, the tuition fee of all the classes was hiked by Rs. 400 per month w.e.f. 01/09/2008 and accordingly arrears of fee @ Rs. 2800 for the period 01/09/2008 to 31/03/2009 were recovered. Besides the school also recovered development fund arrears for the aforesaid period, which were different for different classes as per detailed below:

Class	Incremental development fee per month (Rs.)	Total arrears for the period 01/09/2008 to 31/03/2009 (Rs.)
Pre school	110	770
Pre primary to V	105	735
VI to X	115	805

Besides the school also recovered Rs. 3,500 as lump sum arrear fee for the period 01/01/2006 to 31/08/2008 from each student.

Apparently the hike in development fee as a percentage of hike in tuition fee was much more than 15% which is the maximum development fee. The school can charge the maximum development fee @ 10 % of tuition fee in terms of order of Supreme Court in case of Modern School vs. Union of India (2004) 5 SCC 583. The authorized representatives appearing for the school were asked to explain this apparent anomaly. They submit that the school was originally charging development fee @ 12% of tuition fee in the year 2008-09. However, the school hiked the development fee w.e.f. 01/09/2008 @ 15% of not just the incremental tuition fee but also on the existing tuition fee. They submit that the school was permitted to do so by relying on clauses 14 and 15 of the order dated 11/02/2009 issued by the Director of Education.

The Committee observes that the total incremental development fee recovered by the school was Rs. 16,12,660 and that was also capitalized along with the regular development fee charged for the year 2008-09. It is also submitted that the same was not utilized for the purpose of payment of incremental salaries or the arrear salary which were payable by the school on account of implementation of recommendations of VI Pay Commission. Prima facie, it appears that the school did not need to hike the development fee as it did not utilize the same for payment of the increased salaries. By capitalizing this amount, it utilized the same for the purpose of requisition of eligible fixed assets. It is noteworthy that the school prepares a separate balance sheet for development fund to which this amount was credited. It was never credited to the school fund account.



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In response to the notice dated 25/05/2015 issued by the Committee, the school had filed the detailed information under cover of its letter dated 05/06/2015. The Committee has verified the relevant figures of arrear fee, arrear salary regular tuition fee and regular salary for the year 2008-09 and 2009-10 with reference to the audited financials of the school, in order to

14.12.2016

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make the relevant calculations to examine the justifiability of fee hike. The school has mentioned the accrued liabilities of gratuity and leave encashment in its submissions. During the course of hearing, the authorized representatives have submit the actuarial valuation report in respect of gratuity and leave encashment as on 31/03/2011. They submit that although the report pertains to the year 2010-11, the liabilities as on 31/03/2009 and 31/03/2010 are also mentioned by the actuaries. They submit that based on these report, the school has also provided for the accrued liabilities in its balance sheet as on 31/03/2010. The committee has examined the actuarial reports along with the balance sheet as on 31/03/2010 and finds the contention of the school to be correct. Accordingly the liabilities on these two accounts as on 31/03/2010 are Rs. 54,28,907 and Rs. 20,27,837 respectively. With regard to the regular development fee, the Committee finds that like in the case of other Bal Bharti schools, the school maintained earmarked accounts for development fund & depreciation reserve fund and in fact prepares separate balance sheet for development fund. The development fund is utilized for the eligible purposes i.e. purchase and upgradation of furniture, fixture and equipments. The authorized representatives submit that the school was fulfilling all the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India for charging development fee.

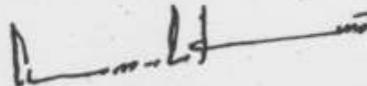
Calculation sheet to be prepared. If necessary, a fresh date of hearing will be fixed and will be intimated to the school in due course.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



15.12.2016

000034

**B-406**

**Happy School, Darya Ganj, Delhi**

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

The school has filed written submission dated 15.12.2016 claiming that the Committee has not factored in development expenses amounting to Rs.12,58,581 spent out of development fee and charged to its revenue account . It is further stated that if these expenses are taken into consideration the amount refundable to the students could be only Rs. 1,45,231 instead of Rs.14,03,812 as determined by the Committee. The Committee has gone through the audited income and expenditure accounts for the years 2009-10 & 2010-11 and observes that the development expenses claimed by the school having been spent out of development fee are sanitation and cleaning, building maintenance, furniture maintenance, garden maintenance, electric maintenance, other equipment maintenance and generator maintenance. All of which are revenue expenses.

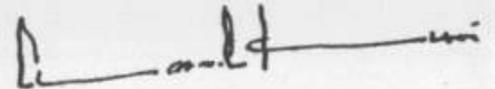
Arguments Heard. Recommendations reserved.



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



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



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

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Secretary



15.12.2016

000035

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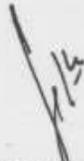
**Springdales School, Dhaula Kuan, Delhi**

Present : Sh. Satinder Kalra, CA, Sh. Som Datt Sharma, Accountant & Ms. Tejinder Kaur, Accountant of the school.

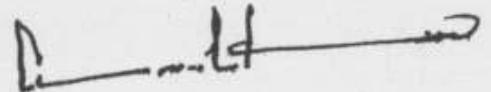
Authorized representatives appearing for the school argue for some time that since the school was in deficit despite increase in development fee in the manner that it take the overall intention of the management that it was not putting more pressure on the parents that was justified in light of the figures worked out by the Committee. However, after arguing for sometimes he submits that he would like to file written submissions. The school is given liberty to do so. The same may be filed within 10 days. Next date of the hearing will be intimated to the school in due course.



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



**J.S. ROCHAR  
MEMBER**



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

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Secretary



Sant Nirankari Public School, Nirankari Colony, Delhi

Present : Sh. Vijay Batra, Member CMC & Ms. Sonia, Office Incharge of the school.

The school had filed some records in response to the questionnaire issued by the Committee on 21.10.2013, the school had stated that it increased salary to staff in terms of the recommendations of the 6<sup>th</sup> pay commission w.e.f. April 2010. Authorized representatives appearing for the school have also conceded to this position during the course of hearing. In the aforesaid reply to the questionnaire, the school had also stated that no arrears had been paid to the staff as no arrear fee was collected from the parents. With regard to the increase in fee in pursuance of order dated 11.2.2009 issued by the Director of Education, the school had stated "No" signifying that no fee has been increased in pursuance of the aforesaid order of the Director of Education. However, the authorized representatives of the school has stated that since no arrears were recovered from the students the school did not issue any circular to the parents of fee hike since no fee had been increased in pursuance of the aforesaid order, the school had not issued any circular to the parents. The parents come to know the fee payable by the students only through notices fee schedules put up on the notice board and the fee book issued to the students. The Committee has perused copies of the fee schedules for the years 2008-09, 2009-10 and 2010-11 as filed by the school with the Education Officer Zone IX, district North-West (A) under cover of its letter dated 19.11.2011. As per the fee schedules filed by the school with the aforesaid authority the following position emerges with regard to the fee charged by the school in the years 2008-09, 2009-10 and 2010-11.

Class	Tuition fee Per Month		
	2008-09	2009-10	2010-11
Pre Primary	400	500	600
1 <sup>st</sup> & 2 <sup>nd</sup>	550	700	800
3 <sup>rd</sup> to 5 <sup>th</sup>	600	700	800
6 <sup>th</sup> to 8 <sup>th</sup>	600	800	900
9 <sup>th</sup> & 10 <sup>th</sup>	800	1000	1100
11 <sup>th</sup> & 12 <sup>th</sup>	1000	1200	1300

Class	Other Activity Charges Per Month		
	2008-09	2009-10	2010-11
Pre Primary	100	250	350
1 <sup>st</sup> & 2 <sup>nd</sup>	200	300	400
3 <sup>rd</sup> to 5 <sup>th</sup>	200	300	400
6 <sup>th</sup> to 8 <sup>th</sup>	200	300	400
9 <sup>th</sup> & 10 <sup>th</sup>	200	300	400
11 <sup>th</sup> & 12 <sup>th</sup>	200	300	400



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Secretary

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Class	Development Charges Per Annum		
	2008-09	2009-10	2010-11
Pre Primary	500	900	1000
1 <sup>st</sup> & 2 <sup>nd</sup>	850	1250	1350
3 <sup>rd</sup> to 5 <sup>th</sup>	850	1250	1350
6 <sup>th</sup> to 8 <sup>th</sup>	850	1400	1500
9 <sup>th</sup> & 10 <sup>th</sup>	850	1600	1700
11 <sup>th</sup> & 12 <sup>th</sup>	1000	2100	2200

Class	Total of Tuition Fee & Other Activity Charges Per Month		
	2008-09	2009-10	Increase in 2009-10
Pre Primary			250
1 <sup>st</sup> & 2 <sup>nd</sup>			250
3 <sup>rd</sup> to 5 <sup>th</sup>			200
6 <sup>th</sup> to 8 <sup>th</sup>			300
9 <sup>th</sup> & 10 <sup>th</sup>			300
11 <sup>th</sup> & 12 <sup>th</sup>			300

It is apparent that the school hiked the fee in 2009-10 even beyond the maximum hike permitted vide order dated 11.2.2009 issued by the Director of Education. However, the school admittedly did not implement the recommendations of 6<sup>th</sup> pay commission in 2009-10.

With regard to development fee the school submit that it was charged @ 15% of tuition fee which is permitted in view of the judgment of the Hon'ble Supreme Court in the case of Modern school Vs. Union of India (2004) 5 SCC 583. In reply to the questionnaire issued by the Committee the school vide its submission dated 24.10.2013 had given detail of a total amount of development fee recovered by it in the years 2006-07 to 2010-11. Inter alia, the development fee charged in 2009-10 & 2010-11 was Rs.13,33,870 and Rs. 15,63,485 respectively. In the same reply the school has also stated that the development fee was utilized for the purpose of building maintenance and upkeep expenses. The school has further stated that the development fee is treated as a revenue receipt every year even for financials years 2011-12 and 2012-13 and no earmarked development fund and depreciation reserve fund is maintained by the school.



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The authorized representatives appearing for the school submit that there is an ongoing litigation ( 135 of 2009) between Beena Arora, who is a teacher of the school and other teachers who have claimed arrear salary w.e.f. 1.1.2006 as per the recommendations of the 6th pay commission. The school is contesting the claim on account of paucity of funds available with the school. However, the school is willing to pay

15.12.2016

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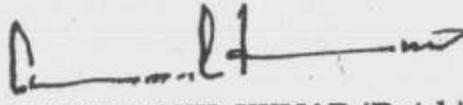
the arrears w.e.f. 01.4.2008. The case is listed in the regular category and has not come for final hearing.

000038

Arguments heard. Recommendations reserved.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



15.12.2016

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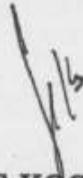
St. Michael's S.S. School, Pusa Road, New Delhi.

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

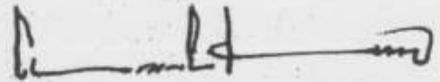
The authorized representative has filed written submission dated 15.12.2016 in rebuttal of the calculation sheet prepared by the Committee computing a refund of Rs. 5,54,665 on account of recovery of arrears of development fee for the period 01/09/2008 to 31/03/2009 @15% of tuition fee while the school was charging development fee @ 10% of tuition fee in the year 2008-09. The authorized representative states that nowhere in the order dated 11/02/2009 issued by the Director of Education is stated that the school cannot increase the development fee from 10% to 15%. Arguments heard. Recommendations reserved.



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



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



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

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Secretary



15.12.2016

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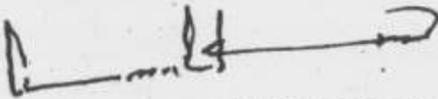
**Ever Green Public School, Vasundhara Enclave, New Delhi.**

Present: Sh. Rahul Jain, CA, and Sh. Lokendra Singh, Accountant of the school.

The authorized representatives appearing for the school have filed copies of fee schedules for the year 2010-11, 2011-12 and 2012-13. On perusal of these documents, it appears that the fee hike effected by the school in both the year was around 10% except class I where it was more. However, the aggregate tuition fee recovered by the school in the year 2011-12 as per the statement filed by it at the time of last hearing was 22% and 23% in year 2012-13 when the apparent anomaly is put to the authorized representative, he states that the same may be on account of increase in student strength. The Committee observes that in the statement of details of salary filed by the school for the year 2008-09, 2009-10 as per the format given by the Committee, the school was specifically required to state the student strength of those years. However, the school left the column blank. The school is required to furnish copies of its complete annual returns prescribed under Rule 1980 of the Delhi School Education Rules, 1973 for the years 2011-12 and 2012-13. The same may be furnished within one week. Next date of hearing will be intimated to the school in due course.

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

  
**J.S. KOCHAR**  
MEMBER

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

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Secretary



22.12.2016

000041

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Chinmaya Vidyalaya, Vasant Vihar Delhi

Present : Dr. Abhijit Bose, Principal, Sh. Krishnan Raju Nair, Administrator, Ms. Sarojini Gaur, Accountant & Sh. Vinod, Accountant of the school.

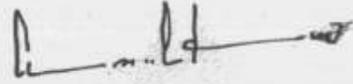
The representatives appearing for the school request for adjournment on account of non availability of their Chartered Accountant. Hearing is adjourned as requested by the school. Next date of hearing to be notified in due course.



Dr. R.K. SHARMA  
MEMBER

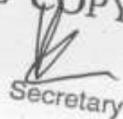


J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



22.12.2016

B-231

000042

Vivekanand Public School, Anand Vihar, Delhi

Present : Sh. Manu Luthra, C.A. & Sh. Sunil Khanna, Manager of the school.

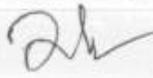
The complainant is not present. However, on perusal of the audited financials of the school the Committee observes that the school has booked mind bothering expenses particularly under the heads building maintenance, picnic expenses, stationary and printing. The expenses booked by the school under these heads in different years are as follows :

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
Building repair & Maintenance	1376538	3155841	9888612	9856452	9947759
Picnic expenses		1340200	1331862	1702860	400027
Repair & Maintenance		2636478			
Stationary & Printing		1316592	2145441	2854435	

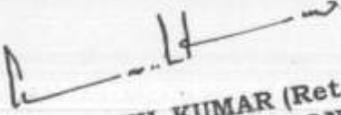
In comparison to the expenditure under the above heads, the expenses incurred by the school under other heads are very low considering that the student strength of the school was 15074 in 2006-07 which progressively rose to 17050 in 2010-11. The school had 99 staff members on its roll in 2012.

The school should produce its accounting records (including ledgers and bank statements) and vouchers for the aforesaid years before the audit officer of the Committee on 29.12.2016 for detailed verification. The Manager of the school shall also file an affidavit to the effect that all the expenses have been incurred for the purpose of the school indicating therein the various repair and maintenance works undertaken by the school during these years.

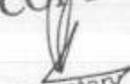
A fresh notice shall also be issued to the complainant for the next hearing . The date of next hearing shall be notified in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



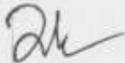
22.12.2016

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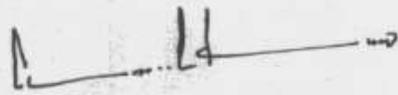
Ramjas School, Pusa Road, Delhi

Present : Ms. Mohini Bindra, Principal, Sh. Anil Julka, Head Clerk, Sh. Anil Saluja, UDC & Sh. Sonu Aggawal A/c Clerk of the school..

