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24/02/2020

**DELHI HIGH COURT COMMITTEE  
FOR REVIEW OF SCHOOL FEE  
(Formerly Justice Anil Dev Singh Committee  
For Review of School Fee)  
C-BLOCK, VIKAS BHAWAN-2, UPPER BELA ROAD,  
CIVIL LINES, DELHI-110054**

No-F-DHCC/2020/27

Dated: 21/2/2020

To

The Director of Education,  
Directorate of Education,  
Govt. of NCT of Delhi,  
Old Sectt., Delhi-110054

Ypu/2  
S.O.V

DDE/PSB

Sub: Forwarding of report of Delhi High Court Committee for Review of School Fee  
for December-2019.

21/2/2020

Sir,

I am directed to forward herewith a copy of report of Delhi High Court Committee for Review of School Fee for December-2019 which was submitted to the Registrar, High Court, Delhi on 20-02-2020 for placing before Hon'ble Division bench in the matter of WP(C) No 7777/2009 titled as Delhi Abhibhavak Mahasangh and others. V/s Directorate of Education, GNCT of Delhi & others, for your kind information and necessary action please.

Yours faithfully,

Encl:-As above.



Secretary  
21/02/2020  
For Secretary to the Committee

**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 2019**

No.DHCC/2019/25

Dated: 19/02/2020

Index			
S.N.	Particulars		Page No.
(a)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	02.12.2019	Order in respect of <b>Notre Dame School, Badarpur (B-356)</b> recommending refund of unjustified fee hike amounting to <b>Rs.1,81,56,638</b> alongwith 9% interest.
	2	03.12.2019	Order in respect of <b>General Raj's School, Hauz Khas (B-584)</b> recommending refund of unjustified fee hike amounting to <b>Rs.91,65,043</b> alongwith 9% interest.
	3	09.12.2019	Order in respect of <b>Nutan Vidya Mandir, Dilshad Garden (B-639)</b> recommending refund of unjustified fee hike amounting to <b>Rs.1,77,59,003</b> alongwith 9% interest.
	4	10.12.2019	Order in respect of <b>St. Margaret's Sr. Sec. School, Prashant Vihar (B-597)</b> recommending refund of unjustified fee hike amounting to <b>Rs.1,75,01,478</b> alongwith 9% interest.
(b)	Cause List of the cases taken up in December 2019 on 02.12.2019, 03.12.2019, 09.12.2019, 10.12.2019, 16.12.2019, 18.12.2019, 19.12.2019 and 20.12.2019		75
(c)	Miscellaneous/ Interim orders passed in December 2019		76 to 89

Place: Delhi

*Anantyal*  
 For Secretary  
 Delhi High Court Committee for Review of School Fee

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

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

salary of  
**In the matter of:**

recommen  
**Norte Dame School, Badarpur, New Delhi 110044(B-356)**

The  
**Order of the Committee**

**Present: Shri J.A. Martins, Chartered Accountant with Shri Sunil  
Thomas A.O and of the School.**

07/05/20  
The Committee issued a questionnaire to all the schools (including  
this school) on 27/02/2012, which was followed by a reminder dated  
27/03/2012, eliciting information with regard to the arrear fee and fee  
hike effected by the school pursuant to order dated 11/02/2009 issued  
by the Director of Education. The school was also required to furnish  
information with regard to the arrear of salary paid and the incremental  
salary paid to the staff pursuant to the implementation of the  
recommendations of the 6<sup>th</sup> pay commission.

on 19/09  
The school did not submit its reply to the questionnaire or to the  
reminder. The Committee issued a revised questionnaire to the school on  
07/05/2013 which contained the relevant questions with regard to  
charging development fee, its utilisation and maintenance of earmarked  
development/depreciation reserve fund, besides the queries raised vide  
questionnaire dated 27/02/2012. The school was requested to submit  
reply by 23/05/2013. The school requested for more time to submit reply  
to the questionnaire for the reason that its Accountant was on leave for  
one month. However, the school did not submit its reply even within the  
extended period it availed. The Committee sent the questionnaire again  
on 19/09/2013 which was again followed by a reminder dated

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for  
Secretary



10/10/2013. Finally the school submitted its reply under cover of its letter dated 06/11/2013.

As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/01/2006 (sic). It also submitted the details of payment of arrear salary for the period January 2006 to August 2008 and September 2008 to July 2009. Apparently the school started paying the increased salary w.e.f. August 2009 as it had paid arrears of incremental salary upto July 2009. The payment of arrear salary aggregating Rs. 1,52,41,769 was stated to have been paid on various dates between March 2009 and January 2011. The details of payments of arrear salary, as given by the school are as follows:

Date of Payment	Amount (Rs.)
31/03/2009	18,21,665
01/05/2009	51,46,221
01/07/2009	3,87,543
02/03/2010	47,31,173
31/10/2010	7200
01/11/2010	59,825
31/01/2011	30,88,142
<b>Total</b>	<b>1,52,41,769</b>

The school also enclosed details of its salary bills for the month July, 2009 and August,2009 to show the increase in salary on implementation of the recommendations of VI Pay Commission.

With regard to hike in fee, the school stated that it had hiked the fee w.e.f. 01/09/2008 in accordance with the order dated 11/02/2009 issued by the Director of Education. It also enclosed details of the fee

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For  
Secretary



of arrears

hike effected w.e.f. 01/09/2008 as also the details of the lump sum  
arrears fee charged from the students for the period 01/01/2006 to  
31/08/2008.

Federal Bank

With regard to development fee, the school furnished the details of  
recoveries under this head. As per the details submitted, the school  
started charging development fee in 2007-08. However, the amount  
recovered as development fee was not utilised by the school in 2007-08,  
2008-09 and 2009-10. The development fee recovered in 2010-11  
amounted to Rs. 35,24,370 was stated to have been utilised for payment  
of arrears salary to the extent of Rs. 31,47,967. The school stated that it  
treated development fee as a capital receipt and the unutilised  
development fee as also the depreciation reserve fund in respect of assets  
acquired out of development fee were kept in earmarked FDRs with  
Federal Bank.

The Committee issued a notice dated 14/03/2015, requiring the  
school to furnish within 10 days, details of different components of fee  
and salaries for the years 2008-09, 2009-10 and 2010-11, duly  
reconciled with its Income and Expenditure Account. The school was  
also required to furnish copies of its banks statements in support of its  
claim of having paid the arrears of VI Pay Commission, the details of its  
accrued liabilities of gratuity and leave encashment, a statement of the  
account of its parent society as appearing in its books.

The school submitted its response under cover of its letter dated  
29/06/2015.

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For Secretary



A notice of hearing was issued to the school on 30/06/2016, requiring it to appear before the Committee on 20/07/2016 and produce its books of accounts, fee and salary records for the years 2006-07 to 2010-11. The school requested for postponement of hearing vide its letter dated 20/07/2016. The request was acceded to and the matter was posted for hearing on 01/09/2016. However, again an adjournment was sought on this date. The school was finally put on notice that in case the no representation was made on the next date also, the matter would be decided on the basis of material available on record.

On 20/09/2016, Sh. J .A. Martins, Chartered Accountant appeared with Sh. Sunil Thomas, Accounts Officer of the school.

The Committee perused the circular dated 26/02/2009 issued by the school to the parents of the students regarding fee hike pursuant to the order dated 11/02/2009 issued by the Directorate of Education. The Committee noticed that the school charged differential fee from the students whose parents were working with NTPC and those who did not. It was submitted that the school is located on the land provided by the NTPC and therefore, certain concessional fee is allowed to its employees for their children.

As per the circular, the school hiked tuition fee @ Rs.200 p.m. for the students of all the classes of non NTPC category, except for class 11 for whom the fee hike was @ Rs. 300 p.m. w.e.f. 01/09/2008. Arrear fee for 7 months (01/09/2008 to 31/03/2009) was recovered accordingly. For students of the NTPC category the hike was at the

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 for Secretary


the same

rate of Rs.100 per month for the students of pre school and pre primary & Rs. 200 per month for the students of all other classes.

Arrears for 7 months were recovered accordingly. Besides, the school also recovered the lump sum arrear fee as provided in the order of the Directorate of Education, to cover the payment of arrears for the period 01/01/2006 to 31/08/2008. The circular did not mention anything about the arrears of incremental development fee. The representative of the school contended that school did recover arrears

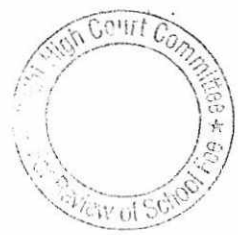
As of incremental development fee initially but subsequently, it refunded the same to the students through Account payee cheques. He also produced copies of the bank statements showing the refund of arrears of incremental development fee.

The Committee perused the information furnished by the school under the cover of its letter dated 14/09/2015. It was submitted that the school transferred a sum of Rs. 31,47,967 recovered as development fee for making payment of arrear salaries, as the school was in deficit to that extent, despite the fee hike.

As for the accrued liability of gratuity, the authorized representative of the school submitted that the school had taken a group gratuity policy of Life Insurance Corporation of India to which it contributes the liability accrued for the period every year. However, there were certain employees such as nuns who were not covered under the policy. The school had an accrued liability of gratuity for such staff to the tune of Rs. 39,31,456. The accrued liability for leave

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For Secretary



encashment was Rs. 34,98,758 as on 31/03/2010. However, the Committee noted that the school had not furnished employee wise details of such accrued liabilities. The authorized representative submitted that he would file the same within two weeks.

The Committee took note of the fact that the school, vide its written submissions dated 01/09/2016, contended that since the school is minority institution, it was not subject to regulation of fee hike by Directorate of Education and in support of this the school relied upon two judgments of Hon'ble Supreme Court in the cases, T.M.I. Pai Foundation & Vs. State of Karnataka and Ors. and Pramati Educational & Cultural Trust & Ors. Vs. Union of India and Ors. The school also filed a certificate issued by the Minority Commission which stated that the school had been declared as a minority education institution by order dated 17<sup>th</sup> Oct. 2012.