In compliance of the order dated 27.10.16 of the Committee, the school furnished revised information with regard to arrear fee and regular fee charged by the school in the years 2008-09 and 2010-11. The school has shown recovery of Rs.9,69,220 as arrears of development fee for the period 2009-10 and also furnish a calculation sheet showing the amount of development fee recovered from students. As per the calculation sheet, the school recovered development fee amounting Rs.980 per student which was arrived at by taking the arrears @ 15% of the increased tuition fee w.e.f. 01.09.2008, while the school is charging development @ 10% of tuition fee w.e.f. 01.4.2008. The school has lied upon order dated 25.2.2009 issued by the Director of Education and contends that it was entitled to recover the arrears of development fee @ 15% of tuition fee w.e.f. 1.9.2008 in terms of the aforesaid order. The authorized representatives appearing for the school further contend that the school has no transaction with its parent trust i.e. Ramjas foundation and hence no account of the trust appeared in the books of the school. Calculation sheet to be prepared. Next date of hearing will notified to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



22.12.2016

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000044

Somerville School, Vasundhara Enclave, Delhi

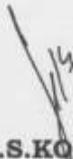
Present : Sh. Joby Joseph, Accountant & Sh. Lyril Bacil, Office Asstt.  
of the school.

On 3.11.2016 the authorized representatives of the school had contended that in view of the minority status of the school it was not mandatory for them to submit the accounts of the pre school before the Committee. The school had also filed written submissions dated 10.10.2016 to this effect. A fresh date is given to the school to reconsider its position and furnished the required information by 2.12.2016. However, the authorized representatives appearing for the school reiterate this position as taken earlier that it is not mandatory for the school to submit the accounts of the pre school before this Committee.

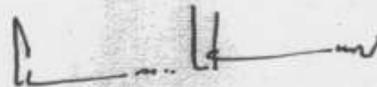
Heard. Recommendations reserved.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



22.12.2016

B-444000045

**Queen Mary's Schol, Sec. 25, Rohini, Delhi**

Present : Ms. Rooma Jain, Rep. on behalf of C.A. Sh. R.V. Khanna & Sh. Harsh Kumar Office Asstt. of the school.

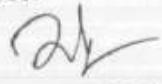
The school has not furnished complete information required by the Committee vide its notice dated 25.5.2015. Copy of the circular issued to the parents intimating them the amount of fee hike and arrears of fee paid by them has not been filed. During the course of hearing, the authorized representatives appearing for the school have explained that there is a school by the name of QMS primary for the purpose of account and financials statement of the QMS Primary are prepared separately while those of pre primary school are merged with the financials of the parents society i.e. Mittal Education Society also merged in the balance sheet for the financials of another unit described by the school as Management Section in which the school receives the transport fee. And the expenses of transport are also met out of them. However the school did not maintain any earmarked transport fund. The information furnished by the school in response to the notice dated 25 May 2015 issued by the Committee pertains only to the main school i.e. QMS Primary.

The authorized representative appearing for the school submit that she needs instructions from the school as to whether the staff employed in the nursery section are paid accordingly the recommendations of the pay commission or not. However, in the submissions dated 17.11.2016 the school had submitted that no fee hike was effected for the student of nursery section and no fee arrear is therefore charged for the nursery section student. The Committee observes that the school had, alongwith its submissions undated filed in the office of the Committee dated 08.07.2015 furnished fee schedules of nursery section and as per those schedules the tuition fee charged by the student preprimary /pre primary was Rs.2475 in the year 2008-09 but Rs. 2950 in the year 2009-10. The school is required to furnish the consolidated balance sheet of Mittal Educational Society which is the parents society of the school and consolidating all the three accounting unit maintained by the school. The committee also finds that the statement of fee and salary filed by the school along with its aforesaid submissions apparently do not match with the details of arrear salary and copies of the bank pass book furnished by the school. The school is required to file revised statement which ought to tally with the information furnished by the school as well as its income and expenditure account. Such details may be filed for all the three accounting units maintained by the school.

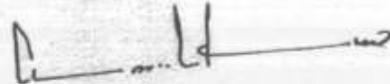
The next date of hearing will be intimated to the school in due course.



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Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

Secretary

22.12.2016

000046

B-414

Jindal Public School, Dashrath Puri, Dwarka, Delhi.

Present: Sh. Uttam Singh, Principal, Sh. Manava Prem, Chartered Accountant, Sh. Govind, Chartered Accountant, Sh. Arvind Kumar Singh, Accountant, Sh. Banne Singh, UDC of the school.

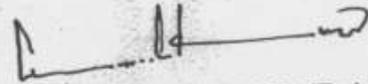
The school has furnished a revised statement of fee and salary on 15/12/2016 which reflects the correct position. As per the statement filed, the school recovered bulk of its arrear tuition fee and development fee in the years 2008-09 and 2009-10. However, the arrears of salary that were paid to the staff in these years were a miniscule amount. Bulk of the arrears were paid in 2011-12. The authorized representatives appeared for the school submit that there was a lot of confusion at that time that the arrears salaries were required to paid or not and hence the school initially did not pay the arrears salary upto 31/03/2011. The small amount paid during the year 2009-10 and 2010-11 were paid to the teachers who left the school in those years. the school is required to furnish a cash flow statement for the years 2006-07 to 2011-12 along with audited financials and fee schedules for the year 2011-12. The same may be done within one week. Next date of hearing will be intimated to the school in due course.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary

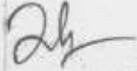
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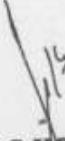
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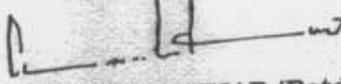
Gitarattan Jindal Public School, Sector-7, Rohini, Delhi.

Present: Sh. R.N. Jindal, Chairman, Ms. Niti Tandon, Accountant, Ms. Seema Gupta, Accounts Assistant of the school.

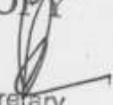
On 09.11.2016, certain directions were given to the school which have not been complied with. The information filed by the school vide its letter dated 20.12.106 is not in conformity with the directions given. The school shall file the correct information as per the directions given on 09.11.2016. The same may be filed within one week. Fresh date of hearing will be intimated the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



22.12.2016

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B-427

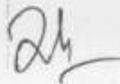
Vandana International School, Sector 10, Dwarka, Delhi

Present : Sh. Manu Luthra, CA, Sh. Harsh Tandon, A.O. & Sh. Sanjeev Kumar Accountant of the school.

The school has filed written submissions dated 22.12.2016 disputing the calculation sheet prepared by the Committee. The only item in the calculation sheet i.e. disputed by the school is an amount of Rs. 1,27,49,438 which the Committee considered as diversion of funds for repayment of loans taken for capital expenditure and interest paid thereon. The authorized representatives appeared for the school submit that the calculation sheet does not factored the funds raised by the school from its parents society for the purpose of meeting the aforesaid capital expenditure. He further submits that the credit balance of the society as appearing in the books of the school increased from Rs.1,22,81,589 as on 0.1.4.2006 to Rs. 2,72,70,576 as on 31.3.2010 indicating that funds to the tune of Rs. 1.50 crore approximately have been infused by the society to the coffers of the school.

On examination of the audited financials, the Committee observes that the corpus fund of the school have been negative almost every year except 2009-10 than turned into a positive figure. The fresh funds infused by the society to the school have been shown as unsecured loan from the society. The authorized representative appearing for the school submits that this is an accounting error. The school shall submit its audited balance sheet as on 31.3.2016 to verify the position. This will be done by 26.12.2016.

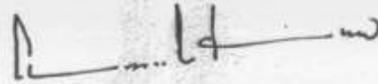
Arguments heard. Recommendations reserved.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary.



22.12.2016

000049

B-348

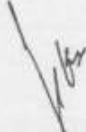
Ahlcon International School, Mayur Vihar, Phase-I, New Delhi.

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

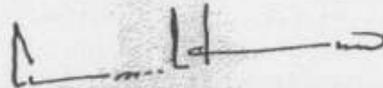
An application has been filed for seeking more time to furnish its rebuttal to the calculation sheet. The hearing is adjourned. Next date of hearing will be intimated to the school in due course.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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22.12.2016

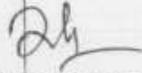
000050

B-444

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

Present: Ms. Sharda Rani, Principal, Sh. B. K. Awasthi, UDC of the school.

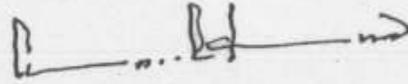
Matter is adjourned. Fresh notice will be issued for next date of hearing.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

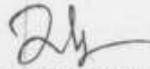
22.12.2016

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B-656

St Thomas Girls S.S. School, Mandir Marg, Delhi

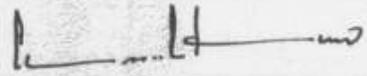
The representative appearing for the school request for adjournment on account of non availability of their Chartered Accountant. Hearing is adjourned as requested by the school. Next date of hearing to be notified in due course.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary

22.12.2016

000052

**B-302**

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

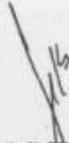
Present: Sh. Puneet Batra, Advocate, Sh. H. C. Batra, President of the school.

The school has filed detailed written submissions in rebuttal of the calculation sheet prepared by the Committee. The authorized representatives appearing for the school have also been heard. The school shall furnish a soft copy of its written submission dated 22.12.2016 at the email ID of the Committee within two days.

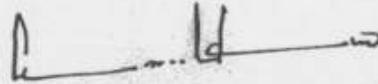
Arguments heard. Recommendations reserved.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



000053

23.12.2016

B-356

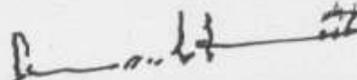
Notre Dame School, BTPS Staff Colony, Badarpur, Delhi

Present : Sh. Justine Varghese, TGT of the school.

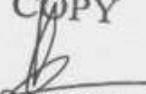
An application has been received on behalf of the school for adjournment of hearing as the concerned person has suddenly gone out of station. The hearing is adjourned. Next date of hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



**Mamta Modern School, Vihar Part, Delhi**

000054

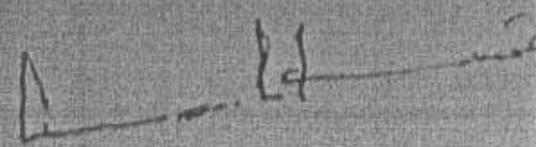
Present : Sh. R.S. Sharma V Chairman, Sh. Manoj Sharma, Member,  
Sh. Ajay Lal, Accountant & Sh. Parash Sharma Accountant of the  
school.

The school had filed employee wise detail of monthly salary paid by it to the staff from April 2006 to March 2015, as was directed by the Committee on 20.10.2015, as the school had claimed that it paid the arrear salary during the aforesaid period along with the regular monthly salary. On perusal of the same, the committee observes that while the recommendations of the sixth pay commission had not been fully implemented the school was showing part of the salary as payment towards arrears. The regular salary of the staff was not increased in terms of the recommendations of the 6<sup>th</sup> pay commission. The authorized representatives appearing for the school concede that the school is not paying the full amount of DA. Moreover, almost 23% of the total payment purportedly on account of arrear salary has been paid either by bearer cheque or in cash. The authorized representatives of the school further submit that the fee charged by the school is very less and fee hiked in terms of order dated 11.2.2009 was also just Rs.200 p.m. for classes pre. to 8<sup>th</sup> and Rs. 300 p.m. for classes 9<sup>th</sup> to 12<sup>th</sup>. He reiterates that the school did not hike any development charges although it was entitled to do so as per the order dated 11.2.2009. The school has not yet filed the copy of the statement of account of its parents society in spite of being reminded to do so on at least two earlier occasions. The authorized representatives states that it shall be filed today.

If necessary a fresh date of hearing be fixed for which a fresh notice shall be issued to the school.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON



23.12.2016

B-560

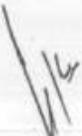
Mamta Modern School, Vikas Puri, Delhi

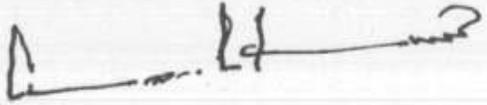
Present : Sh. R.S. Sharma V.Chairman, Sh. Manoj Sharma, Manager, Sh. Ajay Lal, Accountant & Sh. Rajesh Sharma Accountant of the school.

The school had filed employee wise detail of monthly salary paid by it to the staff from April 2008 to March 2015, as was directed by the Committee on 20.10.2016, as the school had claimed that it paid the arrear salary during the aforesaid period along with the regular monthly salary. On perusal of the same the committee observes that while the recommendations of the sixth pay commission had not been fully implemented the school was showing part of the salary as payment towards arrears. The regular salary of the staff was not increased in terms of the recommendations of the 6<sup>th</sup> pay commission. The authorized representatives appearing for the school concede that the school is not paying the full amount of DA. Moreover, almost 23% of the total payment purportedly on account of arrear salary has been paid either by bearer cheque or in cash. The authorized representatives of the school further submit that the fee charged by the school is very less and fee hiked in terms of order dated 11.2.2009 was also just Rs.200 p.m. for classes pre. to 8<sup>th</sup> and Rs. 300 p.m. for classes 9<sup>th</sup> to 12<sup>th</sup>. He reiterates that the school did not hike any development charges although it was entitled to do so as per the order dated 11.2.2009. The school has not yet filed the copy of the statement of account of its parents society in spite of being reminded to do so on at least two earlier occasions. The authorized representatives states that it shall be filed today.

If necessary a fresh date of hearing be fixed for which a fresh notice shall be issued to the school.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

23.12.2016

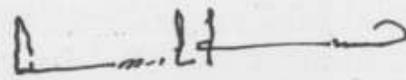
B-456

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

Case is adjourned as the calculation sheet is not yet ready. Fresh date of hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



23.12.2016

000056

B-474

Green Fields School, Safdarjung Enclave, Delhi

Present : Sh. Sabu Sebastian, Accountant of the school.

The school has filed its own calculation sheet in rebuttal of the calculation sheet prepared by the Committee and based on this the authorized representative appearing for the school submits that there was a short fall of Rs.7,22,747 as against a surplus of Rs.2,90,62,768. The differences between the calculation sheet prepared by the Committee and that prepared by the school are the following:

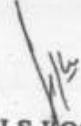
- a. The school has claimed that reserve for future contingencies equal to four months share of employers EPF contribution amounting to Rs.8,65,710 ought to have been provided.
- b. Liability on account of earmarked funds as on 31.3.2009 amounting to Rs.2,36,29,795 ought also to have been factored in the calculation prepared by the Committee.
- c. The Committee ought to have considered the liability of the school to its parents society amounting to Rs.84,88,380.

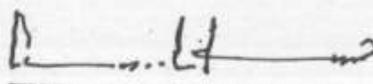
Further the school has claimed that out of the development fee for the years 2009-10 and 2010-11 a sum of Rs.55,76,748 has been utilized and ought to have been factored.

The school in its written submissions dated 21.12.2016 submits that it was under an honest belief that the school has not created depreciation reserve fund which was created in the subsequent years. However, the development fund otherwise had been used for purchase of school equipments in years 2009-10 & 2010-11 as shown in the working notes enclosed with the calculation sheet filed by the school. There was no mala fide intention on part of the school and therefore non compliance of not creating depreciation reserve fund may be condoned.

Arguments heard. Recommendations reserved.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



23.12.2016B-180St. Paul's School, Safdarjung Development Area, Delhi

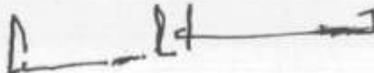
Present : Sh. K.K. Khanna, C.A., Sh. Roy T. Thomas, Accountant & Sh. Jose P.T. Accountant of the school

In compliance of the order dated 01.12.2016 passed by the Committee, the school furnished a revised statement of arrear fee, arrear salary, regular fee and regular salary for the years 2008-09 to 2010-11. The same has been reconciled with the audited financials of the school by the Committee. However the Committee notices that the school had not paid the full amount of arrear salary up to 31.3.2011, the same was also paid in subsequent years and the final payment came to be made in the year 2014-15. The school is required to furnish the statement of fee and salary for all the years 2008-09 to 2014-15 so as to make the relevant calculations. The same may be done before the next date of hearing. The school has also furnished written submissions dated 20.12.2016 clarifying the accounting treatment of arrear fee and arrear salary in different years and has also furnished details of its liability for leave encashment as on 31.3.2008 till 31.3.2010 along with working of the outstanding liability as on 31.3.2010. The total liability on account of leave encashment as on 31.3.2010 was Rs.11,16,230 and on account of gratuity (as worked by the school) it was Rs.58,20,724). However, on asking for by the Committee, the school has furnished a demand by LIC based on the liability as on 01.5.2010 amounting to Rs.1,00,17,432 out of which the school paid a sum of Rs. 48,70,025 in the year 2010-11. Therefore, the liability of the school which remain outstanding out of the total amount due as on 1.5.2010 is Rs.51,47,407. The authorized representatives appearing for the school submits that though the school has taken the group gratuity policy but the total amount of liability has not yet been fully funded by the policy and due to this reason, the liability remains.