The Committee also took note of the reply to the questionnaire issued, given by the school which stated that the development fee was treated as a Capital receipt and earmarked funds were maintained for development fund and depreciation reserve fund. However, on perusal of the balance sheet of the school, it appeared that although development fund was treated as a capital receipt, the fund accounting with regard to development fund and depreciation reserve fund was rectified during the year 2010-11. As on 31/03/2011, the final picture that emerged, after the necessary rectifications, was that there was an unutilized development fund balance amounting to

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For Secretary





had ample

as on 31/03

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Rs. 65,83,592 while there was no depreciation reserve fund in the books of the school, the same having been merged into capital fund.

with which

The authorized representative submitted that since there was no effective charge of depreciation on the revenue of the school, the school was not required to maintain any earmarked account or

investments for depreciation reserve fund.

fully funded

With regard to unutilized development fund he submitted that

while there was no specific allocation of development fund, the school

had ample FDRs to cover the same as total investment of the school

as on 31/03/2011 was to the tune of Rs. 3,29,98,386.

The school filed written submissions dated 03/11/2016, along

with which it furnished employee wise details of its accrued liability of

leave encashment which amounted to Rs. 34,98,728 as on

31/03/2010. In the written submissions, the school stated that

although it had taken a group gratuity policy with LIC, it had not been

fully funded and the school was paying only a minimum amount to

keep the LIC policy alive. To cover the shortfall in the fund value of

gratuity, the school maintained gratuity fund with itself to the tune of

Rs. 39,31,456 to meet the short fall. Along with the written

submissions, the school also filed copy of the valuation of gratuity

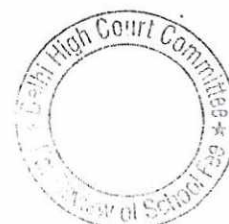
made by LIC.

The Committee decided to first examine the justifiability of hike

in fee as per order dated 11/02/2009 and then, if necessary, to

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For Secretary



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examine the contention of the school that being a minority institution, it was not subject to any regulation in the matter of fee by the Director of Education. This course was adopted as in the event the Committee concluded that the fee hike was justified, the question of the school

being immune to regulation by Director of Education in the matter of fee would become only academic.

The Committee prepared a preliminary calculation sheet in order to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of

Education. As per the calculations made by the Committee, the school had available with it a sum of **Rs. 3,00,15,177** as on 31/03/2008 i.e. before effecting the fee hike. The details of the aforesaid sum available with the school were as follows:

<u>Current Assets + Investments</u>		
Cash in Hand	442,215	
Cash at Bank	4,568,614	
Fixed Deposits & Investments	24,243,846	
Fees receivable	9,240	
Stationery Stock	40,237	
Group Gratuity ICICI Bank	318,139	
Prepaid Expenses	14,631	
TDS	148,063	
Interest accrued but not due	1,457,860	31,242,845
<u>Less: Current Liabilities</u>		
Caution Money	90,300	
PF payable	94,347	
Fees received in advance	1,022,510	
Payable to PTA	415	
Voluntary PF	7,780	
TDS Payable	9,447	
Expenses Payable	2,869	1,227,668
<b>Net Current Assets + Investments (Funds available)</b>		<b>30,015,177</b>

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For Secretary



The requirement of the school to keep funds in reserve for accrued liabilities of gratuity, leave encashment and for future contingencies was assessed to be **Rs. 1,46,26,843**, as per the following details:

<b>Reserves required to be maintained:</b>		
for Future contingencies (equivalent to 4 months salary)	7,196,659	
for Accrued liability towards Leave Encashment as on 31.03.2010	3,498,728	
Additional for Accrued liability towards Gratuity as on 31.03.2010	3,931,456	14,626,843

Arrear of Sal  
\*Increments  
calculation of

Thus, prima facie, the school had available with it funds to the tune of **Rs. 1,53,88,334** (3,00,15,177 - 1,46,26,843), which could have been utilised for meeting its additional expenditure on implementation of the recommendations of VI Pay Commission.

The total financial impact of implementing the recommendations of VI Pay Commission was assessed by the Committee to be **Rs. 2,03,26,307** as per the following details:

<b>Additional Liabilities after implementation of VIth Pay Commission:</b>		
Arrear of Salary as per 6th CPC	12,691,716	
*Incremental Salary for 2009-10 (as per calculation given below)	7,634,591	20,326,307

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*[Signature]*  
Secretary



<b>*Incremental Salary for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Salaries as per Income & Expenditure Account	15,561,051	28,968,861
Honorarium to Sisters as per Income & Expenditure Account	216,000	336,000
<b>Total</b>	<b>15,777,051</b>	<b>29,304,861</b>
Less: Arrear as per information furnished	1,821,665	7,714,884
Normal/ Regular Salary	13,955,386	21,589,977
<b>Incremental salary in 2009-10</b>	<b>7,634,591</b>	

Commission

Arrear of tu

Arrear of

Thus, apparently the school incurred a notional deficit of **Rs.**

Incremental

**49,37,973** ( 2,03,26,307 - 1,53,88,334) after implementing the

recommendations of VI Pay Commission, which it required to recoup

by recovering arrear fee and hiking regular fee in terms of order dated

11/02/2009. However, by hiking the tuition fee w.e.f 01/09/2008

Incremental

and recovering the arrear fee as per order dated 11/02/2009, the

school generated an additional revenue of **Rs. 1,99,46,644**, as per the

following details:

Notre Dame Sch

<b>Total Recovery for implementation of 6th Pay Commission</b>		
Arrear of tuition fee	11,189,392	
Arrear of Development fee	-	
*Incremental tuition fee for 2009-10 (as per calculation given below)	8,757,252	19,946,644

<b>*Incremental tuition fee for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	14,955,408	23,712,660
<b>Incremental tuition fee in 2009-10</b>	<b>8,757,252</b>	

Respectfully  
 for Director  
 for Member  
 SECRETARY

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For Secretary



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Thus prima facie, the school appeared to have recovered more fee than was required to offset the deficit on implementation of the recommendations of VI Pay Commission. Such excess fee recovered 8/11/2016 amounted to **Rs. 1,50,08,671** (1,99,46,644 - 49,37,973) which the 20/12/201 school was required to refund to the students.

Additionally, it appeared that the school was not fulfilling the pre conditions for charging development fee. Accordingly, the Committee was of prima facie view that the development fee recovered by the school to the tune of **Rs. 73,19,770** in 2009-10 and 2010-11, pursuant to order dated 11/02/2009 was also required to be refunded to the students.

A copy of the above calculations was given to the school on - 8/11/2016 for rebuttal, if any. The next date of hearing was fixed as 20/12/2016 which was rescheduled for 23/12/2016. However, the school filed an application on 21/12/2016 seeking postponement of hearing as its authorized representative had to suddenly go out of station. The matter could not be concluded as the term of the Committee expired on 31/12/2016. After the term of the Committee was extended by the Hon'ble High Court, the hearing was fixed for 23/03/2017. On this date, the authorized representative of the school appeared and filed written submissions dated 23/03/2017, in rebuttal of calculation sheet prepared by the Committee. The written submissions made by the school are reproduced here below in toto.

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For Secretary



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

per d

Re.: Fee Hike Effected by your school consequent to order dated  
 11/2/2009

Asses  
 Dear Sir,

This is further to the hearing that we have had with regard to the matter of fee hike and the sheet with regard to a statement provided by the Committee:

1. Development Fee:

The school received development fee of Rs. 35,24,370.00 in 2010-11 and Rs. 35,70,690.00 in 2009-10 ( not Rs. 37,95,400.00) which is lower by Rs. 2,24,710.00. The aggregate Development Fee for these two years comes to Rs. 70,95,060.00.

The school has treated development fund as a Capital Receipt and it has used development fund for purchase of assets viz. as per details given below:

Notre Dame School

School Assets	2009-10	2010-11	Total
Furniture	94,913.00	5,500.00	1,00,413.00
Library	8,302.00	3,613.00	11,915.00
Equipment	2,45,277.00	55,020.00	3,00,297.00
Computer	2,51,275.00	34,600.00	2,85,875.00
Total	5,99,767.00	98,733.00	6,98,500.00

The school maintains a Capital Fund, which is equal to the value of the written down value of fixed assets after charging depreciation. Accordingly, depreciation is not a charge against the income in a year as an equivalent amount is transferred from the Capital Fund to the credit of the General Fund (Ref. FY 2010-11).

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For Secretary



In 2010-11 the school utilized the development fund for payment of arrears of salary under the 6th Pay Commission, as it understood that development fee received in that year could be used towards the payment of arrears of salary.

The balance in hand of development fee as at 31/03/2010, aggregating Rs.65,83,592.50 forms part of the fixed deposits with the bank. Accordingly, the pre-condition for charging development fee have been complied with and considering development fee for refund should not be considered. The development fee in hand will be used exclusively for the permitted purpose viz. equipment, furniture and fixtures, computers and library books. Accordingly, considering the development fee for refund is not correct.

1. Current Assets+Investments:

The Statement provided by the Hon'ble Committee has considered Current Assets and Investments, being the closing balance as at 31st March 2008 as part of available funds towards payment of the 6th Pay Commission. The Delhi School Education Rules 1973, vide Rule 177(2)(e) that the school has to create a Reserve Fund, not being less than 10 percent of such saving. These saving have to be computed on a year on year basis and not cumulative basis. This Reserve Fund has to be created each year and is a legal requirement. Notre Dame School is more than twenty years old and the accumulated current assets and investments are part of Designated Funds and Reserve Fund created under sub clause (e) of clause (2) of Rule 177 of Delhi School Education Rules 1973. Clause (2) of Rule 177 states the following:

"(2) The saving referred to in sub-rule (1) shall be arrived at after providing for the following, namely:

.....  
"e) Reasonable reserve fund, not being less than ten percent of such savings."

The above Rule is mandatory and the minimum reserve CANNOT be less than ten percent of saving and that is the absolute minimum to be considered as reasonable reserve.

Dear Sir,  
This is in  
reply of  
the letter of  
the Council

TRUE COPY  
*[Signature]*  
For Secretary



Considering using of such Reserve Fund, accumulated over twenty years is contrary to the said Delhi School Education Rules 1973.