After the receipt of statement of fee and salary upto 2014-15, calculation sheet to be prepared. The date of next hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



23.12.2016

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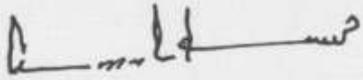
B-424

Pragati Public School, Sec.13, Dwarka, Delhi

An application has been received on behalf of the school seeking adjournment to any date after 24.12.2016 on account of non availability of the authorized representative today. The matter is adjourned. Fresh date of hearing will be intimated to the school in due course.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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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:**

**CAMBRIDGE PRIMARY SCHOOL (B-0690),**

**New Rohtak Road,**

**Delhi 110005**

**And in the matter of**

**Application/representation dated**

**3<sup>rd</sup> August, 2016 to review the order**

**Dated 11<sup>th</sup> September, 2015 passed by the**

**Committee in respect of the School.**

Present: Shri Ravi Arora Office Assistant with Mrs. Asha Sharma Teacher of the School.

**ORDER**

1. The Committee passed the order/recommendation dated 11<sup>th</sup> September, 2015 in respect of Cambridge Primary School, New Rohtak Road, New Delhi, hereinafter, referred to as 'The School' directing the school to refund the entire amount of arrears of fee amounting to Rs.13,44,063/-and the entire amount of fee hike @ of Rs.200 per month with effect from 1 April 2009 till the date of closure of the school along with interest @ 9% per annum from the date of collection to the date of refund. The school was also directed to refund the entire amount of development fee of Rs.6,58,314/-charged in the year 2009 - 10 and Rs.7,57,837/-in the year 2010 - 11, along with interest @ 9% per annum from the date of collection to the date of refund. It was also held that

Application/representations dated 28.1.2015 Cambridge Foundation School (B-0192)

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Secretary



since the school is reported to have closed down in 2014 and the school is part of the group of the schools namely, Cambridge schools in Delhi, the students who were studying in the school must have been absorbed in the other schools of the groups and therefore, they can be located without much difficulty. In the circumstances it was directed that Director of Education would ensure that the management makes the appropriate refunds to the students who are entitled to it.

2. The school has filed the application seeking review of order dated 11<sup>th</sup> September, 2015 contending inter-alia that the order/recommendations have been passed by the Committee without considering certain vital and material facts as the same could not be brought to the notice of the Committee due to the closure of the school on 31.03.2014. The school has also pointed out certain discrepancies in the calculation of the impact of sixth pay commission. It is contended that due to closure of the school on 31<sup>st</sup> March, 2014, the notice dated 26 May 2015 was not received by the school. The plea of the school/applicant is also that no communication was even received by the school from the Directorate of Education in this regard nor the school could represent itself before the committee on account of no notice being served on the school and no reasonable opportunity being given to the school/applicant

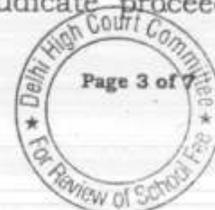
3. According to the school/applicant the calculation showing the impact of Vith Pay Commission to the tune of Rs.16,05,282/- is incorrect as the figure of normal salary for the year 2008-09 has been wrongly taken by Committee as Rs.38,33,892/- instead of Rs.28,33,892/-. It is further contended that the total arrears of salary paid by the School from 2008-09 to 2011-12 comes to Rs.20,70,769/- [i.e. Rs. 1,74,681/- (2008-09), Rs.14,55,231/- (2009-10), Rs.3,02000/- (2010-11) and Rs.1,38,895/- (2011-12)] and not Rs.16,29,865/- as taken in calculation by the Committee. Therefore, by taking recount of the amounts, the above discrepancies [i.e. 10, 00,000/- + 4, 40,904i/-] the total impact of Vith pay



commission is Rs.30, 46,186/- and not Rs.16, 05,282/- as has been held by the Committee. The school/applicant has also challenged the liability of salary and has produced with the application the balance sheets for the financial years ending 31 March 2011 to 31 March 2014. The school/applicant has also challenged the estimated liability of gratuity as has been taken by the Committee. The plea of the school/applicant is that due to closure of the school, it had to transfer funds on account of gratuity and leave encashment in respect of teachers who were transferred to other schools, run by the Society. The school/applicant has also contended about the compensation given to teachers who had sought voluntary retirement. According to the copy of the balance sheet produced for the year ending 31<sup>st</sup> March, 2014, the school was in deficit after taking into account the payments as alleged by the school/applicant in the application.

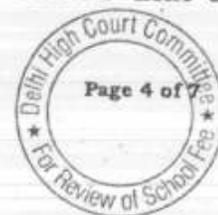
4. In the application seeking reconsideration of the recommendation of the Committee it is also contended that maintenance of separate development fund and depreciation reserved fund is apparent which could not be taken into consideration, as the school/applicant was not served with the notice and it could not produce the relevant record. The school/applicant has also contended that no incremental development fee had been charged by the school for the purpose of implementation of sixth pay commission. According to school the hike in fee was strictly in accordance with the order of Director of Education. In the circumstances it is prayed that the recommendation/order of the Committee be reconsidered as the school was not served with the notice and no hearing was given to the school and consequent thereto the school did not get a reasonable opportunity to produce its records and pleas and contentions. According to the school/applicant the case is of procedural review which is permissible in the facts and circumstances of the case and as contemplated under law.

5. This cannot be disputed that the procedural review belongs to a different category of review compared to review on merits of the case. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds



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

6. It is pertinent to notice that the Committee while passing the impugned order/recommendation dated 11<sup>th</sup> September, 2015 has categorically held that since the school was reported to have close down in 2014 and they school is part of the group of the school namely, Cambridge schools in Delhi, therefore, the students who are studying in the schools must have been absorbed in other schools of the same group and therefore, they can be located without much difficulty. Taking notice of the fact that the school has been close down, the direction was also given to the Director of Education to ensure that the



management of the school takes appropriate steps to refund to the students in terms of the order of the committee. The committee in its order dated 11<sup>th</sup> September, 2015 has noted that a questionnaire dated 27<sup>th</sup> February, 2012 was sent to the school. A reminder dated 27<sup>th</sup> March, 2012 was also sent to the school and despite the questionnaire and a reminder, the school did not respond to the communications sent by the Committee. Though the school was finally closed on 31<sup>st</sup> March, 2014, the contention and plea of the school/applicant that it had not received the questionnaire and the reminder, cannot be completely disregarded. The Committee also proceeded on the basis of the returns filed by the school with the Director of Education which were forwarded by the Committee from the Director of education. The committee had also sent a revised questionnaire to the school/applicant to elicit relevant information from the school. The contention of the school is, however, that it did not receive any communication from the Committee nor any notice or intimation even from the Director of Education. The school/applicant has pointed out certain errors in the calculations relied on by the Committee. The applicant has pointed out errors in the estimated liabilities of gratuity as taken by the Committee and leave encashment, as a number of teachers had been transferred to the schools of the group before the closure of the school/applicant on 31<sup>st</sup> March, 2014. The errors and discrepancies in various things which have been pointed out cannot be ignored in the facts and circumstances and which are the outcome of the fact that the school could not produce the relevant record which was sought by the Committee, as it is apparent that the school had not been served with the questionnaire sent by the Committee and the reminder to the school/applicant.

7. The plea of the school/applicant is not that though it continued to function at its address but it did not receive the questionnaire and the reminders sent by the Committee. Had that been the case, the school/applicant then had to rebut the presumption which arises under section 27 of the General Clauses Act. There are no other circumstances on



the basis of which it can be inferred that the questionnaire and the reminder was received by the school and for some ulterior reasons the school did not respond and did not produce the relevant material which was demanded by the Committee. Rather the Committee passed directions in its recommendations conscious of the fact that the school has been closed down. If that is the case then it is inevitable to infer that the school did not receive the questionnaire sent by the Committee and even the reminder and thereafter the revised questionnaire after the returns of the school filed by it with the Department of Education were received by the Committee. There is nothing on the record which will show that the school might have received the intimation about the pendency of the proceedings before the Committee from the Director of Education.

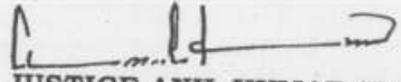
8. In the circumstances it is inevitable to infer that the school was not served the appropriate notice and the reminder seeking relevant information from the school and consequently it is to be accepted that the order/recommendation has been passed by the committee without hearing the school and without giving a reasonable opportunity of being heard to the applicants/school. In the circumstances the order/recommendation of the Committee dated 11<sup>th</sup> September, 2015 suffers from procedural illegality and irregularity which goes to the root of the matter. Consequently the recommendation/order of the Committee is liable for reconsideration in view of the record now produced by the applicant/school. The school in the circumstances has also become entitled to produce any other relevant information in accordance with the questionnaire on the basis of which information had been sought from the school.

9. In the circumstances the order dated 11<sup>th</sup> September, 2015 passed by the committee is recalled for fresh consideration in view of the information now produced by the school/applicant and which the school may produce pursuant to the questionnaire, a copy of which be served on the school/applicant. The relevant information as sought in the questionnaire be submitted by the school



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within two weeks from today. A copy of the standard questionnaire be also given to the school today by the registry of the Committee. With these directions the application of review on account of procedural lapses is allowed and the order/recommendation of the committee dated 11<sup>th</sup> September, 2015 is set aside and the matter in respect of applicant/school shall be reconsidered.

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

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

**Date:07.12.2016**

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

**TRUE COPY**

  
Secretary



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

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

**In the matter of:**

**NATIONAL PUBLIC SCHOOL (C-0397),**

**Jhilmil Colony, Shahdara,**

**Delhi 110095**

**And in the matter of**

**Application/representation dated**

**29<sup>th</sup> January, 2015 to review the order**

**Dated 12<sup>th</sup> November, 2012 passed by the**

**Committee in respect of the School.**

Present: Sh. Vinay Luthra and Shri N.K.Tiwari for the School

**ORDER**

1. The Committee passed the order/recommendation dated 12<sup>th</sup> November, 2012 in respect of National Public School, Jhilmil Colony, Shahdara, Delhi 10059 referred to as 'The School' inferred the incremental overhead expenditure in 2009 - 10 was just ₹ 0.14 lakhs. As against this, the total accretion on account of introduction of annual charges in 2009 - 10 was ₹ 1.76 lakhs. Thus in the garb of increasing the annual charges, the school had actually increased the tuition fee. The committee was of the view that the hike effected by the school that is of Rs.110/-per month was more than the maximum permitted by order dated 11<sup>th</sup> February, 2009 and was not justified. The school was therefore directed to refund the same along with interest @ 9% per annum.

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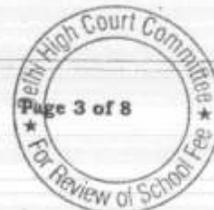
Secretary



2. The school has filed a review petition dated 29<sup>th</sup> January, 2015 seeking review of order dated 12 November, 2012 passed by the Committee holding that in the garb of increasing the annual charges, the school had actually increased the tuition fee and thus directing the school that the fee hiked by the school that is Rs.110/-per month was not justified and directing refund of the same with interest at the rate of 9% per annum. In the application seeking review of the order/recommendation of the Committee on the ground that the recommendation made by the Committee reflect a gap in the understanding of the Committee and the clarifications offered by the school in support of its claim. In the circumstances the school has sought another opportunity to further clarify the pleas and contention of the school. It is contended that the Committee has wrongly interpreted annual charges collected from the students as unjustified. The plea of the school is that since the whole of the tuition fee collected in 2009 - 10 was distributed as salary, therefore, levy of annual charges to finance other overheads had become obligatory for the school. The contention of the school/applicant is that the committee in its order misinterpreted the regular hike of fees along with levy of annual charges of ₹ 600 per annum. The school/applicant claims that levy of annual charges in these circumstances shall be in compliance with the circular issued in respect of sixth pay commission dated 11<sup>th</sup> February, 2009. They school/applicant contended that in the year 2009 - 10 it had spent more than 99% of its tuition fee received for the payment of salaries. The school/applicant has given the details for the years 2008 - 9; 2009 - 10; 2010 - 11; and 2011 - 12. According to the school/applicant tuition fee is utilized completely for payment of salaries only and no surpluses left behind therefore it is necessary to increase revenue in order to suffice for the overhead expenses. The plea of the school/applicant is that in the circumstances consideration of only incremental overhead expenses by the Committee and not the total overheads was not justified on the part of the committee. According to school fee hike of ₹ 60 per month and levy of annual charges of ₹ 600 per annum is in accordance with law and the same was approved by the Managing Committee which was duly submitted to the

Directorate of Education and was also approved in the Parents Teachers Association meeting. The school/applicant has also relied on Rule 177 of the Delhi School Education Rules, 1973. In the circumstances it is contended that the annual charges cannot be considered as a part of the fee. It is asserted that the school had been incurring losses which have brought down the general fund to Rs.67 in the year ending on 31<sup>st</sup> March, 2009. Review of the recommendation/order of the Committee is also sought on the ground that big amount of public money is at stake therefore, the decision as to utilization of the money by the school must also be based on through study of the facts and circumstances of the case. The school also alleged that all the directions of the directorate have been met directly or indirectly by the school/applicant and it is not intended to be violated and therefore the allegation for illegitimate fee allegedly hiked be recalled and the order dated 12<sup>th</sup> November, 2012 be reviewed.

3. The notice for hearing of the application was issued for 7<sup>th</sup> July, 2016 and was adjourned to 22<sup>nd</sup> July, 2016. On 22<sup>nd</sup> July, 2016 the school sought adjournment on account of non-availability of the manager. The application for review was listed for hearing again on 11<sup>th</sup> August, 2016. On that date also the adjournment was sought by the school for consideration of the application of the review on the ground of non-availability of the manager of the school. The application for review was thereafter listed on 1<sup>st</sup> September, 2016. Yet another adjournment was sought by the school on account of unavailability of the manager of the school and therefore, the application was adjourned to 5<sup>th</sup> October, 2016. On that date also adjournment was sought on the ground that the principle of the school was not available and therefore, the hearing of the application for review was adjourned to 3<sup>rd</sup> November, 2016. Again adjournment was sought by the school. The hearing of the application was therefore, adjourned to 22<sup>nd</sup> November, 2016 and the last opportunity was granted to the school. They school was asked to explain as to how the application for review is maintainable on merits.



4. Apparently the school has sought review of the order/recommendation of the committee dated 12<sup>th</sup> November, 2012 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 12<sup>th</sup> November, 2012. It is apparent that the Committee has become functus officio after it passed the order dated 12<sup>th</sup> November, 2012. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

5. It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3<sup>rd</sup> Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

Consequently after the Committee had made its recommendations and passed the order in the case of Applicant school and notified the same to the



Hon'ble High Court, the Committee became functus officio as it had decided the question brought before it.

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

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

The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. 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**.

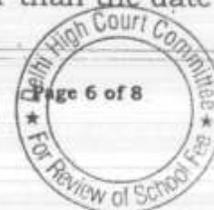
The writ petition shall be renotified on 09.05.2014"

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



8. From the perusal of the application/representation dated 29<sup>th</sup> January, 2015 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel Narshi Thakershi and Ors. V. Pradyuman Singh ji Arjunsing ji MANU/SC/0433/1970: AIR 1970 SC 1273* the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & sors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

9. The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed



for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced voluminous record which were perused and the pleas and contentions of the school were taken into consideration before passing the order/recommendations dated 12<sup>th</sup> November, 2012.

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

11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 12<sup>th</sup> November, 2012 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been



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

12. The application/representation dated 29<sup>th</sup> January, 2015 seeking recalling/revoking of the order dated 12<sup>th</sup> November, 2012 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been invoked by the School. The applications/representations dated 29<sup>th</sup> January, 2015 by the school seeking review of the order/recommendation dated 12<sup>th</sup> November, 2012 is, therefore, not maintainable and it is disposed of as not maintainable

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

**J.S. KOCHAR**

**MEMBER**

Date: 15.12.2016

**Dr. R.K. SHARMA**

**MEMBER**

TRUE COPY

Secretary



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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:**

**ST. KRISHNA BODH PUBLIC SCHOOL (C-0118),**  
**MAIN MANDOLI ROAD,**  
**WEST NATHU COLONY,**  
**Delhi 110093**

**And in the matter of**

**Application/representation dated**  
**8<sup>th</sup> July, 2016 to review the order**  
**Dated 14<sup>th</sup> June, 2012 passed by the**  
**Committee in respect of the School.**

Present: Shri Manu Luthra Authorized representative of the School.

**ORDER**

The Committee passed the order/recommendation dated 14<sup>th</sup> June, 2012, in respect of St. Krishna Bodh Public School, hereinafter, referred to as 'The School' holding that the development fee for classes 1 to III in 2009 - 10 was not justified and the same ought to be refunded to the students along with interest @9% per annum. It was also noticed that development fee and depreciation reserve had not been funded in earmarked investments or bank accounts. It was also held that The school was not entitled to increase the development fee in the year 2009 - 10. The development fee had not been

announced for IV to VIII. The committee had relied on the decision of Modern School vs Union of India, Appeal (Civil) 2699 of 2001 and it was held that The School had not complied with the conditions laid down in the said judgment of Hon'ble Supreme Court. Further development fee charged in the years prior to 2009 - 10 it was observed that it will be for the Director of Education to take appropriate action in accordance with law. Before passing the recommendation/order dated 14<sup>th</sup> June, 2012 it was observed that the school had not increase the fee in terms of order dated 11<sup>th</sup> February, 2009 issued by Director of Education after perusing the returns of the school filed under Rule 180 of Daily School Education Rules, 1973. The school had not responded to the questionnaire sent by the committee on 27<sup>th</sup> February, 2012. The school was requested to produce its account books, fee and salary records by letter dated 30<sup>th</sup> May, 2012. Shri K. D. Sharma, manager of the school had produced the records which was directed to be produced. It had transpired that the school had partially implemented sixth pay commission with effect from April, 2010. The staff of the school was paid only basic pay, DA and conveyance allowance. The staff was not paid grade pay. However it was observed that the books of accounts appeared to had been maintained in normal course.

The school has sought review of the order dated 14<sup>th</sup> June, 2012 by filing an application/representation dated 8<sup>th</sup> July, 2016. The application for review was listed on various dates after 8<sup>th</sup> July, 2016 as adjournment had been sought time and again by the school. The school has sought review of order/recommendation dated 14<sup>th</sup> June, 2012 contending inter-alia that there is a gap in Committee's understands of the law on the subject and the clarifications offered by the school in support of his claim. The plea of the school is that perhaps because of paucity of time, the limited explanation offered by the school did not suffice and had the school explained in detail, it could have been better to comprehend the plea of the school. The contention of the school is that it charged depreciation to revenue account till financial year 2008 - 09 and was creating depreciation fund in due compliance with the



recommendations of the Duggal Committee. However, the school stopped the practice of charging Depreciation to revenue accounts and thereby dispensed with the condition to maintain the Depreciation Reserved Fund. The school also relied on an order dated 15 December, 1999 issued by Director of Education giving certain direction to the school. The school has also relied on the directions of the Hon'ble Supreme Court in the case of Modern School Vs Union of India. In the circumstances it is alleged that the liability to create Depreciation Reserve Fund and utilizing such funds does not arise in the case of the school and the school is exempted from precondition to create Depreciation Reserve and earmarking such investment for future acquisition of fixed assets. According to the School the Depreciation Reserve Fund is to be created mandatorily if the depreciation is being charged to the revenue accounts. Since the School was not charging depreciation to the revenue, the creation of depreciation reserved fund was not mandatory. One of the ground for seeking review is that no specific format for financial statements from the Directorate of Education has been prescribed and as such the school can adopt the accounting policies best suited to its environment. The school is treating Development Fee as Capital Receipt and then has utilized for acquisition of fixed assets. Reliance has also been placed on the Accounting standard I issued by the Institute of Chartered Accountants of India. According to the School it follows a policy of keeping the surplus, if any, of unutilized development fund as earmarked funds and as such there had not been any surplus in the said account till date, therefore, question of keeping it as earmarked investment did not arise. They school has not offered any explanation as to why the review has been sought by the School almost after three years by filing the application dated 8<sup>th</sup> July, 2016.

The school has sought review of the order/recommendation of the committee dated 14<sup>th</sup> June, 2012 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked



by the School to review/reconsider its order dated 14<sup>th</sup> June, 2012. It is apparent that the Committee has become functus officio after it passed the order dated 14<sup>th</sup> June, 2012. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3<sup>rd</sup> Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

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

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Secretary



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

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

The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. 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 renotified on 09.05.2014"

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 on the face of the record, however, no general permission was granted to the Committee by the Hon'ble Court at that time.

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Secretary

Application for Review dated 8-7-2016 St. Krishna Bodh Public School (C-0118)



From the perusal of the application/representation dated 8<sup>th</sup> July, 2016 of the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel NarshiThakershi and Ors.v. Pradyumansinghji Arjunsingji* MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed



for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was considered and the pleas and contentions of the school taken into consideration before passing the order/recommendations dated 14<sup>th</sup> June, 2012.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 14<sup>th</sup> June, 2012 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of



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

The application/representation dated 8<sup>th</sup> July, 2016 seeking recalling/revoking of the order dated 14<sup>th</sup> June, 2012 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 8<sup>th</sup> July, 2016 by the school seeking review of the order/recommendation dated 14<sup>th</sup> June, 2012 is, therefore, not maintainable and it is disposed of as not maintainable

**JUSTICE ANIL KUMAR (Retd.)**

**CHAIRPERSON**

**J.S. KOCHAR**

**MEMBER**

**Dr.R.K. SHARMA**

**MEMBER**

Date: 15.12.2016

TRUE COPY

Secretary



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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:**

**INDRAPRASTHA WORLD SCHOOL(B-0075),  
FORMERLY SAVIOUR CONVENT Sr.SEC. SCHOOL,  
A-2 BLOCK, PASCHIM VIHAR,  
New Delhi 110063**

**And in the matter of**

**Application/representation undated  
Received on 3<sup>rd</sup> May,2016 to review the order  
Dated 30<sup>th</sup> December, 2015 passed by the  
Committee in respect of the School.**

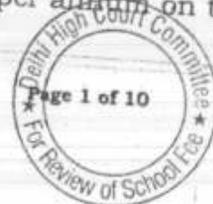
Present: Shri M.K.Tiwari Authorized representative of the School.

**ORDER**

The Committee passed the order/recommendation dated 30<sup>th</sup> December, 2015, in respect of Indraprastha World School, hereinafter, referred to as 'The School' holding that the school is liable to refund Rs. 4500 per student collected as lump-sum arrears for the period 1<sup>st</sup> January, 2006 to 31 August, 2008; Rs. 3500 per student collected as arrears for the period 1 September 2008 to 31 March, 2009; Rs.100 per month out of Rs. 500 per month which was hiked as tuition fee with effect from 1<sup>st</sup> April, 2009 till date and Rs. 5,140,550 charged as development fee for the year 2009 - 10 and Rs. 6,597, 325 for the year 2010 - 11. The school was directed to pay interest at the rate of 9% per annum on the

Application for Review dated 8.7.2016 St. Krishna Bodh Public School (C-0118)

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all the amounts as detailed hereinbefore. The Committee categorically held that the school tried to undermine the functioning of the Committee by putting of false and misleading pleas at every stage the school tried to manipulate the annual returns filed by the school under Rule 180 of Daily School Education Rules, 1973. The school had also tried to submit a statement styled as 'Scheduled of Fee/late fees' which merely stated as to when the fee for different months ought to be paid. A complaint was also received from the parents of the school alleging that fee hiked by the school pursuant to order dated 11<sup>th</sup> February, 2009 was in excess of the maximum amount permitted by said order. The allegation was also made that the lump-sum arrears charged by the school were also in excess of what was permitted by Director of Education. The parents had produced the copies of the children and in support of their allegations. The committee notice that in the feature amounts, the monthly fee was broken up into two components that is tuition fee and towards scholastic enrichment charges/academic support material and other activity charges however, these two amounts were clapped together to make up Rs. 2160 as monthly fee. Apparent differences were also noticed between the fee structure filed by the school under section 17 (3) of Delhi School Education act, 1973 and the feature amounts issued to the students. The fee structure of the year 2008 - 09 which was filed with the Director of Education was different from the details which were filed before the Committee. Noticing these anomalies it was observed that the school had been manufacturing the documents and no reliance could be placed on the documents filed by the school. The school had been issued a questionnaire to be replied by it. The school gave a reply dated 28<sup>th</sup> February, 2012 contending that it had implemented the recommendations of Vith pay commission and the increased salary was paid to the staff with effect from 1<sup>st</sup> April, 2009. The allegation was also made that the arrears of salary was paid to the staff and the school had increased the fee with effect from 1<sup>st</sup> April, 2009. It was alleged that arrears of fee was charged at the rate of Rs. 4500 per student. During the proceedings office superintendent and the chartered accountant of the school had admitted that the arrears of salary was



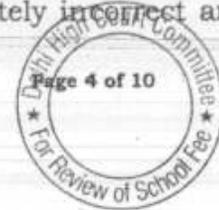
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paid to the staff in cash. It was also found that the school had been using the fee revenue for acquisition of buses and repayment of loans and payment of interest thereon the liabilities of the school far exceeded the amount which it had in the bank. Even the amount collected for a specific purpose of payment of arrears of salary was diverted for other purposes like creation of fixed assets and repayment of loans. The Committee had got the preliminary calculation sheet prepared and a copy of the same was also given to the school, however later on the school completely changed its stand. Later on other chartered accountants of the school appeared who changed their stand completely than what was canvassed before the Committee earlier. It was rather contended that the school ought to be allowed a further fee hike. After perusing the documents produced by the school and contradictory pleas taken by it, was inferred that the school has not come with clean hands and the records produced by the school is hogwash. It was noticed that the school had diverted funds for purchase of fixed assets, buses and for repayment of loans while keeping its current liabilities in abeyance. Noticing various anomalies and contradiction it was ordered by the Committee for refund of fees with interest. The school had admitted before the Committee that it was not maintaining any earmarked accounts for development fund and depreciation reserved fund the accounting year 2009 - 10 a sum of Rs. 1,399,511 was utilised as capital expenditure while the rest was spent on revenue expenses. This plea was also found to be contrary to the financials of the school. In the circumstances the committee passed the order directing the school to refund various heads of fees with interest at 9% per annum.

The school has sought review of the order dated 30<sup>th</sup> December, 2015 by filing an undated application which was received in the office of the Committee on 3<sup>rd</sup> May 2016 contending inter-alia that the total amount of Rs.1,34,23,433/- of the school has not been factored while inferring the available funds for payment of VI Central pay commission. According to the school that the view taken by the Committee with regard to Development fee is



based on this reading and misinterpretation of the judgment of Hon'ble Supreme Court. The allegation is that the view of the Committee is contrary to the express terms and language of the statutory mandate contained in Rule 177 and allied provisions of the Act. The plea of the school is that income derived by way of fees, after having met the liability of payment of salaries and allowances et cetera, can be utilised for needed expansion of the school for any expenditure of developmental nature. The savings are also permitted to be utilised for the expansion of the school building or any other building of the school. The contention is that a reasonable reserve fund of not less than 10% of such savings is also required to be maintained. The school canvases the interpretation that under Rule 177 transfer of savings from fee, by a particular school to any other school or educational institution under the management of the same society or trust. The Committee recommendations are based on erroneous assumption that concept of Development fee was introduced for the very first time by the Duggal Committee only and utilisation of Development fee necessarily has to be limited of being used for purchase or upgradation of furniture, fixture, equipment. The plea of the school is that the circulars do not override the statutory provisions. The school has challenged the observation of the Committee that the Development fee was treated as a revenue receipt in the financial statement by the school. Another ground seeking review of the order/recommendation of the committee is that the school had in its own name taken a loan for purchase of buses for itself and the Society had nothing to do with the same. In fact the Society had only transferred certain amounts to the school for repayment of loan installments and other regular financial requirements, which have not been repaid by the school to the society till date. The school has also challenged the inferences drawn by the Committee about the divergences of funds towards purchase of fixed assets. It is alleged that in fact there is no prohibition against a school acquiring fixed assets from the amounts standing to the credit of Depreciation Reserve Fund. In the circumstances it is contended that the recommendation of the Committee with regard to the refund of the entire development fee is absolutely incorrect and



contrary to any rule/law. The order/recommendation of the Committee is also challenged on the ground that there is no discussion or even a mention of the accounts given by the school accounting every penny of development fee. The review of order dated 30<sup>th</sup> December, 2015 is sought on the ground that the entire order is based on presumptions and assumptions and the recommendations/order is based on technicalities. The inferences of the Committee regarding tuition fee are also challenged on the ground that the reasoning is not based on any analysis of the liability, actual payments and actual collection made by the school, in reference to the arrears of salary payable to the staff of the school on implementation of 6<sup>th</sup> Central Pay Commission. The order is also challenged on the ground that Committee failed to take into account that the TDS on such payments was duly deducted by the school and was deposited in the respective accounts of the staff members. The school has sought review on the ground that the figures taken by the Committee in this regard are apparently incorrect and erroneous. The school denied that it had approached the Committee with clean hands and there was no difference or manipulation in the fees statements submitted by the school with Department of Education or with the Committee. According to the school the Committee has limited jurisdiction pursuant to judgment of Hon'ble Court decided on 12<sup>th</sup> August, 2011 and has placed reliance on Para 82 and 83 of said judgment. The review is sought on the ground that the jurisdiction of the committee did not comprise of checking the basic fee structure of the school and thus did not extend to order refund on the basis of basic fee structure. According to school since the Committee comprises of financial experts, it is in the more suitable position to review and appreciate the findings and the observations made by the school and there is no alternate efficacious remedy available to the school against the errors made by the committee in its recommendation/order.

The school has sought review of the order/recommendation of the committee dated 30<sup>th</sup> December, 2015 on merits of the order passed by the

Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 30<sup>th</sup> December, 2015. It is apparent that the Committee has become functus officio after it passed the order dated 30<sup>th</sup> December, 2015. The school has not produced any law or precedent or any rule or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3<sup>rd</sup> Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

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

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

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

The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. 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 renotified on 09.05.2014"

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 on the face of the record, however, no general permission was granted to the Committee by the Hon'ble Court at that time.