The school being twenty years old requires substantial renovation to comply with the growing needs of the school and of the students. The Delhi School Education Rules 1973 clause (2) of Rule 177 also states the following:

"(2) the savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:

"(b) The needed expansion of the school or any expenditure of a developmental nature;

(c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation."

Considering using of savings, accumulated over twenty years is contrary to the said Delhi School Education Rule 1973, towards payment of 6<sup>th</sup> Pay Commission Arrears and salaries is contrary to the said Rule 177 (2) as the above said amounts mandatorily have to be considered before arriving at saving on a years on year basis.

The 'salaries and allowances and allowances are revenue expenses incurred during the year and therefore they have to come out of the fees for the current year, whereas capital expenditure/capital investments have to come from the savings, if any calculated in the manner indicated.' This has been recorded in the judgement of the Hon'ble High Court at Delhi in WP (C) Nos. 7777, 8147, 8610, and 10801 of 2009, which went to add ..... "In the light of the analysis mentioned above, we are directing the Director to analyze such statements under section 17(3) of the Act and to apply the above principles."

The school had on hand details of renovation of the school premises and the available funds for the said purpose as per Annexure 1.

2. Fees charged as Per Circular No.F.DE./15(56)/ACT/2009/778 dated 11/2/2009 of the Director of Education :

The circular No. F.De./15(56)/ACT/2009/778 dated 11/02/2009 of Director of Education has stated the following:

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*[Signature]*  
Secretary







same time, "reasonable surplus" is permissible as fund in the form of such surplus may be required for development of various activities in the schools for the benefit of students themselves. The guiding principle in the process is "to strike a balance between autonomy of such institution and measures to be taken in avoiding commercialization of education". The autonomy of the schools can be ensured by giving first right to such schools to increase the fee. At the same time, quantum of fee to be charged by unaided schools is subject to Regulation by the DOE which power is specifically conferred upon the DOE by virtue of Section 17(3) of 1973 Act. This is specifically held by the Supreme Court in Modern School (supra) and Action Committee Unaided Private Schools and Anr. (supra). Normally, therefore, in the first instance, it is for the school to fix their fee and/ or increase the same which right is conferred upon the schools as recognized in TMA Pai (supra)."

A copy of the relevant pages of the above Judgment of the Hon'ble Court of Delhi is attached as Annexure 2.

Accordingly, the Fees charged by the Notre Dame School are fully justified and within the scope and purview of the school and the fact that it has complied with the payment of salaries as per the 6<sup>th</sup> Pay Commission and the said payments were made by bank transfer/ account payee cheques and there is commercialization. There are also no complaints against the school in this regard.

The amount stated in the Statement of the Committee as refundable is incorrect, contrary to the Delhi School Education Rules, 1973, Constitution of India, decisions of the Hon'ble Supreme Court of India and the Hon'ble Delhi High Court and are without whatsoever and the school does not agree to the same.

Thanking You,

Yours Truly

Principal

Notre Dame School

Perusal of the written submissions made by the school shows that the school has impugned the preliminary calculations made by the Committee on the following grounds, besides the basic challenge

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For Secretary



predicated on the fact that the school is a minority institution and the matter of fee fixation cannot be regulated by the Director of Education, as already recorded above:

(a) The school is almost 20 years old and is required to create a statutory reserve as per Rule 177 (2) (e), which shall not be less than 10% of the savings as calculated in the manner given in the Rule. To the extent of such reserve, the funds

(c) available with the school ought not to be considered as available for meeting the additional expenditure on salaries on account of implementation of the recommendations of VI Pay Commission.

(b) The school requires substantial renovation/expansion and to the extent of expenditure required for renovation/expansion, the school requires to keep funds in reserve.

(c) The school complied with the requirement of taking concurrence of the parent teacher association and the nominees of the Director of Education.

(d) The Development Fee should not be considered for refund as the school was complying with all the pre conditions laid down by the Hon'ble Supreme Court. At any rate the development fee for the year 2009-10 was Rs. 35,70,690 and not Rs. 37,95,400 which has been considered by the Committee for refund.

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For Secretary



admitted to

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surplus of In order to seek certain clarifications with regard to the contentions raised by the school in its written submissions, a fresh hearing was fixed for 09/09/2019. However, on this date, the school sought adjournment which were granted by the Committee. The matter was finally heard on 03/10/2019 when Sh. J.A. Martins, Chartered Accountant appeared and made oral submissions. He merely repeated the submissions which were earlier made in the written submissions filed by the school. The clarifications which were required by the Committee were provided by him. However, he admitted that arithmetically, there was no error in the calculation of surplus of Rs. 1,50,08,671 as determined by the Committee in its calculation sheet, after accounting for the fee hike and recovery of arrear fee in pursuance of order dated 11/02/2009 of the Director of Education.

The Committee notes that the additional fee charged/recovered by the school pursuant to order dated 11/02/2009 was Rs. 1,99,46,644 and the school has admitted that as a result of fee hike and arrear fee recovered by it in terms of the said order, it generated a surplus of Rs. 1,50,08,671. The only ground taken by the school is that the same ought not to be ordered to be refunded because the school is required to keep it as reserve for expansion/refurbishment of its school infrastructure. The school has given no calculations of the reserve of 10% of 'savings' which it claimed was a statutory requirement. It has not even given any calculations of the 'savings'

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For Secretary



envisaged in Rule 177 of the Delhi School Education Rules 1973. Merely repeating the language of the statute without giving any calculations amounts to advancing a hypothetical argument. However, it needs to be emphasized that while calculating the surplus of Rs. 1,50,08,671, the Committee has already provided a reasonable reserve of Rs. 71,96,659, otherwise the school would have had to refund the entire additional fee of Rs. 1,99,46,644. The Committee has estimated the requirement of reasonable reserve to be equivalent to four months salary across the board in case of all the schools as no school furnished a calculations of reasonable reserve as envisaged in Rule 177.

So far as the argument of the school that it required the funds for refurbishment/expansion of the school infrastructure, the same is stated to be rejected at the outset for two reasons. Firstly, the school itself has stated that it was alive to the contents of paras 1 & 2 of the order dated 11/02/2009 which stated that a fee hike was not mandatory for schools and all schools must first of all, explore the possibility of utilising the existing reserve to meet any shortfall in payment of salaries and allowances, as a consequence of increase in salaries and allowances of employees. The order dated 11/02/2009 was the subject matter of challenge in WP (C) 7777 of 2009 before the Hon'ble Delhi High Court, which consider the validity of all the clauses of the order and upheld the same except to the extent that the requirement of taking approval of Parent Teacher Association for the

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hike in fee was held to be ultra vires. Clause 2 of the order was not disturbed by the Hon'ble High Court. Secondly, we are examining the fee hike effected by the school in the year 2008-09 and 2009-10. The final hearing in the matter before this Committee took place on 03/10/2019 and in these ten years, the school did not utilise the funds for refurbishment or expansion as was argued by the learned authorized representative.

Accordingly, the Committee is of the view that no adjustment is required to be made to the preliminary determination made by it that the school recovered fee in excess of its requirement for implementing the recommendations of VI Pay Commission and such excess amount was Rs. 1,50,08,671.

With regard to development fee, the Committee has considered the reply of the school to the questionnaire issued by it along with the audited financials of the school and the arguments put forth by the learned authorized representative of the school.

The Committee agrees with the contentions made by the school that it was fulfilling the substantive pre conditions for charging development fee in the years 2009-10 and 2010-11 except to the extent that the utilisation of Rs. 31,47,967 in the year 2010-11 for payment of increased salaries on account of implementation of the recommendations of VI Pay Commission was not in order. The school did not appreciate that the amount that was permitted to be utilised

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for payment of additional salaries by clause 15 of the order dated 11/02/2009 was the additional development fee that would have accrued to the school as a consequence of the increase in tuition fee w.e.f. 01/09/2008 to 31/03/2009. The school stated that it had initially recovered the additional development fee from the students as envisaged in that clause but subsequently refunded the same. Such refund might have been made as the school considered that it had generated sufficient funds for implementing the recommendations of VI Pay Commission. The Committee has also determined that the school generated a sum of Rs. 1,50,08,671 more than what was required by it for implementing the recommendations of VI Pay Commission. However, this calculation does not take into account the development fee of 2010-11 to the extent of Rs. 31,47,967 which the school utilised for payment of salaries. If this is also taken into account, the result would be that the excess fee recovered by the school for implementing the recommendations of VI Pay Commission was not Rs. 1,50,08,671 but **Rs. 1,81,56,638** (1,50,08,671 + 31,47,967).

Having arrived at the aforesaid conclusion, it becomes necessary to examine the contention of the school that it cannot be directed to refund the excess fee on account of its enjoying minority status and protection available to it under Article 30 of the constitution.

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This issue has already been dealt with by the Hon'ble Delhi High Court in WP (C) 7777 of 2009. The Hon'ble High Court in para 57 of the judgment framed the issues which arose for its determination. One of the issues was with regard to the minority schools. For immediate reference, para 57 of the judgment is reproduced hereunder verbatim:

"57. Having distilled the legal principles laid down in the aforesaid judgments and taken note of the statutory provisions contained in 1973 Act and Rules framed there under, we proceed to answer the issues which arise for determination in these petitions. Various issues, which were raised in different petitions need to be recapitulated. These are:

(a) Whether the orders dated 11.02.2009 stipulating the increase in fee by the DoE, is legal and valid?

*Incidental questions here would be:*

(i) Whether it was not permissible for the DoE to pass a general order for increase in fee, as the fee could be raised only after examining the financial health and funds at the disposal of different schools to ensure that the fee structure was reasonable and the schools were not indulging in commercialization?

(ii) Whether those orders of DoE impinge upon the autonomy of the recognized unaided private schools and it was the right of the schools to revise, enhance and fix the fee and the other charges payable by the students?

(iii) Whether the impugned notification dated 11.02.2009 was illegal on the ground that it had put a restriction on the private schools from increasing fee without seeking approval of PTA and further from increasing further fee till March, 2010?

(b) Whether constitution of Grievance Redressal Committee was illegal?