From the perusal of the application/representation filed on 3<sup>rd</sup> May 2016 by the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel NarshiThakershi and Ors.v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273* the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a

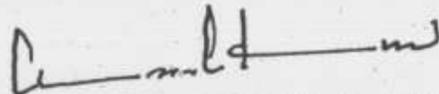
matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was considered and the pleas and contentions of the school taken into consideration before passing the order/recommendations dated 30<sup>th</sup> December, 2015.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 30<sup>th</sup> December, 2015 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been

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

The application/representation file don 3<sup>rd</sup> May 2016 seeking recalling/revoking of the order dated 30<sup>th</sup> December, 2015 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations filed on 3<sup>rd</sup> May 2016 by the school seeking review of the order/recommendation dated 30<sup>th</sup> December, 2015 is, therefore, not maintainable and it is disposed of as not maintainable

  
JUSTICE ANIL KUMAR (Retd.)

CHAIRPERSON

  
J.S. KOCHAR

MEMBER

  
Dr. R.K. SHARMA

MEMBER

Date: 15.12.2016

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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:**

**Richmond Global School, Miyawali Nagar, Paschim Vihar, New  
Delhi-110087 ( B-556)**

Present : Sh. Ashok Aggarwal, C.A., Sh. Rahul Sharma, Accountant &  
Sh.Pawan, Accountant of the school.

**Recommendations of the Committee**

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school) which was followed by a reminder dated 27/03/2012. However, the school did not respond to the same. A revised questionnaire was issued to the school on 30/07/2013 requiring it to furnish the information by 09/08/2013.

In response, the school vide its letter dated 07/08/2013, submitted as follows:

- (a) The school had implemented the recommendations of VI Pay Commission w.e.f. April 2009. For the previous period, arrears were paid.
- (b) The school had made a total payment of Rs. 21,28,582 towards arrears of salary.
- (c) The school had increased the fee of the students in pursuance of order dated 11/02/2009 issued by the Director of Education. With

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regard to the extent of fee hike made by the school, instead of giving a direct answer, the school stated that it had increased the fee annually as approved by the Directorate of Education and enclosed fee structures for the years 2008-09 and 2009-10, for the Committee to discern the fee hike by itself.

- (d) The school recovered a sum of Rs. 19,64,776 as arrear fee from the students consequent to implementation of VI Pay Commission.
- (e) The school was recognised in October 2007 and since then the school has not charged development fee.

For showing the effect of additional financial burden on the school on account of the implementation of recommendations of VI Pay Commission on the school stated that its total salary for the month of March 2009 amounted to Rs. 2,73,929 which increased to Rs. 5,46,198 on implementation the recommendations of VI Pay Commission.

Perusal of the fee schedules filed by the school for the years 2008-09 and 2009-10, the Committee observes that the school increased fee tuition fee of classes pre school to VIII by a sum of Rs. 400 per month. Class IX was introduced for the first time in the year 2009-10 and the monthly fee was Rs. 3,000 for that class. However, the school did not mention the date with effect from which the tuition fee was hiked.

The school had apparently not submitted its audited financials for the years 2006-07 and 2008-09 along with its annual returns filed under Rule 180

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of Delhi School Education Rules, 1973. However, the school submitted the same on being asked to do so by the Committee under cover of its letter dated 27/09/2013.

In the first instance, the preliminary calculations to examine the justifiability of the fee hike effected by the school were made by the Chartered Accountants (CAs) attached to this Committee. However, on review of the same, the Committee found the calculations to be unreliable as the CAs had extrapolated the monthly difference in fee and salary for the whole year on the basis of the information furnished by the school for just one month and the same had not been reconciled with the audited financials of the school.

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, 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, a copy of the circular issued to the parents regarding the fee hike.

In response to the notice issued by the Committee, the school vide its letter dated 08/06/2015 furnished the required information in a tabular form. The same was also supplemented by five enclosures i.e. enclosure A, B,C,D & E. Enclosure A was the detail of lump sum arrear fee for the period

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01/01/2006 to 31/03/2008 recovered from the students in two installments. The detail contained the arrear fee recovered from each individual student of the school. The total amount of such arrear fee recovered was **Rs. 5,83,076** (4,26,969 + 1,56,107). Another detail of arrear fee collected from each individual student for the period 01/09/2008 to 31/03/2009 was also filed. Such arrear fee recovered aggregated **Rs. 13,81,700**. Thus the school admitted that it recovered arrear fee amounting to **Rs. 19,64,776**.

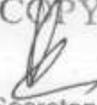
Enclosure B was the detail of arrears of salary purportedly paid to each individual member of the staff and the total of such payment amounted to **Rs. 20,88,143**. The school also furnished the bank statements of its account with Punjab National Bank, Pitampura, Delhi-110088 highlighting the payments made purportedly towards arrears salary.

Enclosure C was a copy of the letter of Central Board of Secondary Education granting provision affiliation to the school.

Enclosure D was a summarized statement of account of the parent society of the school Mata Krishanawanti Memorial Educational Society, in the books of school for the period 01/04/2008 to 31/03/2011.

Enclosure E were the two circulars dated 19/02/2009 and 06/03/2009 issued to the parents regarding fee hike pursuant to order dated 11/02/2009 issued by the Director of Education.

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In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 20/09/2016 for hearing on 07/10/2016. The school was also required to produce its accounting fee and salary records besides TDS and Provident Fund Returns in order to substantiate its claim of having implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009.

On the date of hearing, an application was received from the school seeking adjournment on the ground that the Principal was out of country. Accordingly the matter was adjourned for 28/11/2016. On this date also, though Sh. Ashok Aggarwal, Chartered Accountant of the school was present but again he sought adjournment. As per his request, the matter was adjourned today. Sh. Ashok Aggarwal appeared today assisted by Sh. Rahul Sharma & Sh. Pawan, Accountants of the school.

The Committee perused the circulars dated 19.02.2009 and 06.3.2009 issued by the school to the parents regarding fee hike effected by it in pursuance of order dated 11.2.2009 issued by the Director of Education. As per the circulars the school hiked its tuition fee @ Rs.400 per month w.e.f. 01.09.2008 and also recovered lump sum arrear fee @ Rs.3500 per student for the period 01.1.2006 to 31.08.2008.

The information furnished by the school regarding the fee and salary for the years 2008-09 to 2010-11 was tested with reference to the audited

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financials of the school and the books of accounts and bank statements produced by it.

It is worthwhile to note that the figures of arrear fee and arrear salary as furnished by the school in reply to the questionnaire issued by the Committee and those in response to the notice dated 25/05/2015 are different although both the replies have been given long after the arrear fee had been recovered and the arrear salary had been purportedly paid.

The claim of the school of payment of arrear salary through bank was verified by the Committee with reference to the ledger account of salary, the audited Income & Expenditure Accounts of the school for the years 2009-10 and 2010-11 and the bank statements filed by the school highlighting the purported payment of arrear salary.

On examination of the ledger produced by the school before this Committee, it transpired that the payments so highlighted in the bank statement represented payment of regular monthly salaries and not arrears. The detail of payment of arrear salary in two installments, the first being Rs. 9,21,900 in the year 2009-10 and the second being Rs. 11,66,243 in the year 2010-11 as furnished by the school was examined and the Committee observed that the same did not contain the mode of payment thereof. They were neither reflected in the books of accounts nor in the audited Income & Expenditure Account nor in any bank statement of the school.



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So far as the regular monthly salary of the school is concerned, as per the statement filed by the school in the format prescribed by the Committee, the entire amount of salary amounting to Rs. 32,46,382 was paid in cash in 2008-09 while in 2009-10, out of a total amount of Rs. 61,97,753, a sum of Rs. 16,70,344 was paid in cash.

The Committee also found that there was wide variation between the information furnished by the school and the actual position as per the audited financials of the school. The following table would illustrate the correct position:

Fee	2008-09		2009-10		2010-11	
	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account
Arrear fee for the period 01/01/2006 to 31/03/2009	19,64,776	0	0		0	
Regular/Normal Tuition fee for the year	67,81,536	67,81,536	1,24,56,230	No break up available	1,95,45,204	No break up available
Annual Charges	19,91,100	19,91,100	40,42,200		70,03,300	
Admission Fee	21,600	21,600	68,200		76,400	
<b>Total Fee</b>	<b>87,94,236</b>	<b>87,94,236</b>	<b>1,65,66,630</b>	<b>1,65,66,630</b>	<b>2,66,24,904</b>	<b>2,66,24,904</b>
Salary	2008-09		2009-10		2010-11	
	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account	As per submissions dated 08/06/2015	As per the audited Income & Expenditure Account
Arrear salary for the period 01/01/2006 to 31/03/2009	0	0	9,21,900	0	11,66,243	0
Regular/Normal salary for the year	48,01,892	32,77,810	1,16,58,044	61,97,753	1,76,87,223	1,61,19,286
<b>Total salary</b>	<b>48,01,892</b>	<b>32,77,810</b>	<b>1,25,79,944</b>	<b>61,97,753</b>	<b>1,88,53,466</b>	<b>1,61,19,286</b>

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From the above table, the following facts are evident:

- (a) The school recovered a sum of Rs. 19,64,776 as arrear fee in the year 2008-09, which is not separately reflected in its Income & Expenditure Account. Thus obviously, it is included in the normal tuition fee for that year amounting to Rs. 67,81,536. This is also apparent from the fact that this figure of Rs. 19,64,776 has not been included in the figure of total aggregate fee recovered by the school in 2008-09. Thus the tuition fee of Rs. 67,81,536 as mentioned in the Income & Expenditure Account included the arrear fee of Rs. 19,64,776. The normal fee charged for the year 2008-09 was only the balance amount of Rs. 48,16,760.
- (b) The school, apparently, incurred a sum of Rs. 32,77,810 actually as its expenditure on normal salary for the year 2008-09 instead of Rs. 48,01,292, claimed by it.
- (c) The total expenditure on salary apparently incurred by the school in 2009-10 was Rs. 61,97,753, as against Rs. 1,16,58,044, claimed by it. No payment of arrear salary was made by the school in 2009-10 as against Rs. 9,21,900 claimed by it.
- (d) The school did not pay any arrears of salary in 2010-11 also as against a sum of Rs. 11,66,243, claimed by it.
- (e) The total expenditure on salary apparently incurred by the school in 2010-11 was Rs. 1,61,19,286 as against Rs. 1,76,87,223 claimed by it.

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It is apparent that the school has economical with truth and furnished incorrect information to the Committee. The Committee is therefore, of the view that neither the information furnished by the school in response to questionnaire or in response to the various notices issued by the Committee nor the books of accounts or its audited financials can be relied upon.

In view of the above, the Committee is of the view that the school neither paid arrears of salary as claimed by it nor prospectively implemented the recommendations of VI Pay Commission, as claimed by it.

Therefore, in the opinion of the Committee, the school ought to refund the entire amount of arrear fee amounting to Rs. 19,64,776 admittedly recovered by it and the entire amount of the fee hike of Rs. 400 per month effected with effect from 01/04/2009 ( the amount of fee hike for the period 01/09/2008 to 31/03/2009 is already included in the arrear fee) along with interest @ 9% per annum from the date of collection to the date of refund. However, the school may retain an amount equivalent to 10% the tuition fee charged by it in the year 2008-09 as the Committee has held in the earlier cases that irrespective of whether the school have implemented the VI Pay Commission or not the school would be justified in increasing the fee to the extent of 10% to cover the routine inflationary effect on its expenses, including salary.

The school has stated that it did not charge any development fee nor the same is discernible from the fee schedules and audited financials filed by the

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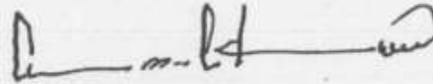
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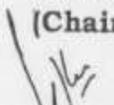
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school. Accordingly no recommendations is required to be made in respect of development fee.

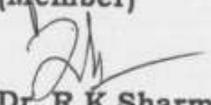
Recommended accordingly.



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



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



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

**Date: 15/12/2016**

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000102

**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:**

**PUNEET PUBLIC SCHOOL (B-0213),**

**VISHWAS NAGAR,**

**Delhi 110032**

**And in the matter of**

**Applications/representations dated**

**31<sup>st</sup> October, 2014 and 24<sup>th</sup> July, 2015**

**seeking review of order dated**

**14<sup>th</sup> August, 2013 passed by the**

**Committee in respect of the School.**

Present: Shri Yogendra Singh, Manager and Shri Sanjay Gupta CA Authorized representatives of the School.

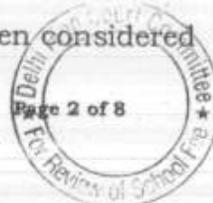
**ORDER**

The Committee passed the order/recommendation dated 14<sup>th</sup> August, 2013, in respect of Puneet Public School, Vishwas Nagar, Delhi 110032 hereinafter, referred to as 'The School' holding that the hike in fee in 2009 - 10 in excess of 10% was unjustified and was liable to be refunded with interest @ 9% per annum and consequently the fee hike in excess of 10% in subsequent years is also liable to be refunded. The Committee had held that the school was treating the Development fee as a revenue receipt instead of capital receipt and no depreciation reserved fund was maintained by the school entailing



38,000 in the year 2010 - 11 which amounts were also liable to be refunded with interest @ 9% per annum. Before passing the order the reply dated 29<sup>th</sup> February, 2012 of the school was considered where the school had contended that it had only partly implemented the recommendations of the sixth pay commission with effect from 1<sup>st</sup> April, 2011 and no arrears of salary on account of retrospective implementation had been paid. The school had alleged that it had increased the fee only by 10% and not as permitted by order dated 11<sup>th</sup> February, 2009. By notice dated 23<sup>rd</sup> March, 2012 the school was directed to produce its fee, salary and accounting records. The records produced by the school were examined and it transpired that the hike in fee by the school was from 14% to 22% for different classes which was contrary to the claim of the school that it had hiked the fee only by 10%. Since the plea of the school was that it had partially implemented sixth pay commission recommendation with effect from 1<sup>st</sup> April, 2011, the financials of the school for 2011 - 12 were directed to be produced and were examined. On consideration of the record of the school it had transpired that the school had not even partially implemented the sixth pay commission. It had also transpired that the school had also been charging Development fee contrary to established norms. The school had admitted in its reply that it was charging the development fee which was treated as a revenue receipt in the accounts and no depreciation reserved fund was maintained. Consequently the order/recommendations dated 14<sup>th</sup> August, 2013 was passed.

The school has sought review of the order dated 14<sup>th</sup> August, 2013 by filing applications for review dated 31<sup>st</sup> October, 2014 and 24<sup>th</sup> July, 2015. The school also submitted additional information for considering the justifiability of fee hike by communication dated 9<sup>th</sup> November, 2015. The school contended that the reply submitted by it was relevant for the period 2011 - 12, being the period when sixth pay commission was implemented by the school with effect from 1<sup>st</sup> April, 2011 and not for the period of 2009 - 10 as has been considered



by the Committee. The contention of the school is that increase in fee by ₹ 100 was purely need-based and had nothing to do with the order of Director of Education. According to school the 10% increase has been misunderstood as it related to period 2011 - 12 and not the year 2009 - 10. The school justified the increase in fee beyond 10% in the year 2009 - 10 as the school fund position had remained critical due to low fee structure in earlier years. The school contended that it had not fully implemented the fifth pay commission also due to paucity of funds and consequently increase of the fee beyond 10% had become absolute necessary. The school has given the fee realized; cost of establishment; percentage of establishment cost of fee realized; deficit/shortfall and contribution by parent society for the years 2008 - 09 and 2009 - 10. The plea of the school is that increase of the fee beyond permitted which is meagre ₹ 40 ₹ 50 per head should not be linked to the order of Director of Education but should be treated as need-based solely to fulfil the requirement of fifth pay commission. According to the school if it had not increased the fee, the requirement of fifth and sixth pay commission could not be implemented. In the additional information submitted by the school by communication dated 9<sup>th</sup> November, 2015 it is contended that any increase in fee beyond ₹ 100 was not possible as the school is located in an area which is inhabited by families belonging to low and middle income group. In the circumstances it is claimed that the recommendation/order dated 14<sup>th</sup> August, 2013 be reviewed and the school should not be asked to refund any amount with interest in the facts and circumstances.