*Incidental question here would be as to whether it was necessary to constitute a permanent Committee to go into the annual accounts of different schools each year and on that basis allow the schools to increase fees, if it becomes necessary.*

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(c) Whether the provisions of Section 17(3) of the 1973 Act are ultra vires?

(d) Whether Clause 11 to 15 of Notification dated 11.02.2009 asking the schools to utilize interest on deposits, development fee, etc. to meet the shortfall in meeting the liabilities arising out of the implementation of the recommendations of the 5th Pay Commission are contrary to the provisions of 1973 Act?

**(e) Whether the order dated 11.02.2009 of the Government impinge upon the rights of Minority Schools thereby violating the protection granted to these minority institutions under Article 30 of the Constitution of India?**

The Hon'ble High Court proceeded to answer this issue in paras 68 and 69 of the judgment which are also reproduced herebelow verbatim:

**Minority Educational Institutions:**

68. No. doubt, in TMA Pai while answering Question No. 5 (C), the Supreme Court held that "fees to be charged by unaided institutions cannot be regulated" but also added "but no institution should charge capitation, etc." Further in the case of Modern School (supra) itself which discussed the fee issue of schools in Delhi with reference to Delhi School Education Act and Rules categorically held that even the minorities would not be entitled to indulge in commercial exploitation and the mechanism of Regulation at the hands of Department of Education would apply. We cannot accept the argument of the learned Counsel appearing for the minorities schools that the view taken in Modern School cannot prevail in view of TMA Pai. It is stated at the cost of repetition that while taking the aforesaid view in Modern School, the Supreme Court took into consideration TMA Pai Foundation as well. This legal position was reiterated in Action Committee Unaided Pvt. Schools and Ors. judgments.

69. The reasons given by us holding para 7 of the notification dated 11.02.2009 to be valid would prompt us to further hold that such an order would be applicable to the minority schools as well and does not impinge upon their minority rights. It is for the reason that the principle laid down by the Apex Court to the effect that schools are not to be converted into commercial ventures and are not to resort to profiteering is applicable to minority schools as well.

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Since the issue has already been settled by the Hon'ble High court in its judgment by which this Committee was also constituted, the Committee is bound by the view taken by the High Court and is not supposed to adjudicate this issue afresh.

**Conclusion:**

In view of the above discussion, the Committee is of the view that the school recovered excess fee to the tune of Rs. 1,81,56,638, which ought to be refunded to the students along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)  
(Chairperson)

Notre Dame School

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 02/12/2019

Notre Dame School, Badarpur, New Delhi-44/(B-356)/Order

Page 24 of 24

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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:**

**General Raj's School, Hauz Khas, New Delhi-110016(B-584)**

**Order of the Committee**

**Present:** Sh. Rakesh Sharma, Director Admn. with Sh. Santosh Bhardwaj, Accountant of the school.

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

The school did not submit its reply to the questionnaire or to the reminder. The Committee issued another reminder dated 20/07/2012 to the school to submit reply to the questionnaire. In response to this, the school submitted a one page reply without furnishing any details or enclosures.

As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/04/2009. It was further stated that the monthly expenditure on salary increased from Rs. 85,41,355 to Rs. 1,54,84,541 as a result of implementation of such recommendations. It was further stated that the school paid arrears of salary amounting to

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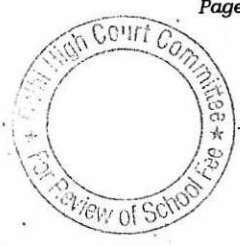
Rs. 52,74,464 to the staff, without mentioning the period to which such arrears related.

With regard to fee hike, the school merely stated that it increased the fee in terms of order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009. Further as per the information furnished, the fee hike amounted to Rs. 300 per month across the board for all the classes. It was also mentioned that the school recovered arrear fee from the students amounting to Rs. 40,25,000 without giving any details of the rate at which such arrears were recovered or the period to which such arrears related.

On examination of the returns filed by the school under Rule 180 of the Delhi School Education Rules, 1973, the Committee observed that the school had been filing its audited financials without enclosing the schedules forming part of such financials. Accordingly, the Committee issued a notice dated 13/08/2013 requiring the school to file complete set of its audited financials along with audit reports. The school filed the same on 02/09/2013.

Preliminary calculations were made by the Chartered Accountants (CAs) deputed with this Committee by the Directorate of Education for assistance. They determined that the school had adequate funds of its own for absorbing the increased expenditure on salary on account of implementation of the recommendations of VI Pay Commission and the school did not need to recover any arrear fee or hike the regular fee for

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this purpose. As per their calculations, the entire arrear fee and incremental fee recovered by the school was unjustified.

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The Committee perused the calculations made by the CAs and did not find them to be proper as they had not taken into account the requirement of the school to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment. Further the calculations made by the CAs did not reconcile with the audited financials of the school.

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The Committee issued a notice dated 25/05/2015, requiring the school to furnish within 10 days, details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11, duly reconciled with its Income and Expenditure Account. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books. A supplementary questionnaire was also issued to the school seeking its response to the relevant queries with regard to collection and utilisation of development fee and maintenance of earmarked development/depreciation reserve funds, in order to examine whether the school was complying with the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 regarding charging of development fee.

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The school submitted its response under cover of its letter dated 19/06/2015. It also submitted the reply to the supplementary questionnaire

The school was somewhat evasive in its reply as against the item detail of accrued liabilities (of gratuity and leave encashment), it stated 'N.A.'

Likewise, against the item questionnaire regarding development fee, it stated 'N.A.' After so stating, it was observed that the school had actually filed a reply to the supplementary questionnaire. As per the reply, the school gave out figures of the recovery of development fee from 2006-07 to 2010-11. For the years 2009-10 and 2010-11, with which this Committee is primarily concerned, the school stated that the recovery in 2009-10 was Rs. 35,12,255 while that in 2010-11, it was Rs. 39,07,595. With regard to the utilisation of development fee, the school stated that it was kept in FDRs, though not earmarked. It was further stated that the development fee was treated as a capital receipt.

From the reply to the questionnaire, it appeared that the school was merely collecting the development fee and not utilising it for the purpose for which it was meant, i.e. purchase and upgradation of furniture and fixture and equipments, but merely augmenting its resources.

A notice of hearing was issued to the school on 20/08/2015, requiring it to appear before the Committee on 04/09/2015 and produce its books of accounts, fee and salary records for the years 2006-07 to

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2010-11. The school requested for postponement of hearing vide its letter dated 28/08/2015. The request was acceded to and the matter was posted for hearing on 21/09/2015.

Sh. Rakesh Sharma, Director Admn. appeared with Sh. Santosh Bhardwaj, Accountant of the School.

Committee

The representatives of the school were partly heard. They were questioned about the arrears of incremental development fee, which was mentioned in the circular issued to the parents, as per which they required to pay the same at the rate of 15% of incremental tuition fee for the period 01/09/2008 to 31/03/2009, since such arrears were not reflected in the information sheet filed by the school. It was submitted by them that although the circular mentioned the development fee arrears, the same were never collected. They also submitted that the accrued liabilities of gratuity and leave encashment were mentioned to be 'N.A.' as the school did not provide for the same in the balance sheet. Further the Committee observed that though the school had filed the copies of the bank statements, the school had not filed the details of payment of arrears. The Committee also observed on examination of the audited financials of the school that the reply to the supplementary questionnaire, mentioning that the development fee was kept in FDRs did not appear to be correct. The school was accordingly required to file detail of arrear salary paid, cross referencing the same with the bank statements, detail of utilisation of development fee from 2006-07 to 2010-11 and the detail of accrued liability of gratuity and leave encashment on 31/03/2010.

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For Secretary



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The school filed the requisite details vide its letter dated 28/09/2015. The school also filed a revised reply to the supplementary questionnaire in which it gave details of utilisation of development fee for the year 2006-07 to 2010-11. As per the details submitted, the development fee was never fully utilised except in 2007-08. Further, the school did not utilise the development fee for incurring capital expenditure on purchase or upgradation of furniture and fixture, for which development fee is meant but utilised the same (to the extent it was utilised for incurring revenue expenditure on electrical repair and maintenance, equipment maintenance, fire-fighting equipment maintenance, furniture maintenance, genset repair and maintenance, ground maintenance, horse maintenance, software development and consultancy and vehicle maintenance. Strangely the school stated that separate depreciation reserve fund was maintained for depreciation on assets acquired out of development fee, when in actual fact, the school did not acquire any assets out of development fee as admittedly the entire amount had been spent on repair and maintenance of various items. It was also mentioned that unutilised development fund was kept in consolidated FDRs which were not earmarked specifically.

The school also filed employeewise detail of arrear salary paid along with the relevant cheque number and dates of encashment. The school also furnished the details of accrued liability of gratuity as on 31/03/2010, which aggregated to Rs. 33,37,953.

Based on the audited financials of the school and the information furnished by it, the Committee prepared the following calculation sheet:

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For Secretary





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

	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in Hand	13,780	
	Balance With Banks	1,213,006	
	Fixed Deposits (Not earmarked)	18,451,074	
	Income Tax paid (refundable)	28,804	
	Loans & Advances	224,726	
	TDS recoverable	7,217	19,938,607
<b>Less</b>	<u>Current Liabilities</u>		
	Caution Money	1,290,424	
	Sundry Creditors	63,044	
	Advance Fee	1,619,805	
	Security Deposit (Staff)	50,350	
	Expenses payable	1,100,870	4,124,493
	<b>Net Current Assets + Investments</b>		<b>15,814,114</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies (equivalent to 4 months salary)	5,161,514	
	for accrued liability towards Leave Encashment as on 31.03.10		
	for accrued liability towards Gratuity as on 31.03.10	3,337,953	8,499,467
			<b>7,314,647</b>
<b>Less</b>	<b>Additional Liabilities on implementation of 6th CPC:</b>		
	Arrear of Salary as per 6th CPC	5,274,465	
	Incremental Salary for 2009-10 (as per calculation below)	3,650,359	8,924,824
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>(1,610,177)</b>
<b>Add</b>	<b>Additional Recovery on implementation of 6th CPC:</b>		
	Arrear of tuition fee	4,025,000	
	Incremental tuition fee for 2009-10 (as per calculation below)	2,551,035	6,576,035
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>4,965,858</b>

**Development fee refundable as pre-conditions not fulfilled:**

2009-10	3,512,255
2010-11	3,907,595
<b>Total</b>	<b>7,419,850</b>
<b>Add: Excess fee recovered than what was required</b>	<b>4,965,858</b>
<b>Total amount refundable</b>	<b>12,385,708</b>

**Working Notes:**

	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	11,834,182	15,484,541
<b>Incremental salary in 2009-10</b>	<b>3,650,359</b>	
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	20,993,140	23,544,175
<b>Incremental tuition fee in 2009-10</b>	<b>2,551,035</b>	

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For Secretary



In order to give an opportunity to the school to rebut the preliminary calculations made by the Committee, a hearing in the matter was fixed for 13/02/2018 vide notice dated 12/01/2018.