The school has sought review of the order/recommendation of the committee dated 14<sup>th</sup> August, 2013 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 14<sup>th</sup> August, 2013. It is apparent that the Committee has become functus officio after it passed the



order dated 14<sup>th</sup> August, 2013. The school has not produced any law or rule or precedent or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3<sup>rd</sup> Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

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

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

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

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

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Secretary



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

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

The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. 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 renotified on 09.05.2014"

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 on the face of the record, however, no general permission was granted to the Committee by the Hon'ble Court at that time.



From the perusal of the applications/representations dated 31<sup>st</sup> October, 2014 and 24<sup>th</sup> July, 2015 by the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel NarshiThakershi and Ors.v. Pradyumansinghji Arjunsingji* MANU/ SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a misapprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debit a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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 vitiate the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was considered and the pleas and contentions of the school taken into consideration before passing the order/recommendations dated 14<sup>th</sup> August, 2013.

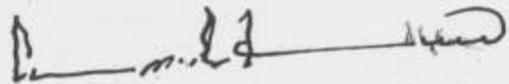
Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 14<sup>th</sup> August, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to

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

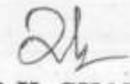
The applications/representations dated 31<sup>st</sup> October, 2014 and 24<sup>th</sup> July, 2015 seeking recalling/revoking of the order dated 14<sup>th</sup> August, 2013 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The applications/representations dated 31<sup>st</sup> October, 2014 and 24<sup>th</sup> July, 2015 by the school seeking review of the order/recommendation dated 14<sup>th</sup> August, 2013 is, therefore, not maintainable and they are disposed of as not maintainable



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



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

Date: 22/12/2016

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Secretary



000110

**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:**

**BHATNAGAR INTERNATIONAL SCHOOL (B-0088),**

**SECTOR -B, POCKET-X,**

**VASANT KUNJ**

**New Delhi 110060**

**And in the matter of**

**Application/representation dated**

**16.12.2014 and reminder dated**

**10<sup>th</sup> JULY, 2015 for review of order**

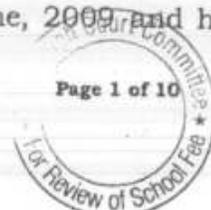
**dated 9<sup>th</sup> May, 2013 passed by the**

**Committee in respect of the School.**

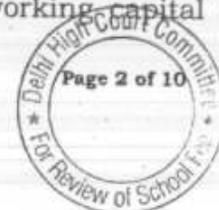
Present: Shri Hemant Khanna Authorized representative of the School.

**ORDER**

The Committee passed the order/recommendation dated 9<sup>th</sup> May, 2013, in respect of Bhatnagar International School, Vasant Kunj, New Delhi 110070 hereinafter, referred to as 'The School' holding that the school is liable to refund ₹ 70,35,363 with interest @ 9% per annum. Before making the recommendation/order the Committee considered the reply submitted by the school dated 2<sup>nd</sup> March, 2012 in which the school had contended that it had implemented the sixth pay commission with effect from June, 2009 and has



also paid arrears of salary to the staff on account of retrospective application of the sixth pay commission. The school had contended that it had increased the fee in accordance with the order dated 11<sup>th</sup> February, 2009 and the arrears of fee was also recovered from the students. The chartered accountants of the Committee had carried out the preliminary examinations of the financials of the school. Prima facie it had appeared that the school had increased fee more than what was required to offset the additional burden on account of implementation of the sixth pay commission and consequently a notice dated 24<sup>th</sup> December, 2012 was issued to the school for giving the school an opportunity of being heard. On 7<sup>th</sup> January, 2013 the authorized representative of the school had appeared who had been given the copy of preliminary calculations. The authorized Representatives were also heard on that date. The school was given more time to respond to preliminary calculations of the Committee and the hearing was adjourned to 1<sup>st</sup> February, 2013. The school was also directed to specifically state the amount of development fee charged, the manner of utilization thereof and whether development fund and depreciation reserved fund had been maintained by the school. The school had submitted that it required funds in reserve to meet the accrued liabilities towards gratuity and leave encashment. The school had also filed the employee wise calculations and also contended that the school was in deficit to the tune of ₹ 2,428,281 and as such had no funds available with it for implementation of sixth pay commission. Regarding the development fee it was contended that the amount received from the student was credited to a separate fund account and the same was utilized accordingly. The school however, had contended that it did not maintain separate depreciation reserve fund by earmarking any bank account or FDR's or investments. It was inferred on the basis of the information rendered by the school that the school had been incurring cash loss year after year; the school had been diverted its short-term funds for investing in fixed assets like land, building, furniture, equipment, vehicles etc. and the school had been transferring funds to the society or other institutions. Thus the school was held responsible in the shortfall in working capital on



account of diversion of its short-term funds for investing in fixed assets as enumerated here in before and transferring funds to the society or other institutions. The Committee after perusing the balance Sheets and other accounts of the school had inferred that the school did not have opening shortfall of ₹ 2,428,281. However keeping in view that the diversion of short-term funds to long-term uses or diversion to the society or other entities under the same management, the Committee in order to meet the end of justice took opening funds available to the school as zero. The committee considered the accrued liability towards gratuity and leave encashment and the fixed deposit pledged with Central Board of Secondary Education. The Committee also considered differences in figures of arrears fee; incremental revenue from increased fee from 1<sup>st</sup> April, 2009 to 31<sup>st</sup> March, 2010; incremental salary and salary arrears on account of implementation of sixth pay commission and came to a conclusion that the school had recovered a sum of ₹ 4,630,661 short of its requirement. The Committee also noticed that the school had been showing negative general fund which were offset by Development fund and thus negated the plea of the school that it was utilizing its development fund for acquiring fixed assets only. It was also noticed that the school was meeting its revenue deficit by transferring funds from the development fee without passing corresponding accounting entries. It was also noticed that the school was not maintaining any earmarked bank account for development fund and was also not maintaining any earmarked depreciation reserve fund either by way of dedicated bank account or FDR's or securities. In the circumstances it was held that the school was not justified in charging any development fee. In the circumstances the committee had that the fee was unjustly charged but as the school had recovered a sum of ₹ 4,630,661 short of its requirement as tuition fee, therefore, held that the school is liable to refund ₹ 7,035,363 with interest @ 9% per annum by recommendation/order dated 9<sup>th</sup> May, 2013.

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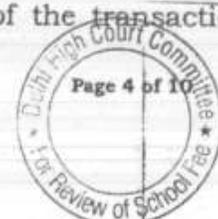
Secretary



The school has sought review of the order dated 9<sup>th</sup> May, 2013 by filing an application for review dated 16<sup>th</sup> December, 2014 contending inter-alia that perhaps because of paucity of time the Committee could not appreciate the pleas of the school and therefore, has sought another opportunity to clarify the pleas and contentions of the school and to pass order again on merits. The school contended that the Committee has wrongly disallowed opening shortfall without any rational and justification. According to the school the ceiling provided by the Directorate of Education by its order dated 11<sup>th</sup> February, 2009 is unreasonable and unlawful and has sought directions to rectify the situation by seeking review of the recommendation/order of the Committee. According to the school it is maintaining depreciation reserve which is also apparent from the audited financial statements. Pleas of the school that the utilization is in accordance with the prescribed guidelines. According to school it has not contravened with the requirements of the Director of Education and has maintained depreciation reserve fund in accordance with the prescribed guidelines. The contention of the school is that in compliance with notification dated 15 December, 1999 the school is charging depreciation to the revenue and acquiring assets every year. The school has relied on its balance Sheets and General Fund/Income and Expenditure account to contend that the depreciation reserve fund had been completely utilized for acquisition of fixed assets. According to the school it was eligible to charge Development fee from the students. Relying on its audited financial statements it is contended that depreciation on assets acquired out of Development fund is charged against general fund and an equivalent amount is transferred to Depreciation reserve, which is in accordance with the guidelines laid down by an earlier committee and thus the school has not contravened with the requirement of Director of Education and has fulfilled the mandatory condition to charge Development fee from students. The school also alleged the detailed analysis of its development fee collected from students and utilization of development fee. It is contended that the school has met the purpose and there has not been any diversion from the ultimate goal and the only difference is the routing of the transaction.

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Reliance has also been placed on the Accounting Standard issued by the Institute of Chartered Accountants of India. According to the school finally both the development fund and the depreciation reserve fund had been duly spent on their designated purpose, acquisition of fixed assets and the law permits the school to use a part of tuition fee being spent on fixed assets. The contention of the school is that in absence of any prescribed format for financial statement from the Directorate of Education, the school could adopt the accounting policies suited best to its requirement as the net effect as sought by the directions of Director of Education is the same as has been shown by the school and there has not been any diversion from the ultimate goal. Referring to year wise balances of society it is contended that the school is having a liability towards society and there is no receivable amount due from the society and as such there has been no diversion of funds towards society. The school has also sought a direction that the Directorate of Education has unlawfully restricted the school increasing the fee commensurate with the requirements to neutralize the effect of implementation of sixth Central pay commission and to recommend to the competent authority to permit the school to prescribe School fee in accordance with law as has been detailed in the application for review. According to the school all the directions of the Directorate have been met directly or indirectly and not intended to be violated, therefore the order/recommendation about the refund of fees with interest be recalled.

The school has sought review of the order/recommendation of the committee dated 9<sup>th</sup> May, 2013 on merits of the order passed by the the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 9<sup>th</sup> May, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 9<sup>th</sup> May, 2013. The school has not produced any law or rule or



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

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become functus officio. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (3<sup>rd</sup> Edition, Vol 2 pp. 1946-47) gives the following illustrative definition of the "functus officio".

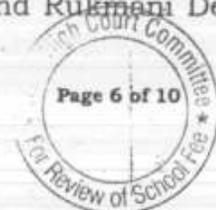
"Thus a judge , when he has decided a question brought before him, is functus officio, and cannot review his own decision."

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

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

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

Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi



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

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

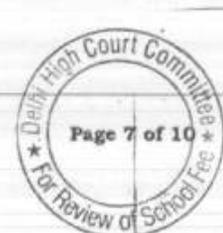
The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. The Hon'ble Court passed the following order:

"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 renotified on 09.05.2014"

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 on the face of the record, however, no general permission was granted to the Committee by the Hon'ble Court at that time.



From the perusal of the application/representation dated 16<sup>th</sup> December, 2014 by the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more *res integra* that no review lies on merits unless a statute specifically provides for it. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel NarshiThakershi and Ors.v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273* the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In *Patel Narshi Thakershi & ors. (supra)* the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita a justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

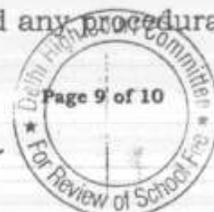
The procedural review belongs to a different category. In such a review, the Court or quasi-judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi-judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a



matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. The party has to establish that the procedure followed by the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was considered and the pleas and contentions of the school taken into consideration before passing the order/recommendations dated 9<sup>th</sup> May, 2013.

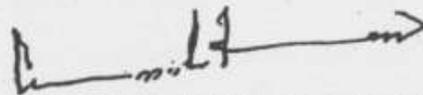
Applying these principles it is apparent that where a quasi-judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the quasi-judicial authority is vested with power of review by express provision or by necessary implication.

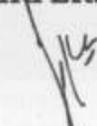
The Applicant in the present case seeks recall/review of the order passed by the Committee dated 9<sup>th</sup> May, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural

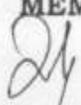


illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of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

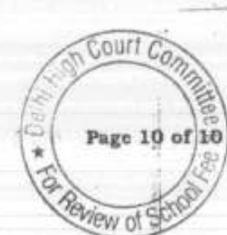
The application/representation dated 16<sup>th</sup> December, 2014 seeking recalling/revoking of the order dated 9<sup>th</sup> May, 2013 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The application/representation dated 16<sup>th</sup> December, 2014 by the school seeking review of the order/recommendation dated 9<sup>th</sup> May, 2013 is, therefore, not maintainable and it is disposed of as not maintainable

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

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

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

Date: 22/12/2016



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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:**

**MANAV STHALI SCHOOL (B-0118),**

**NEW RAJINDER NAGAR,**

**New Delhi 110060**

**And in the matter of**

**Application/representation dated**

**16.12.2014 and reminder dated**

**21<sup>ST</sup> JULY, 2016 seeking review**

**of order dated 9<sup>th</sup> September,**

**2013 passed by the Committee**

**in respect of the School.**

Present: Shri Manu Luthra CA and Shri N.K.Tiwari Authorized representative of the School.

**ORDER**

The Committee passed the order/recommendation dated 9<sup>th</sup> September, 2013, in respect of Manav Sthali School, New Rajinder Nagar, New Delhi 110060 hereinafter, referred to as 'The School' holding that the school is liable to refund ₹ 77,43,316 with interest @ 9% Development Fee for 2009-10; ₹ 82,94,650 with interest @ 9% Development Fee for 2010-11, total Development

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Fee amounting to ₹ 1,60,37,966 with interest @ 9% per annum less deficiency in tuition fee. The school was thus directed to refund ₹ 1,33,23,660 with interest @ 9% per annum. Before making the recommendations, Directorate of Education had forwarded to the Committee returns filed by the school under Rule 180 of Daily School Education Rules, 1973 for the year 2006 - 2007 to 2010 - 11. The school also by its letter dated 29<sup>th</sup> February, 2012 had also filed the reply to the questionnaire which was sent by the Committee to the school. The school had contended in its reply that the school had implemented sixth pay commission report with effect from March, 2009 and also paid the arrears of salary on account of retrospective application of sixth pay commission report. According to school the fee hike was in accordance with the order dated 11<sup>th</sup> February, 2009. It was also claimed that a part of fee was not received from the students. The audited balance sheet of the school as on 31<sup>st</sup> March, 2008 was taken as the basis for calculation of funds available with the school for the purpose of implementation of the sixth pay commission report. On the preliminary consideration it was found that after taking into account the fee hike and salary hike, the school had a surplus and therefore, it appeared that the school had hiked more fee than was required. The school was therefore, served a notice dated 20<sup>th</sup> February, 2013 for providing justification for such a fee hike. On 25<sup>th</sup> March, 2013 the authorized Representatives who appeared on behalf of the school were provided a copy of preliminary calculation made by the Committee. On that day it was contended by the school that the amount paid as advance tax and TDS ought not to have been included in the available funds, as the refund came only in financial year 2010 - 11. The school was also queried as to how the development fee was treated by the school. On that day, at the request of the school further hearing was adjourned to 18<sup>th</sup> April, 2013. Before the hearing on 18<sup>th</sup> April, 2013, the school filed written submission dated 10<sup>th</sup> April, 2013 and also filed its own calculations justifying the fee hike. On considering the various facts and figures it was inferred that the school was in deficit to the tune of ₹ 7,642,772 after implementation of sixth pay commission report. While inferring so the Committee considered the amount



for gratuity; leave encashment and the funds to be kept in reserve as also exclusion of advance tax and the TDS from the funds available as on 31<sup>st</sup> March, 2008. After taking all the facts and figures, the Committee inferred that the school was in deficit to the tune of ₹ 2,714,306 on account of implementation of sixth pay commission. Regarding the development fee it was noticed that the purpose of maintaining a depreciation reserve fund is to ensure that the school has sufficient funds at its disposal when the need arises to replace the assets acquired out of development fund. The allegation of the school that since development fund had been fully utilized, there was no need to maintain any depreciation reserved fund was repelled being untenable and against the law laid down by the Hon'ble Supreme Court. It has thus been held by the Committee that the collection of development fee by the school was not justified. The Committee therefore ordered/recommended refund of development fee as detailed hereinabove.

The school has sought review of the order dated 9<sup>th</sup> September, 2013 by filing an application for review dated 16<sup>th</sup> December, 2014 contending inter-alia that perhaps because of paucity of time, the Committee could not appreciate the pleas of the school and therefore, has sought another opportunity to clarify the pleas and contentions of the school. It is contended that the school did not have surplus funds on 11 February, 2009 and the ceiling prescribed by the Directorate of Education was rather unreasonable and unlawful resulting into the school facing a situation of deficit on account of implementation of sixth Central pay commission. According to the school it was eligible to charge Development fee from the student. Relying on its audited financial statements it is contended that depreciation on assets acquired out of Development fund, is charged against general fund and an equivalent amount is transferred to Depreciation reserve, which is in accordance with the guidelines laid down by an earlier committee and thus the school has not contravened with the requirement of Director of Education and has fulfilled the mandatory condition

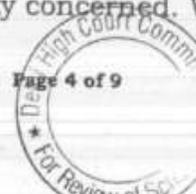
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to charge Development fee from students. The school also alleged her detailed analysis of its development fee collected from students and utilization of development fee. It is contended that the school has met the purpose and there has not been any diversion from the ultimate goal and the only difference is the routing of the transaction. Reliance has also been placed on the Accounting Standard I issued by the Institute of Chartered Accountants of India. According to the school ultimately that both the development fund and the depreciation reserve fund had been duly spent on their designated purpose, acquisition of fixed assets and the law permits the school to use a part of tuition fee being spent on fixed assets. The contention of the school is that in absence of any prescribed format for financial statement from the Directorate of Education, the school could adopt the accounting policies suited best to its requirement as the net effect as sought by the directions of Director of Education is the same as has been shown by the school and there has not been any diversion from the ultimate goal.

The school has sought review of the order/recommendation of the committee dated 9<sup>th</sup> September, 2013 on merits of the order passed by the Committee. In the circumstances the committee has to first consider and adjudicate whether the Committee has such powers or not which are invoked by the School to review/reconsider its order dated 9<sup>th</sup> September, 2013. It is apparent that the Committee has become functus officio after it passed the order dated 9<sup>th</sup> September, 2013. The school has not produced any law or rule or precedent or order of the Hon'ble Court giving power to the Committee to review its orders on merits.

It is no more res integra that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an



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

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

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

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

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

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



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prayers before the Hon'ble Court in its communication dated 12<sup>th</sup> February, 2014:

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

The Hon'ble Court, however, by its order dated 19<sup>th</sup> March, 2014 in W.P (C) 7777/2009 & CM No. 3168 of 2013 **only** permitted the committee to review the order of Rukmani Devi Public School, Pitam Pura. 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 renotified on 09.05.2014"

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 on the face of the record, however, no general permission was granted to the Committee by the Hon'ble Court at that time.

From the perusal of the application/representation dated 16<sup>th</sup> December, 2014 by the school, it is apparent that the applicant/school has sought review/reconsideration of recommendations of the Committee on merits. The applicant is not seeking review on account of any lapse in procedure or procedural defect as contemplated under the concept 'Procedural lapse'. This is also no more res integra that no review lies on merits unless a statute

specifically provides for it. In Dr. (Smt.) Kuntesh Gupta v. Management of Hindu KanyaMahaVidyalaya, Sitapur (U.P.) and Ors. MANU/SC/0104/1987 and Patel NarshiThakershi and Ors. v. Pradyumansinghji Arjunsingji MANU/SC/0433/1970: AIR 1970 SC 1273 the Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication. There is a difference between the procedural review and a review on merits. The procedural review is which is either inherent or implied in a Tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it. But the review on merits is when the error sought to be corrected is one of law and facts and is apparent on the face of the record. In Patel Narshi Thakershi & ors. (supra) the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debita justitiae* to prevent the abuse of its process, and such power inheres in every Court or Tribunal.

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

the Court or the quasi-judicial authority suffered from such illegality that it vitiates the proceeding and invalidate the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. The school was issued notices and was given ample opportunities and the representative of the school had appeared and produced record which was considered and the pleas and contentions of the school taken into consideration before passing the order/recommendations dated 9<sup>th</sup> September, 2013.

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

The Applicant in the present case seeks recall/review of the order passed by the Committee dated 9<sup>th</sup> September, 2013 on merits on various grounds. It is not alleged that in passing the order, the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that matters have been apparently considered incorrectly and the school/applicant is seeking review of its order pertaining to the case of the School. Apparently the recall or review or reopening sought is not a procedural review, but a review on merits. Such a

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

The application/representation dated 16<sup>th</sup> December, 2014 seeking recalling/revoking of the order dated 9<sup>th</sup> September, 2013 and passing the order/recommendation again is not maintainable as this Committee does not have such powers as has been prayed by the School. The application/representation dated 16<sup>th</sup> December, 2014 by the school seeking review of the order/recommendation dated 9<sup>th</sup> September, 2013 is, therefore, not maintainable and it is disposed of as not maintainable

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

**J.S. KOCHAR**

**MEMBER**

**Dr. R.K. SHARMA**

**MEMBER**

Date: 22/12/2016

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Secretary



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

**In the matter of:**

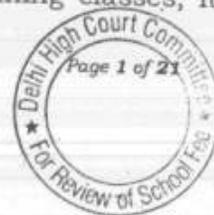
**Apeejay School, Saket, Delhi-110017 (B-106)**

Present :Sh. H.L. Tikku, Sr. Advocate, Ms. Anita Paul, Principal, Sh. Bharat Bhushan, General Manager, Sh. S.K. Murgai, Financial Advisor, Sh. Rajeev Jain, Accounts Officer and Sh. Anuj Saini, Accountant of the School.

**Recommendations of the Committee**

In order to elicit the relevant information from the schools to arrive at proper conclusions with regard to the necessity of fee hike effected by the schools, the Committee issued a questionnaire dated 27/02/2012 to all the unaided recognised schools in Delhi (including the present school). The school submitted its reply vide letter dated 02/03/2012, stating as follows:

- (a) The School had implemented the recommendations of VI Pay Commission and the increased salary of the staff was being paid w.e.f. January 2006 (sic).
- (b) Prior to implementation of VI Pay Commission, the monthly pay out on salary was Rs. 12,29,804 which increased to Rs. 17,72,309 after implementation.
- (c) The school paid arrears amounting to Rs. 1,33,25,736 for the period 01/01/2006 to 31/05/2009.
- (d) The school hiked tuition fee w.e.f. Sept. 1, 2008. The increase in tuition fee for students of classes Nursery to III was Rs. 500 per month while for the remaining classes, it



was Rs. 400 per month. Besides, the school also increased the development fee, purportedly in accordance with the directions given by the order dated 11/02/2009 issued by the Director of Education.

- (e) The school recovered lump sum arrears for the period 01/01/2006 to 31/08/2008 @ Rs. 3,500 or Rs. 4,500, as applicable to the students of different classes.

However, the school did not give the aggregate amount of the arrear fee recovered.

The information furnished by the school was ex facie incorrect as it claimed that the salary was increased w.e.f. January 2006 in pursuance of the recommendations of VI Pay Commission, which itself was notified in the year 2008. In the same breath, the school claimed to have paid arrears of salary for the period 01/01/2006 to 31/05/2009, indicating that the salary was increased only w.e.f. 01/06/2009.

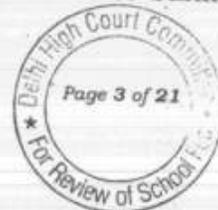
In the first instance, the preliminary calculations to examine the justifiability of fee hike were made by the Chartered Accountants, detailed with this Committee. On examination of the same, the Committee was of the view that the same could not be relied upon as they had calculated the effect of implementation of VI Pay Commission on the basis of the differential salary of one month and extrapolated the same for the whole year. The same were not reconciled with the audited financials of the school.



The Committee issued a notice dated 06/05/2015 for providing an opportunity to the school of being heard on 14/05/2015. The notice also required the school to furnish complete break up of fee and salary for the years 2008-09 to 2010-11 as per the audited Income & Expenditure Accounts, showing separately the arrear fee and salary and regular fee and salary for the respective years, details of accrued liabilities of gratuity and leave encashment and statement of account of the Parent society as appearing in the books of the school. The school was also required to produce its complete accounting fee and salary records for perusal by the Committee. The school was also issued a questionnaire seeking specific information with regard to charging and utilisation of development fee and maintenance of earmarked depreciation reserve and development funds.

On the date fixed, Ms. Anita Paul, Principal of the school appeared alongwith Sh. Anuj Saini, Accountant and Sh. Sunil Bhatt, Sr. Accountant. They filed the requisite information. They contended that the school fully implemented the recommendations of VI Pay Commission and also paid the full amount of arrears. They also submitted that the school did not have resources of its own and have to hike the fee as per order dated 11/02/2009 and also to recover the arrear fee for the purpose of full implementation of the recommendations of VI Pay Commission.

A reply to the questionnaire regarding development fee was also filed. In its reply the school admitted that no earmarked FDRs or bank



accounts were maintained for the unutilised development fund or depreciation reserve fund, although the reserves had been created in the books of accounts. They further submitted that leave alone earmarked FDRs for the above purpose, even the general FDRs did not actually exist, as the school had taken over draft against them.

The Committee noticed that as per the information furnished by the school, the arrears of salary actually paid were Rs. 1,30,59,336 instead of Rs. 1,33,25,736 claimed by the school in its reply to the questionnaire issued to it. The school was originally charging development fee @10% of tuition fee, but recovered the arrear for the period 01/09/2008 to 31/03/2009 @ 15% of tuition fee.

As the records received from the Directorate of Education pertaining to this school were not complete, the school was directed to furnish complete sets of its annual return for the years 2006-07 to 2010-11 and also to furnish the information regarding the aggregate amount of arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009.

Vide letter dated 19/05/2015, the school furnished the following information with regard to the total development fee recovered by it in the years 2008-09 to 2010-11. The same is reproduced below:

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Particulars of Development fee	2008-09	2009-10	2010-11	Total
Arrears of Development Fee for the period 01/09/2008 to 31/03/2009 (it is treated as capital receipt)	4,34,930	8,60,668	7,023	13,02,621
Regular normal development fee (it is treated as capital receipt)	28,78,279	50,60,975	56,77,394	1,36,16,648
<b>Total</b>	<b>33,13,209</b>	<b>59,21,643</b>	<b>56,84,417</b>	<b>1,49,19,269</b>

With regard to arrears of salary paid by the school, the school furnished the total breakup of the salary debited to the Income & Expenditure Accounts for the years 2008-09 to 2011-12. The same is reproduced as below:

Salary	2008-09	2009-10	2010-11	2011-12	Total
Arrear salary for 01/01/2006 to 31/05/2009	0	1,27,72,386	4,41,644	1,11,706	1,33,25,736
Arrear salary for 01/06/2009 to 31/08/2011	0	0	0	83,976	83,976
Total arrears paid	0	1,27,72,386	4,41,644	1,95,682	1,34,09,712
Regular salary for the year	1,78,00,699	2,59,54,691	3,07,59,327	3,20,89,562	10,66,04,279
<b>Total</b>	<b>1,78,00,699</b>	<b>3,87,27,077</b>	<b>3,12,00,971</b>	<b>3,22,85,244</b>	<b>12,00,13,991</b>
Less arrears of gratuity paid to retired teachers included in arrear salary for 01/01/2006 to 31/05/2009	0	0	1,14,998	0	0
Total as per Income & Expenditure Account	1,78,00,699	3,87,27,077	3,10,85,973	3,22,85,244	12,00,13,991

It is apparent that some amount of arrears were also paid in the year 2011-12 which were not taken into consideration by the school while furnishing the information in response to the Committee's notice dated 06/05/2015. The school also enclosed copies of the vouchers in support of the payments as made above.

The Committee verified the information regarding salary and arrears of salary as furnished by the school with reference to its

audited financials and the payment vouchers produced by the school as also its bank statements and found the same to be in order.

Based on the information furnished by the school as also its audited financials, the Committee prepared the following calculation sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education:

Statement showing Fund available as on 31-03-2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in hand		
	Balance in Savings Bank account	62,452	
	Investments with accrued interest	27,923,420	
	Advance to Contractor	16,245	
	Staff Advances	8,000	
	TDS	1,297	28,011,414
<b>Less</b>	<u>Current Liabilities</u>		
	Students Caution money	1,778,500	
	Overdraft from Lord Krishna Bank	1,155,201	
	Security Deposits from Contractors	24,321	
	Expenses Payable	2,113,815	
	Sundry Creditors	158,027	
	Fees received in advance	30,210	
	Provision for Bonus	151,710	5,411,784
	<b>Net Current Assets + Investments (Funds Available)</b>		<b>22,599,630</b>
	<b>Total Liabilities after implementation of VIth Pay Commission:</b>		
<b>Less</b>	Arrear of Salary as per 6th CPC 1.1.2006 to 31.5.2009	13,325,736	
	Incremental Salary for 2009-10 (as per calculation given below)	8,153,992	21,479,728
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>1,119,902</b>
<b>Add</b>	<b>Total Recovery after VI th Pay Commission</b>		
	Arrear of tuition fee w.e.f 01.01.06 to 31.08.08	3,957,851	
	Arrear of tuition fee w.e.f 01.09.08 to 31.03.09	3,459,183	
	Incremental fee for 2009-10 (as per calculation given below)	5,738,437	13,155,471
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>14,275,373</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	8,651,564	
	for Gratuity as on 31.03.2010 *	5,470,295	
	for Leave Encashment as on 31.03.2010	2,139,631	16,261,490
	<b>Excess / (Short) Fund</b>		<b>(1,986,117)</b>

\* Capped at Rs. 3.50 lacs ( maximum payable as on 31.3.2010)



<b>Development fee refundable as pre conditions for charging the same are not satisfied</b>		<b>Rs.</b>
2009-10		5,921,643
2010-11		5,684,417
		11,606,060
	Less: Shortfall on implementation of 6th CPC report	(1,986,117)
	<b>Net Amount refundable</b>	<b>9,619,943</b>

**Working Notes:**

	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	17,800,699	25,954,691
<b>Incremental salary in 2009-10</b>	<b>8,153,992</b>	
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	27,875,493	33,613,930
<b>Incremental tuition fee in 2009-10</b>	<b>5,738,437</b>	

As the calculations made by the Committee showed that prima facie, the school had to make a refund of Rs.96,19,943, a fresh notice of hearing was issued to the school for hearing on 03/12/2015. A copy of the above calculation sheet was also furnished to the school for rebuttal, if any. On the date of hearing, none appeared but a letter was received from the school seeking 4 weeks time. The request of the school was declined as the term of the Committee was expiring on 31/12/2015. In the circumstances, the hearing was closed in the matter. However, the final recommendations could not be made on account of the resignation of the previous Chairman of the Committee.