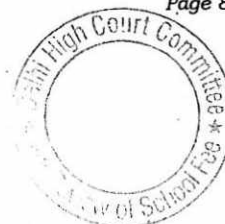
Sh.Santosh Bhardwaj. Accountant of the school appeared and filed an application on behalf of the school, seeking adjournment. He was provided with a copy of the calculation sheet for rebuttal, if any. The matter was posted for further hearing on 6<sup>th</sup> March 2018. Again adjournment was sought on that date. The matter was relisted on 13/04/2018 at the request of the school.

On this date, Sh.Rakesh Sharma appeared alongwith Sh.Santosh Bhardwaj.

He filed a letter dated 12/04/2018 stating that the reply to the questionnaire submitted under cover of letter dated 28<sup>th</sup> Sept. 2015 was erroneous and a fresh reply was enclosed with the letter. As per the fresh reply, the utilization of development fund was shown towards acquisition of computer, office equipments, furniture and fixture, plant and machinery. As per this reply, the school acquired computers, office equipments and furniture and fixtures out of development fund. While the entire development fee received in 2006-07 and 2007-08 was utilised for purchase of these item, the development fee for the years 2008-09, 2009-10 and 2010-11 remained under utilised to the extent of Rs. 3,02,168, Rs. 20,63,591 and Rs. 26,82,962 respectively. The school stated that the unutilised development fund and depreciation reserve fund were kept in consolidated FDRs but not earmarked.

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For Secretary



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The Committee observed that in the books of accounts, the school did not account for the acquisition of furniture and fixtures and equipments out of development fund but out of General Fund. The Director of the school submitted that this was an accounting error which is being corrected from the current year.

The Committee also observed that although depreciation was charged in the books of accounts and depreciation reserve fund was created in the books, the amount of depreciation charged on the assets supposedly acquired from the development funds was not kept in earmarked FDRs or investments.

The school also filed the detail of its accrued liability for leave encashment as on 31.3.2010, aggregating Rs. 32,20,665. It was submitted that the Committee ought to take into account this liability of the school while making the relevant calculations.

The school also filed its own calculation sheet projecting a deficit of Rs.5,71,117 on implementation of the recommendations of the 6th pay commission as against a surplus of Rs.49,65,858 provisionally determined by the Committee.

The difference between the two calculation sheets is on account of two factors.

Firstly the school has accounted for the accrued liability of leave encashment in its calculation. Secondly the school has taken into account a liability of Rs.23,16,310 shown under the head "others" in the balance sheet.

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During the course of hearing, the Committee enquired from the authorized representative of the school as to what was the nature of this liability. The authorised representative submitted that this represented an interest free loan of Rs.1500 which was taken from the students at the time of their admission in the school and the same was refunded at the time of their leaving the school. He, however, conceded that it was over and above the admission fee of Rs. 200 charged from the students by the school at the time of admission.

The Committee perused the fee schedules filed by the school for the years 2006-07 to 2010-11 and observed that this charge of Rs.1500 per student was not included in the fee schedule of any year.

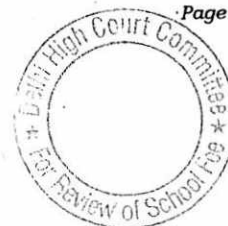
The Committee also examined the books of accounts of the school and observed that contrary to what was submitted on behalf of the school, a bulk of the refund out of the so called interest free loans to be repaid to the students at the time of leaving the school, was transferred to the Parent Society by way of donation.

The authorized representative submitted that this was done as per the desire of the students. He offered to produce the authorization letters from the students on the next date of hearing.

The following figures were extracted by the Committee from the books of accounts of the school:

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Year	Total amount purportedly Refunded	Amount transferred to the Parent Society as Donation	Percentage of amount transferred as Donation to the Total amount of purported refund
2006-07	2,32,400	1,47,900	63%
2007-08	1,96,500	1,67,500	83%
2008-09	2,15,000	2,05,000	95%
2009-10	64,500	53,500	83%
2010-11	2,11,500	1,92,000	90%

the students

free loans to

In view of the fact that bulk of the amount of interest free loans purportedly refunded to the students at the time of leaving, was not actually refunded but retained by the school/its Parent Society, the school was given an opportunity to justify as to how this could be treated as a liability of the school. The school was also given liberty to produce authority letters from the students to appropriate the amount as donation.

General Raj's School

On the next date of hearing, the authorized representative of the school produced letters in original, purportedly given by the parents of the students, voluntarily directing the school to appropriate interest free loans taken from the students at the time of admission as donation to the Parent Society i.e. P.C. Rajaratnam's Institutions for Development of the School.

The Committee has perused the letters purportedly written by the parents and observed that identical language had been used by all parents who had signed the letters at different points of time. In one of

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For Secretary



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the case the letters stated that "I am father/mother of Mega Sharma----  
recommend."

Recommend  
The Committee is of the view that a set Performa was handed over to the parents for writing such letters at the time of the students leaving the school and they mechanically wrote the same. Had they been voluntarily written, they would have used different language particularly when the letters are written by different people at different points of time After in different years. These so called interest free loans were not liabilities of accounting the school but donations in disguise. The Committee therefore, rejects into consid the contention of the school to treat them as liabilities for the purpose of regarding working out funds available with the school for implementation of the reduced to recommendations of VI Pay Commission. students etc

**Determinations:**

As per the preliminary calculations of the Committee, the school recovered fee in excess of its requirements for implementation of the recommendations of VI Pay Commission to the tune of **Rs. 49,65,858.**

After accounting for the accrued liability of leave encashment amounting to **Rs. 32,20,665** which the Committee had initially not taken into consideration as the school did not provide any information regarding the same, the excess fee recovered by the school stands reduced to **Rs. 17,45,193**, which the school ought to refund to the students along with interest @ 9% per annum from the date of collection to the date of refund.

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**Development Fee:**

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The school flip flopped in the matter of reporting the utilisation of development fee. Initially the school stated that the entire development fee was kept in FDRs, implying that it was not utilised at all. The audited balance sheet of the school also did not show any utilisation out of development fee. Subsequently, the school stated that the development fee was utilised (to the extent it was utilised) every year on repair and maintenance of various items. During the course of hearings, the school became wiser with the queries raised by the Committee and ultimately stated that it was utilised for purchase of computers, furnitures and equipments. However, as per the audited balance sheets, such items were not purchased from development fund, which only went on swelling from year to year, but were purchased from the School Fund. More importantly, the school did not keep the unutilised development fund and the depreciation reserve fund in respect of assets acquired out of development fund in an earmarked bank account or FDRs. In fact, since the school, as per its balance sheet acquired the assets out of school fund and not out of development fund, it did not maintain any separate depreciation reserve fund for assets which it ultimately stated were acquired out of development fund.

The Hon'ble Delhi High Court, while disposing of a PIL filed by the Delhi Abhibhavak Mahasang, vide its judgment dated 30/10/1998, appointed a Committee headed by Justice Santosh Duggal (Retd) to

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examine the justifiability or otherwise of the fee hiked by various schools in the wake of implementation of the recommendations of Vth Pay Commission.

The Duggal Committee made a slew of recommendations with regard to the fee structures of the schools. It introduced the concept of Development Fee for Unaided Schools, which would be distinct from the Development fee charged by the Aided schools as provided in Rule 151.

However, in order that the schools may not resort to charging Development fee indiscriminately, in a routine manner, it also made recommendations regarding its usage and also prescribed certain pre-conditions on fulfillment of which only, the schools would be able to charge development fee. The exact recommendation of the Duggal Committee, is as follows:

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

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

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For Secretary





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

The judgment of Delhi High Court dated October 30, 1998 in the case of Delhi Abhibhavak Mahasangh V Union of India and others (supra) was challenged before the Supreme Court, inter alia, by Modern School. Since the meantime, the Duggal Committee had made its recommendations and the Director of Education had also issued order dated 15/12/1999 giving various directions to the Unaided schools in terms of the recommendations of the Duggal Committee, the Supreme Court examined both the recommendations of the Duggal Committee as well as the order issued by the Director of Education.

The Supreme Court rendered its decision in **Modern School vs. Union of India & Ors. (2004) 5 SCC 583** on April 27, 2004. One of the issues that the Hon'ble Supreme Court admitted for determination was with regard to development fee. The exact issue framed by the Court was:

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

The Hon'ble Supreme Court held as follows:

*"25. In our view, on account of increased cost due to inflation, the management is entitled to create Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the*

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

**\*Direction no. 7 of the Order dated 15/12/1999 issued by the Director of Education.**

After acceptance of the report of VI Pay Commission, the Director of Education, Govt. of NCT of Delhi issued an order dated 11/02/2009. Para 7 of the order dated 15/12/1999 was repeated verbatim as para 14 of the order dated 11/02/2009 except that the quantum of development fee which the schools could charge was raised to 15% from 10% of tuition fee in compliance of the judgment of the Hon'ble Supreme Court in the case of Modern School. It was clearly mentioned that *Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the*

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investment made out of this fund, will be kept in a separately maintained Development Fund Account.

It is apparent from the above that maintenance of a separate depreciation reserve fund account is a condition precedent to charging development fee by the school. The school of its own admission, conceded that no such separate account was maintained but the amount was held in general FDRs. It did not even work out the unutilised development fund and the depreciation reserve required to be maintained on assets out of development fund which were required to be kept in a separate maintained account. Even the income generated from investment made from such account was also required to be credited to such earmarked account.

The Committee is of the view that since the school was not fulfilling this essential pre condition for charging development fee, it was not entitled to charge any development fee from the students. However, the Committee is restricting its recommendations to the years 2009-10 and 2010-11 since its mandate is only to examine the fee charged in pursuance of order dated 11/02/2009.

The school admittedly charged development fee of **Rs. 35,12,255** in 2009-10 and **Rs. 39,07,595** in 2010-11. The Committee is of the view that the same was not justified and hence ought to be refunded to the students along with interest @ 9% per annum from the date of collection to the date of refund.

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**Summary of recommendations:**

In view of the foregoing discussion, the school ought to refund the following sums to the students along with interest @ 9% per annum from the date of collection to the date of refund:

Arrear fee and incremental tuition fee for 2009-10	Rs. 17,45,193
Development fee for 2009-10	Rs. 35,12,255
Development fee for 2010-11	Rs. 39,07,595
<b>Total</b>	<b>Rs. 91,65,043</b>

Ordered accordingly.



Justice Anil Kumar (R)  
(Chairperson)


CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated: 03/12/2019.

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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:**

**Nutan Vidya Mandir, Dilshad Garden, Delhi-110093 (B-639)**

**Order of the Committee**

**Present: Sh. Jetendra Sirohi, Advocate with Sh. Pramod Kumar Singhal, Accountant and Sh. Raj Kumar, Assistant Accounts of the school.**

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

The school did not submit its reply to the questionnaire or to the reminder. The Committee issued a revised questionnaire on 11/09/2013, which also contained the relevant queries with regard to collection and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds, besides the queries relating to fee hike and salary hike as per the original questionnaire. Again no reply was received from the school.

The Committee examined the annual returns filed by the school which had been received from the Directorate of Education. The

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Committee noticed a letter bearing no. NVMDG:DIR.Edn.:2012:80 dated 06/06/2012 addressed to the Dy. Director of Education (DDE), Yamuna Vihar, Delhi-53, which was in response to some letter dated 28/05/2012 issued by the DDE, probably inquiring about the fee hike effected by the school and the arrears of salary paid to the staff on implementation of the recommendations of VI Pay Commission. The letter was signed by the Chairman of the school and categorically stated "We have not taken any dues from the parents and not paid the arrears to the staff after implementation of VIth Pay Commission"

A reminder was sent to the school on 30/09/2013 requiring the school to file the reply to the questionnaire by 07/10/2013. The school submitted its reply vide its letter dated 25/10/2013, which was received in the office of the Committee on 29/10/2013.

As per the reply, the school reiterated what it submitted to the Dy. Director of Education that it had not paid any salary arrears to the staff on the ground that it had not received the full arrear amount from the parents of the students. However, it stated that it had implemented the recommendations of VI Pay Commission prospectively w.e.f. 01/04/2009 and in support of this submission, it enclosed the copies of the salary registers for the month of March and April 2009, showing the gross salary of for the month of April as Rs. 17,06,737 against Rs. 11,59,156 for the month of March 2009. The school also admitted that it had increased the fee of the students w.e.f. 01/04/2009. However, contrary to what it submitted to the Dy.

Nutan Vidya Mandir, Dilshad Garden, Delhi-93/(B-639)/Order

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Director of Education, the school admitted that it had recovered arrear fee from the students. However, the same was not fully paid by the parents of the students. Some of the parents paid the same and the aggregate arrear fee recovered was Rs. 16,59,443 in the year 2009-10. However, since the arrear salary that was payable to the staff was approximately Rs. 1.00 crore, the same was not paid and the parents who had deposited the arrear fee were requested to collect the same from the school. It was further submitted that a sum of Rs. 1,67,100 was refunded to the parents in 2010-11 and Rs. 3,800 in 2011-12. The balance amount of arrear fee amounting to Rs. 14,88,543 was still lying with the school.

With regard to development fee, the school stated that it had not recovered any development fee from the students till 2009-10. However, it started recovering from 2010-11 and the total sum recovered on this account in that year amounted to Rs. 60,93,419. It claimed to have spent Rs. 54,42,343 out of the same for purchasing furniture and fixtures and equipments. The remaining balance of Rs. 6,51,076 was lying in Corporation Bank. The school however admitted that no earmarked development fund or depreciation reserve fund accounts were maintained by it and the same formed part of its balance with Corporation Bank which was not an earmarked account.

The Committee issued a notice dated 26/05/2015, requiring the school to furnish within 10 days, details of different components of fee

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from it.

and salaries for the years 2008-09, 2009-10 and 2010-11, duly reconciled with its Income and Expenditure Account. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of VI Pay Commission.

The school filed its reply, giving part of the information sought from it, which was received in the office of the Committee on 25/06/2015. As per the information furnished by the school, it collected no arrear fee either for the period 01/01/2006 to 31/08/2008 or for the period 01/09/2008 to 31/03/2009. It also stated that no arrear salary was paid for the aforesaid periods. The regular tuition fee charged by the school in the year 2008-09 amounted to Rs. 2,71,21,918, which rose to Rs. 3,32,30,669 in 2009-10 on account of hike in fee w.e.f. 01/04/2009. Likewise, it stated that the total salary paid by the school for the year 2008-09 was Rs. 1,46,51,737 which rose to Rs. 2,10,79,884 in 2009-10 on account of implementation of the recommendations of VI Pay Commission w.e.f. 01/04/2009.

The school also filed copies of the circulars dated 28/02/2009 issued to the parents of the students as per which it demanded a sum of Rs. 2100 per student as arrear fee for the period 01/09/2008 to

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31/03/2009 and Rs. 3000 per student for the period 01/01/2006 to 31/08/2008 for all the classes except class XI in which case the corresponding amounts demanded were Rs. 2800 and Rs. 3500 per school student.

A notice of hearing was issued to the school on 27/12/2016, requiring it to appear before the Committee on 24/01/2017 and produce its fee records, salary records, books of accounts, bank statements, TDS returns and provident fund returns for the year 2006-07 to 2010-11 for verification by the Committee. The hearing was however, postponed to 09/03/2017.

On the date of hearing, Sh. Jitendera Singh Sirohi, Advocate appeared with Sh. P.K. Singhal, & Sh. Raj Kumar Accountants of the school.

The Committee noticed that in the reply to the questionnaire issued by the Committee, the school had stated that it had recovered a total of Rs. 16,59,443 as arrears of fee but since the liability of payment of arrear salary was approximately Rs. 1.00 crore, the same was not paid. The arrear fee recovered was adjusted to the extent of Rs. 1,67,100 in the year 2010-11 and Rs. 3,800 in 2011-12. The balance amount Rs. 14,88,543 had still not been refunded or adjusted. However as per the information filed by the school in response to notice dated 26/05/2015, the school recovered no arrear fee. During the course of hearing, the Ld. Counsel who appeared for

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He, however

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the school submitted that the school implemented the recommendations of VI Pay Commission w.e.f. 01/04/2009. He further submitted that the salary of staff was paid by bank transfer, except to Class IV employees, who were paid in cash.

With regard to development fee, he submitted that no development fee was charged till 2009-10, but the development fee was introduced in 2010-11 when a sum of Rs. 60,93,419 was recovered. He also submitted that the development fee to the extent of Rs. 54,52,343 was utilized for purchase of equipments and furniture.

He, however conceded that no depreciation reserve fund was maintained nor any earmarked account was maintained for the unutilized development fund.

The Committee, while preparing the preliminary calculations, observed that the balance sheet of the school showed that the school had a small balance with Parishad Cooperative Bank. As this bank had gone into liquidation, the Committee desired that all the transactions with this bank be brought on record by the school.

However, the school did not furnish any details of its transactions with Parishad Cooperative Bank. The Ld. Counsel of the school submitted that this balance was appearing in the books of the school for the last twenty years.

The Committee observed that the balance sheet of the school reflected liabilities owing to Corporation Bank and Oriental Bank of

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For Secretary



The Commerce on account of loans taken by the school. It was submitted fee was that these loans were availed for construction of school building prior salary to to the year 2006-07, and since they were overdraft accounts, there amount fee was hardly any net repayment. Only the interest amount was paid on the loans.

the loans When the apparent contradiction with regard to collection of Schedule C arrear fee, as per the two different submissions of the school was position or brought to the notice of the Counsel of the school, he sought time to have instructions from the school management.

that the st. The Committee was of the prima facie view that since the arrear 2009-10 on fee was collected specifically for the purpose of payment of arrear was other salary to the staff, the same ought to be paid to the staff or the questionna arrear fee retained by the school ought to be refunded to the students. balance and

The Committee observed that the building constructed out of Nutan Vidya Mandir the loans taken from the banks did not appear to form part of Schedule of fixed assets. The Ld. Counsel was asked to clarify the position on next date.

In subsequent hearings, the Ld. Counsel of the school admitted that the school had recovered a sum of Rs. 16,59,443 in the year 2009-10 on account of arrear fee. He admitted that the position which was originally conveyed to the Committee vide the school's reply to the questionnaire was correct. He submitted that the school still held the balance amount of Rs.14,88,543 after making refund to such students

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who had claimed it. He further submitted that most of the students who had paid the arrear fee, had passed out from the school and hence no body claimed the arrear fee back from the school. The Committee observed that it was not understandable as to how the school, which wanted to refund the fee to the parents, could have put the onus on the parents to claim the refund from the school. The school would certainly have in its records, the addresses of the students who had paid the arrears and if the school had intended to refund the same to the students, it could have sent the refund cheques by speed post.

However, during the course of hearing, the authorized representative of the school filed a copy of extracts of minutes of the meeting of Governing body of the school which was held on 11/05/2017, resolving that the amount of Rs.14,88,543 which was the balance amount of arrear fee still retained by the school, would be transferred to the staff gratuity accounts.

The Committee observed that such a course of action was not permissible as the fee was specifically collected for payment of arrears of salary to the staff in pursuance of the order dated 11/02/2009 issued by the Directorate of Education. Payment of gratuity to the retiring staff was the liability of the school and the same was not recoverable from the students.