After the Committee was reconstituted, a fresh opportunity was given to the school vide notice dated 21/09/2016, fixing the hearing for 25/10/2016. On this date, the authorized representatives of the school were heard in the matter. The school also filed written submissions dated October 25, 2016, vide which the school disputed the calculations made by the Committee on the following grounds:

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- (a) An amount of Rs. 2,67,894 was held in the shape of FDRs which were in the joint name of the school and Director of Education and hence the same were not available for the purpose of implementation of the recommendations of VI Pay Commission, but had been included by the Committee in the funds available with the school.
- (b) While working out reserves for future contingencies, the Committee ought also to have included a sum of Rs. 12,02,348 being four months expenditure on bonus, provident fund, administration charges, leave travel concession, incentive to staff, tuition fee reimbursed to staff, payment for salary to security/house keeping staff (outsourced) and staff welfare expenses. The total of these expenses amounted to Rs.36,07,045.
- (c) The Committee has worked out the reserves for contingencies equivalent to four months salary but has not provided for the other expenses incurred by the school which are necessary for running and maintaining the school. The amount of four months of such expenses amounting to Rs.33,65,812 ought also to be included in the reserve for future contingencies.
- (d) The liability of the school towards gratuity amounts to Rs. 97,68,627, instead of Rs. 54,70,295 taken by the Committee in its calculations. The Committee was not justified in reducing the claim of gratuity for the following reasons:



- (i) The upper limit of gratuity ought not to have been kept at Rs. 3.50 lacs as on 31/03/2010 merely for the reason that the amendment in Payment of Gratuity Act increasing the upper limit to Rs. 10.0 lacs was effected w.e.f. 24/05/2010 i.e. after the valuation date.
- (ii) The Committee ought to have taken into consideration the gratuity liability in respect of the employees who had not completed 5 years of service as on 31/03/2010 as they continued to be on the rolls after that date. An affidavit was filed by the Principal of the school giving details of the accrued liability of gratuity which included such employees who had not completed five years as on 31/03/2010 but remained on the rolls of the school and completed five years of service subsequently. The total liability computed by the school as on 31/03/2010 amounted to Rs.95,70,134 which has been verified on affidavit by the Principal.
- (e) The Committee has computed leave encashment as on 31/03/2010 at Rs.21,39,631 as against the actual liability of Rs.32,00,290, the details of which were filed and supported by the affidavit of the Principal of the school.
- (f) The Committee was not justified in concluding that the total amount of development fee for the years 2009-10 and 2010-

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11 ( including arrears for seven months) was required to be refunded as (i) the school had treated development as a capital receipt, (ii) the school has kept the amount towards depreciation fund in separate FDRs as per the details of FDRs already furnished (iii) the school had spent the entire amount collected towards development fee for purchase of eligible assets i.e. furniture, fixtures & equipment and therefore, the question of keeping the development fee in separate account or FDRs did not arise (iv) the amount under depreciation fund could be considered/utilised for purchase of all other assets of the school except furniture, fixtures & equipments. As such other capital assets from the amount under depreciation fund were permitted to be utilised. The restrictions for purchase of fixed assets as the case was for utilisation under development fund is not applicable to amount under reserve fund which could be utilised for creation of other capital assets (v) Since the school maintained the depreciation fund and also kept the amount in separate FDRs, the school meets the criteria.

(g) In case the school is required to refund the development fee, it would amount to double jeopardy as on one hand the school has already spent the amount for purchase of eligible asset and on the other hand the amount would be refunded to the students.

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- (h) The Director of Education vide para 15 of the order dated 11/02/2009 had carved out an exception to the extent that the additional amount of development fee could be utilised by the schools to meet any shortfall on account of salary arrears. As the Committee has already computed a shortfall of Rs.19,86,117 on implementation of VI Pay Commission, the additional amount of development fee totaling Rs. 21,82,696 ought to be adjusted and reduced from the total amount of development fee considered by the Committee to be refundable.
- (i) The Hon'ble Supreme Court in the cases of TMA Pai Foundation, Islamic Academy and PA Inamdar have held that self financed institute should generate a reasonable surplus for the benefit of the institute. In view of this, the Committee, even if it finds a surplus generated by the school, ought to ignore the same to the extent of 15% .
- (j) If all the aforesaid adjustments are made, it would be found that the fee hike effected by the school was on the lower side and in terms of the judgment of the Hon'ble High Court of Delhi, the school is entitled to seek increase in fee from the Committee.

Accordingly, the school submitted that the Committee allows it to increase the fee over and above that already effected by it in terms of order dated 11/02/2009 issued by the Director of Education.

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The Committee has heard the Senior Counsel, Shri H.L.Tikku appearing for the school.

Considering the arguments put forth on behalf of the school and after examining the audited financials, fee schedules, circulars issued by the Directorate of Education regarding fee hike and the information furnished by the school during the course of hearing, the various issues raised by the school are discussed as under:

**Discussion:**

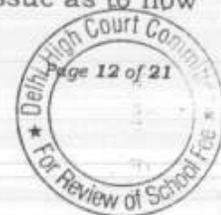
**Regarding exclusion of FDRs in the joint name of the school &**

**Director of Education:**

The Committee had included all the FDRs held by the school as part of funds available for implementation of recommendations of VI Pay Commission as no information or evidence was furnished by the school that sum FDRs were held in the joint name of school and Director of Education. Now that the school has furnished the information, the Committee has no hesitation in accepting the contention of the school. An adjustment of the amount of **Rs. 2,67,894** will be made in the final determinations.

**Regarding reserve for future contingencies:**

There is no provision in the statute or circulars or notification issued by the Director of Education to the effect that the schools may keep funds in reserve equivalent to four months salary. However, when the Committee, in the beginning, considered the issue as to how



much funds the schools possessed which could be utilised for the purpose of meeting the additional liabilities on account of recommendations of the VI Pay Commission, it arrived at a consensus that the entire funds available with the school may not be considered as available for purpose of implementation of the recommendations of VI Pay Commission, as the schools would be totally denuded of the funds available with it and may not be able to meet its statutory liabilities like gratuity and leave encashment, when they become due. Further, the Committee felt that the schools ought to retain funds equivalent to three months salary for any unforeseen contingencies in future. It was felt that if for any unforeseen reason the school had to be closed down, it may have to pay three months salary to its staff in lieu of notice. Subsequently, the Committee felt that there could be other winding up costs also and therefore, the Committee felt that an amount equivalent to four months salary would be adequate for any unforeseen contingencies. Accordingly, the Committee in all the cases has been considering that the funds that are available with the school ought to be arrived at after reducing its accrued liability on account of gratuity and leave encashment and also keeping an amount equivalent to four months salary for unforeseen contingency.

In this view of the matter, the Committee only partially accepts the argument put forth by the school and considers that since the expenditure on employer's share of provident fund and administration charges thereon and bonus can be considered as part of salary, an

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amount equivalent to four months of such expenditure can be included in the reserve for future contingencies.

As per the written submissions dated 25/10/2016, the total yearly expenditure on these heads is Rs.11,13,674, an amount equivalent to four months of this expenditure i.e. **Rs. 3,71,225** ought to be increased in the amount of reserve for future contingencies. Appropriate adjustment will be made on this account in the final determinations.

**Regarding inclusion of other expenses in the reserve for future contingencies:**

As stated supra, the Committee has included one month salary for other expenses of the school in the Reserve for Contingencies. Hence the amount already provided by the Committee on this account is Rs.22,55,697  $(8,651,564 + 3,71,225)/4$  i.e. as against Rs. 33,65,812 claimed by the school. The Committee considers that it has already provided sufficient reserve for future contingencies.

**Regarding under provision of accrued liability of gratuity:**

The objection taken by the school is two fold:

- (a) The liability of gratuity of individual staff members ought to have been capped at Rs. 10.00 lacs instead of Rs. 3.50 lacs.
- (b) The Committee ought to have considered the liability that accrued in respect of staff members who, although had not completed five years of service as on 31/03/2010 but

continued in the employment of school subsequently and completed five years service thereafter.

While the Committee accepts the first objection raised by the school that the cap of gratuity in respect of individual employee ought to be considered as Rs. 10.00 lacs, it is not convinced of the argument of the school that even in respect of employees who had not completed five years of service as on 31/03/2010, the accrued liability on account of gratuity should be taken into account. This is for the simple reason that the liability to pay gratuity accrues only after the employee completes five years of service. The Committee has set the cut off date as 31/03/2010 as the fee hike effected by the school w.e.f. 01/09/2008 was upto the period ending 31/03/2010 as per the order dated 11/02/2009 issued by the Director of Education.

The Committee is conscious of the fact that in its earlier recommendations, the Committee calculated the gratuity liability with a cap of Rs. 3.50 lacs as on 31/03/2010 as the amendment in payment of gratuity Act increasing the upper limit of gratuity to Rs. 10.00 lacs came into effect from 24/05/2010. However, the issue has been discussed in detail by the Committee in its recommendations dated 14/09/2016 in the case of **South Delhi Public School (B-316)**, wherein it was held as follows:

*"The Committee has considered the arguments advanced by the school and its Authorized Representative and is of the view that the same merit acceptance for the reasons discussed hereinafter.*

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The fact that this school is required to pay salary and other benefits to the staff, which shall not be less than those paid to the employees of the Government school, is undisputed. The recommendations of VI Pay Commission apply to the employees of the Government schools is also not in dispute. One of the recommendations of the VI Pay Commission which has received the Presidential assent, is that gratuity of government employees (schools) shall be capped at Rs. 10.00 lacs and this applies to all government employees who retire or die in harness on or after 01/01/2006. The school is required to pay the salary and other benefits to its staff which shall not be less than those paid to employees of the Government school, is statutorily provided by section 10(1) of DSEA, 1973. The amendment in the Payment of Gratuity Act, 1972, which applies to gratuity payable to employees of private organizations came into effect w.e.f. 24/05/2010.

While it is a fact that this school is a private organization, it is also required to statutorily pay the salary and benefits to its staff which shall not be less than those payable to the staff of the government schools. Payment of Gratuity Act, 1972 is a general law while Delhi School Education Act, 1973 is a special law which governs the private schools recognised by the government. When there is seemingly a conflict in the provisions of a general law and a special law, it is trite that the provisions of special law will prevail."

In view of the foregoing, the Committee has examined the detail of accrued liability of gratuity as on 31/03/2010 submitted by the school along with its written submission dated 25/10/2016 and finds that out of the total liability of Rs.97,68,627 claimed by the school, only Rs.91,02,129 pertains to employees with five years of service or more. The Committee in its calculation sheet had taken this liability at Rs.5,470,295. Therefore appropriate adjustment to the extent of **Rs.36,31,834** ( 91,02,129 - 54,70,295) will be made in the final determinations.

**Regarding adjustment in liability for leave encashment:**

The Committee has examined the calculation sheet in respect of the liability on account of leave encashment filed by the school along with its written submission dated 25/10/2016. This statement



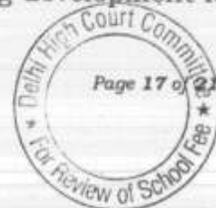
shows the liability on this account as on 31/03/2010 to be Rs. 32,00,290. The school had earlier filed the same detail along with its written submissions dated 14/05/2015 showing the liability at Rs. 21,39,631. Based on this, the Committee had provided for the liability at Rs.21,39,631. On comparing the two details, the Committee finds that while the salary and number of leaves due to the employees in both the statements are the same the liability calculated in respect of each employee is different. The authorized representative during the course of hearing submitted that there was an error in the excel sheet while preparing the detail which was filed along with submission dated 14/05/2015 which was detected later on. The details filed along with written submissions dated 25/10/2016 are correct and are also duly supported by an affidavit filed by the Principal of the school.

The Committee has made random checks on the two different calculation sheet and finds that the submission made by the school is correct. Accordingly, the Committee will factor in the difference of **Rs. 10,60,659** (32,00,290 - 21,39,631) while making the final determinations.

**Regarding Development Fee:**

The school's submissions on this account can be summarized as under:

- (a) The school was fulfilling all the pre conditions laid down for charging development fee i.e. it was treating development fee



as a capital receipt, the school has kept the amount towards depreciations fund in separate FDRs, the school had spent the entire amount of development fee for purchase of eligible assets i.e. furniture, fixture and equipments and therefore the question of keeping the amount of unutilised development fee in earmarked FDRs did not arise, the amount under depreciation fund could be considered/utilised for purchase of all other assets which were not eligible to be purchased out of development fund.

(b) Therefore, the amount that is shown to be refundable in the calculation sheet amounting to Rs. 59,21,643 for 2009-10 and Rs. 56,84,417 for 2010-11 is not refundable.

The Committee has considered the submissions of the school and also examined the audited financials for this purpose. The Committee finds that the school has been economical with truth in this matter. The summarized balance sheet of the school as on 31/03/2011 is as follows:

**Summarised Balance Sheet as on 31/03/2011**

General Reserve	33,906,891	Fixed Assets	74,937,672
Development Fund	5,684,417	Cash & Bank Balances	53,624
Depreciation Fund	45,817,774	Fixed Deposits	22,287,572
Contingency Reserve	2,606,700	Security Deposits	50,350
Gratuity & Leave Encashment Reserve	10,070,014	Endowment Investment	341,132
Student's Caution Money	1,208,500	Advances Recoverable	77,189
Fee received in Advance	349,307	Accumulated Losses	25,674,557
Overdraft from Uco Bank	19,480,753		
Current Liabilities & Provisions	4,297,740		
<b>Total</b>	<b>123,422,096</b>		<b>123,422,096</b>

Firstly, the school has wrongly stated that it had no unutilised development fund as on 31/03/2011 as the entire amount had been utilised. The balance sheet of the school shows that the school had unutilised development fund to the tune of Rs.56,84,417.

Secondly, the school has wrongly claimed that it holds FDRs to cover the depreciation reserve fund. As would be apparent from the balance sheet, the school had FDRs amounting to Rs.2,22,87,572 as on 31/03/2011. They were not earmarked against any particular fund. The school had current and statutory liabilities amounting to Rs.3,54,06,314. The total current assets of the school vis a vis the current and statutory liabilities were as follows:

<u>Current assets &amp; investments</u>	
Total FDRs+ Investments	22,628,704
Cash, Bank balances	53,624
Other Current Assets	127,539
<b>Total</b>	<b>22,809,867</b>
Student's Caution Money	1,208,500
Fee received in Advance	349,307
Overdraft from Uco Bank	19,480,753
Current Liabilities & Provisions	4,297,740
<b>Total</b>	<b>25,336,300</b>

The FDRs and other current assets were not sufficient even to cover the current liabilities as would be apparent from the above table. The funds held by the school (including FDRs) have to be first applied for meeting its current liabilities. It is apparent that no FDRs were held against the depreciation fund. In fact, it was the submission made by the school itself at an earlier stage that no FDRs were available with it as it had taken overdraft against them.

In view of the foregoing discussion, the Committee is of the view that the school was not fulfilling the preconditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 for the purpose of charging development fee and the same (including the arrears for the period 01/09/2008 to 31/03/2009) was wrongly recovered by the school. As the mandate of the Committee is to examine the fee in pursuance of order dated 11/02/2009 issued by the Director of Education, the Committee is restricting its recommendations in respect of the development fee recovered for the years 2009-10 and 2010-11 including arrears for seven months. In this view of the matter, the Committee is of the view that the development fee shown as refundable in the preliminary calculation sheet prepared by the Committee calls for no interference.

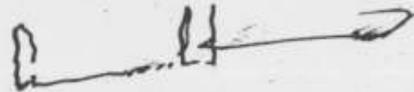
**Final Determinations:**

In view of the above discussion, the fee refundable by the school which is unjustifiably recovered by it is as follows:

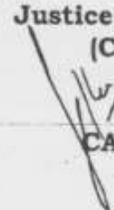
As worked out by the Committee in its Calculation Sheet		9,619,943
Less: Adjustments as per above discussion		
(a) On account of FDRs held in joint names with DOE	267,894	
(b) On account of increase in Reserve for Contingencies	371,225	
(c) On account of increase in Gratuity liability	3,631,834	
(d) On account of increase in Leave encashment liability	108,668	4,379,621
<b>Net Amount refundable</b>		<b>5,240,322</b>

Recommendation

In view of the above determinations, the school ought to refund a sum of Rs.52,40,322 out of development fee recovered by the school in the year 2010-11 alongwith interest @ 9% per annum from the date of collection to the date of refund. The development fee for 2009-10 and part of the development fee for 2010-11 is set off against the deficiency on account of tuition fee. Accordingly, the request of the school for allowing it a further hike in fee over and above that allowed by order dated 11/02/2009 of the Director of Education, is also rejected.



Justice Anil Kumar (R)  
(Chairperson)



CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Date: 23/12/2016

TRU

Secretary