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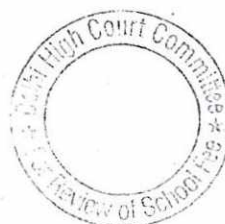
When the Committee was undertaking the exercise of preparing the preliminary calculations, it was observed that though the school was situated at Dilshad Garden, its parent society i.e. Nutan Vidya Mandir Society (Regd.) owned land at AGCR Enclave and Vasundhara Enclave, besides the land at Dilshad Garden. Similarly it had buildings at AGCR Enclave and Vasundhara Enclave also.

On a query raised by the Committee during the course of next hearing, the authorized representative of the school submitted that the land and building at AGCR Enclave and Vasundhara Enclave were meant for two primary schools being run from there and those primary schools were recognized by the Municipal Corporation of Delhi. Further he submitted that the school at Dilshad Garden started with class 1st and it had no pre primary school attached to it. However, he was unable to state whether the school made initial admissions in class 1st or any prior class. Accordingly, the Committee directed that the Manager of the school would file an affidavit stating as to which class the admissions were made by the school at the entry level, stating clearly whether the school had any pre primary school attached to it or not.

Further, on perusal of the balance sheet of the parent society, the Committee observed that the school had constructed a building specifically for letting it out to a bank. However, no rental income appeared in the financials of the school. The Committee directed that the affidavit of the Manager would also state as to how much was the

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monthly rent recoverable from the bank (Corporation Bank) and to which account it was being credited. A copy of the lease deed executed with the bank was also directed to be filed.

which were

While perusing the audited financials of the school, it was revealed that although the school claimed that it started charging development fee only w.e.f. 2010-11, the balance sheet of the school as on 31.3.2009 showed the balance of development fund to be Rs.40,68,292. The source of receipt of development fund was not discernible from the financials of the school. It was directed that the affidavit of the Manager would also clarify this issue.

The Committee also observed that the school was not filing the Receipt and Payment accounts as part of its annual returns which were filed by it under Rule 180 of Delhi School Education Rules 1973. The school was directed to file the same in respect of the school as well as its Parent Society for the years 2006-07 to 2010-11.

On 24/07/2017, the school filed the following documents:

- (a) Affidavit of Sh. Sanjay Singh, Chairman of Nutan Vidya Mandir Society.
- (b) The audit report and audited financials of the school for the years 2007-08 to 2009-10
- (c) Lease agreement between the Parent Society of the school and Corporation Bank.

Nutan Vidya Mandir, Dilshad Garden, Delhi-93/(B-639)/Order

Page 10 of 22

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development

(d) Letter dated 08/06/2009 of Municipal Corporation of Delhi, granting recognition to the primary school (Class I to Class V) at AGCR Enclave.

(e) Three letters issued by the Education Department of Uttar Pradesh granting recognition to Eastern Valley School for primary classes, subsequently upgraded to junior school and transferred renamed as Nutan Vidya Mandir Junior High School at Vasundra, Sector -15, Ghaziabad.

In the affidavit filed by Sh. Sanjay Singh, it was stated that the development fee in the year 2009-10 was collected @ 15% of tuition fee for implementation of the recommendations of VI Pay Commission as per the order dated 11/02/2009 issued by the Director of Education.

It was further averred that the school admitted 140 students in class I in the financial year 2009 (sic) and the said students were not transferred from other branches of the school. The entry level class was Ist upto 2009-10 but in 2010-11, it was pre primary.

With regard to lease of part of the building to Corporation Bank, it was averred that the school was situated on a land allotted by Delhi Development Authority to the Parent Society of the school namely Nutan Vidya Mandir Society and the rent from Corporation Bank was utilised by the Society.

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copy of the It was further averred that the branch of Nutan Vidya Mandir at AGCR Enclave was affiliated to MCD and the other branch at Vasundra Enclave was affiliated to the Education Department of the State of Uttar Pradesh.

was utilized The affidavit and the documents filed by the school were considered by the Committee on the date of next hearing. The Committee observed that on the previous date, the school was required to file an affidavit which ought to state clearly as to how much rent the school earned from Corporation Bank and to which account it was being credited. The school was also directed to file a copy of the lease deed with Corporation Bank. Though, the school filed affidavit of the Chairman of its Parent Society, it did not specify the quantum of rent being received from Corporation Bank, although it was admitted that it was not credited to the revenue of the school but was utilised by the Parent Society of the school. Further, the copy of the lease deed which had been filed, was not complete. Page 2 of the same, which would contain the clauses relating to rent and the security or advance deposit made by the bank, was missing. Even during the course of hearing, the authorized representative of the school was unable to produce the same.

Further, the Committee observed that the school was also directed to file the Receipt and Payment Account of the Parent Society, for the years 2006-07 to 2010-11 but the same had not been filed. It appeared that there would be diversion of money from the school to its

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parent society or the other branches of the school and for that reason  
 the school was playing hide and seek and not producing the relevant  
 documents for consideration by the Committee. Accordingly, the  
 hearing in the matter was concluded. However, the final  
 recommendations could not be made in the matter on account of the  
 expiry of the term of the Committee on 31/12/2017.

After the term of the Committee was extended, it was felt that  
 the school could be given another opportunity to come clean on the  
 various inconsistency which were observed by the Committee.  
 Accordingly a fresh hearing was fixed in the matter for 13/09/2019.

However, the school did not bring anything on record to rebut  
 the adverse observations made by the Committee in its previous  
 hearing. Even on the date of hearing, the Counsel for the school  
 submitted that he had not brought the necessary documents and  
 sought short date to do the needful. In the interest of justice, the  
 matter was adjourned to 04/10/2019.

On 03/10/2019, the school filed copies of the Receipt and  
 Payment Accounts of its Parent Society for the years 2006-07 to 2010-  
 11, complete lease deed executed by the Parent Society with  
 Corporation Bank and a statement showing receipt of rent by the  
 Parent Society from Corporation Bank. Further, during the course of  
 hearing, a statement showing that the school had now paid arrears of  
 salary to the tune of Rs. 14,88,543 i.e. to the extent it retained the

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for Secretary



whether the

arrear fee collected from the students with it. The school also filed a copy of its bank statement with Corporation Bank to show that the cheques paid towards arrear salary had been encashed from its bank accounts.

On perusal of the bank statement filed by the school, the Committee observed that though all the cheques were issued to the staff towards arrear salary on 10/07/2019, they were purported to have been encashed in two batches on 28/08/2019 and on 29/08/2019. It was not discernible from the bank statement as to whether the cheques were bearer in nature or were account payee. On a query raised by the Committee, it was submitted that the regular monthly salary was paid to the staff by direct transfers to the accounts of the employees. The Counsel appearing for the school had no answer to the query raised by the Committee that what prevented the school from paying the arrear salary to the staff by direct bank transfer to their accounts and what was the necessity of issuing individual cheques to them. As this raised doubt about the payment of arrears paid to the staff, the Committee directed the school to file a certificate from Corporation Bank, which would indicate whether all these cheques were bearer in nature or were account payee.

As the submissions made on behalf of the school on various dates were inconsistent, the school was directed to produce its books of accounts for the years 2006-07 to 2010-11 in a laptop as the same were reported to have been maintained in 'Tally' software.

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For Secretary



had refused

The school did not produce its books of accounts nor did it file the certificate from Corporation Bank regarding mode of payment of cheques. The Id. Counsel for the school requested for an adjournment on grounds of personal difficulty. The matter was accordingly adjourned to 21<sup>st</sup> November 2019, subject to the term of the Committee being extended by the Hon'ble High Court as the term of the Committee was to expire on 31/10/2019.

Committee

When the matter came up for hearing on 21/11/2019, the Id. Counsel appearing for the school submitted that Corporation Bank had refused to issue the certificate indicating whether the cheques were bearer in nature or were account payee. He further submitted that the books of the accounts of the school for the years 2006-07 to 2010-11, were neither available in the software nor in the form of print outs.

**Discussion and findings:**

The above narration of facts and proceedings before the Committee shows that the school had always been trying to mislead, not only the Directorate of Education but also this Committee. In the first instance, the school either concealed the information or provided false information. When confronted with the findings of the Committee, the school made volte face. The school did not produce its books of accounts to substantiate its various contentions. Further, the school resorted to illegal and unethical practice of showing the loan

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Secretary



for creating fixed assets like building in the books of school, while showing the corresponding fixed assets in the books of the Parent Society. This resulted in burdening the school with expenditure in the shape of interest on such loans while the income from such assets were diverted to the Parent Society which was running atleast two more schools. Moreover, as the claim of the school to have implemented the recommendations of VI Pay Commission was not substantiated by it, the Committee has not prepared any calculation sheet to see whether the fee hike was justified or not. The following discussion would throw light as to how the school had been trying to mislead the Committee:

- (a) The school, first of all, informed the Directorate of Education that it had not collected any arrear fee from the students as per order dated 11/02/2009 issued by the Director of Education. However, in its reply to the questionnaire submitted by its letter dated 25/10/2013, it admitted to have recovered arrear fee from the students to the tune of Rs. 16,59,443, out of which it still retained Rs. 14,88,543, after refunding the same to a few parents. The amount was retained by the school and not paid to the staff, despite having been collected specifically for the purpose of payment of arrear to the staff. Again, when the Committee sought break up of fee collection under different heads, the school while providing information to the Committee on

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of 25/06/2015, concealed the collection of aforesaid arrear fee.

th When the discrepancy was pointed out to the school, it

of admitted that the school still retained the aforesaid collection

of Rs. 14,88,543. When the Committee observed that the

same would have to be refunded to the students, it first tried

to cling on to the money by stating that it proposed to pay

the same to the staff in the shape of gratuity at the time of

retirement. When the Committee observed that payment of

gratuity was the liability of the school and the same could

not be recovered from the students, the school put up a show

of having made payment to the staff on 10/07/2019. When

the Committee expressed reservations about the genuineness

of the payment as all the cheques were encashed on two

successive dates and that too after one and a half months

after their issuance, and asked the school to file a certificate

from its bank to the effect that the cheques issued to the

staff were account payee cheques and not bearer, the school

made a submission that the bank had refused to give such a

certificate. This submission is preposterous. No bank

refuses to give such certificates to its customers particularly

when the same bank is also a tenant of the school.

Accordingly, the Committee takes an adverse inference

against the school and holds that the arrear salary to the

staff has actually not been paid by the school and the same

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appears to have been withdrawn through bearer cheques issued in the name of employees. The arrear fee which the school retained with itself amounting to Rs. 14,88,543 ought to be refunded to the students along with interest @ 9% per annum from the date of collection to the date of refund.

(b) The school also concealed the information with regard to recovery of development fee amounting to Rs. 40,68,292 in 2008-09, purportedly in pursuance of order dated 11/02/2009 issued by the Director of Education. As stated above, the school in its communication to the Director of Education stated that it had not recovered any arrear fee from the students. Subsequently, in its reply to the questionnaire to the Committee, it admitted that it had partially recovered the same. However, the school concealed the information with regard to recovery of development fee in 2008-09 even from this Committee. In the aforesaid reply to the questionnaire, it categorically stated that it had not charged any development fee in 2008-09. In its reply to the notice dated 26/05/2015 requiring the school to give collection of fee under different heads, it again did not mention recovery of development fee in 2008-09. The Committee observed that the balance sheet of the school as on 31/03/2009 reflected collection of Rs. 40,68,290 as

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development fee in 2008-09. When the school was confronted with this, the Chairman of the Parent Society of the school admitted on affidavit that it had recovered the same for implementation of the recommendations of VI Pay Commission as per the aforesaid order dated 11/02/2009, although he stated that it was recovered in 2009-10 and not 2008-09. The Committee has reverified from the audited financials of the school which shows recovery in 2008-09. This recovery was wholly illegal as the order dated 11/02/2009 did not authorize the school to recover development fee for the whole year of 2008-09 when the school was not originally recovering the same. Clause 15 of the aforesaid order only authorized the schools to recover the incremental development fee for the period 01/09/2008 to 31/03/2009, which would accrue on account of the increase in tuition fee w.e.f that date if the school was charging development fee as a percentage of tuition fee. Since this school was admittedly not charging any development fee in 2008-09, there could have been no incremental development fee w.e.f. 01/09/2008. Further, the school did not restrict itself to charging development fee from 01/09/2008 but charged it for the whole year 2008-09 @ 15% of tuition fee. Moreover, the school has not even pretended to have utilised this amount for payment of arrear salaries for which it was

*Nutan Vidya Mandir*

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For Secretary



collected, even as per the averment of Chairman of the school. **The Committee is of the view that the school ought to refund the aforesaid illegal collection of Rs. 40,68,290 along with interest @ 9% per annum from the date of collection to the date of refund.**

(c) The school claimed that it implemented the recommendations of VI Pay Commission prospectively w.e.f. 01/04/2009 and as a result thereof the total salary paid by the school rose to Rs. 2,10,79,884 in 2009-10 from Rs. 1,46,51,737. However, this claim of the school also remained unsubstantiated as the school did not produce its books of accounts when required to do so. In the face of various inconsistencies in its submissions, merely by looking at the financials of the school for the two years, it cannot be concluded that the school actually implemented the recommendations of VI Pay Commission. The tuition fee recovered by the school in 2009-10 amounted to Rs. 3,32,30,669 as against Rs. 2,71,21,918 in 2008-09. The increase of Rs. 61,08,751 in 2009-10 was obviously on account of fee hike effected by the school in pursuance of order dated 11/02/2009 of the Director of Education. **As the Committee is not satisfied about the claim of the school that it implemented the recommendations of VI Pay Commission even prospectively w.e.f. 01/04/2009,**

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the Committee is of the view that the incremental fee of Rs. 61,08,751 ought to be refunded to the students along with interest @ 9% per annum from the date of collection to the date of refund.

(d) The school admitted that it recovered development fee of Rs. 60,93,419 in year 2010-11. At the same time, it admitted that it had not maintained any earmarked development or depreciation reserve funds. Maintenance of these earmarked fund accounts is a condition precedent for charging development fee as per the recommendations of Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 and various orders issued by the Director of Education with regard to fee right since 15/12/1999. Though the school claims that it incurred an expenditure of ~~Rs. 54,42,343~~ Rs. 54,42,343 out of the aforesaid amount, when the school was not fulfilling the pre conditions for charging of development fee, its collection itself was illegal and the utilisation of the same would not make it legal. **The Committee is, therefore, of the view that the school ought to refund the aforesaid amount of Rs. 60,93,419 collected as development fee in the year 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.**

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Secretary



**Summary of recommendations:**

Order


The school ought to refund the following sums to the students along with interest @ 9% per annum from the date of collection to the date of refund:

Arrear fee retained by the school in pursuance of order dated 11/02/2009	Rs. 14,88,543
Development fee recovered in 2008-09, purportedly in pursuance of order dated 11/02/2009	Rs. 40,68,290
Incremental tuition fee in the year 2009-10 in pursuance of order dated 11/02/2009.	Rs. 61,08,751
Development fee recovered in 2010-11	Rs. 60,93,419
Total	Rs. 1,77,59,003

Ordered accordingly.

  
Justice Anil Kumar (R)  
(Chairperson)


CA J.S. Kochar  
(Member)

  
Dr. R.K. Sharma  
(Member)

Nutan Vidya Mandir

Dated: 09/12/2019

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Secretary



arrear fee of

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

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

required to

**In the matter of:**

**St. Margaret Sr. Sec. School, Prashant Vihar, Rohini, Delhi-110085**

implication

**(B-597)**

**Order of the Committee**

**Present: Sh. Puneet Batra, Advocate with Sh. Naveen Goswami,  
Manager and Ms. Poonam Sehgal, Office Supdt. of the school.**

24/08/2013

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

St. Margaret Sr. Sec.

The school did not submit its reply to the questionnaire or to the reminder. The Committee issued a revised questionnaire on 24/08/2013, which also contained the relevant queries with regard to collection and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds, besides the queries relating to fee hike and salary hike as per the original questionnaire. Again no reply was received from the school. Reminders were sent on 25/10/2013 and 03/12/2013. Finally the school submitted its reply under cover of its letter dated 10/12/2013.

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As per the reply, the school implemented the recommendations of VI Pay Commission and started paying the increased salary from April 2009. The arrear of increased salary for the period 01/09/2008 to 31/03/2009 amounting to Rs. 46,30,362 was paid in July 2009. Further, the school paid a sum of Rs. 1,09,46,717 as arrear of differential salary for the period 01/01/2006 to 31/08/2008. It was further stated that as a result of implementation of the recommendations of VI Pay Commission, the monthly salary expenditure rose from Rs. 12,96,559 in March 2009 to Rs. 20,10,891 in April 2009.

With regard to hike in fee and recovery of arrear fee, the school stated that the fee was hiked in accordance with order dated 11/02/2009 w.e.f. 01/04/2009. The extent of hike was given by the school in an Annexure, as per which the hike in fee was @ Rs. 250 per month for classes pre-school to V and @ Rs. 350 per month for classes VI to XII. With regard to arrear fee, the school submitted that a total sum of Rs. 71,59,150 was due in terms of order dated 11/02/2009 against which the school recovered a sum of Rs. 66,65,605.

With regard to development fee, the school stated that it had not recovered any development fee from the students.

The Committee issued a notice dated 26/05/2015, requiring the school to furnish within 10 days, details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11, duly

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For Secretary



requiring to

reconciled with its Income and Expenditure Account. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of VI Pay Commission. However, the school did not file the required details nor furnished any documents. The Committee issued another notice dated 23/09/2015 requiring the school to furnish the required information as per notice dated 26/05/2015 and also to appear before the Committee on 16/10/2015 and produce its books of accounts, fee records, salary records, TDS Returns and Provident Fund Returns for verification by the Committee.

Ms. Poonam Sehgal, Office Supdt. of the school appeared on the date of hearing and filed a request for adjournment. A fresh notice was issued on 04/11/2015 requiring the school to appear on 30/11/2015. In the mean time, the school furnished the required information as per the Committee's notice dated 23/09/2015. Inter alia, the school filed actuarial valuation reports in respect of the accrued liability of the school in respect of gratuity and leave encashment as on 31/03/2010. The respective amounts were Rs. 1,33,89,356 and Rs. 23,89,862.

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For Secretary



Sh. Puneet Batra, Advocate appeared on behalf of the school.

On perusal of the information furnished by the school, the Committee noticed that the school appeared to have recovered lump sum arrears @ Rs. 3000 per student even from the students of Nursery class, who would not have been in the school during the period to which the arrears related. The Committee also noticed that the school had transferred a sum of Rs. 5,08,04,015 to its Parent Society upto 31/03/2010. The school was directed to file copies of bank statements evidencing payment of arrear salary, within one week.

The school filed a letter dated 02/12/2015, stating that in the circular issued to the parents regarding payment of arrear fee, nursery class was inadvertently mentioned and no arrear fee was collected from the students of nursery. The school also enclosed copies of bank statements evidencing payment of arrear salary to the staff.

A fresh notice of hearing was issued for 16/02/2018. On this date also, the school sought adjournment which was acceded to by the Committee and the matter was posted for further hearing on 11/04/2018. Again the school had sought adjournment on the ground that its counsel was held up in a matter before the Division Bench of the High Court. The matter was adjourned to 29/05/2018 on which date the Ld. Counsel for the school appeared and produced the books of accounts in a Laptop. The information furnished by the school was examined with reference to its books of accounts and the audited financials of the school and found to be in order.

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For Secretary



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The Committee noticed that upto 31.3.2008, the school had transferred a sum of Rs. 6,45,44,231 to 3 sister units i.e. St. Margret Educational Society in Nimrana, St. Margaret Educational Society, Sushant Vihar and St. Margaret Engineering College, Nimrana. The amount rose to Rs.7,06,04,089 as on 31.3.2010, indicating that during the years 2008-09 and 2009-10 more funds were transferred to these institutions .

Based on the audited financials of the school and the information furnished by the school in its various communications to the Committee, the Committee prepared the following calculation sheet:

St. Margaret Sr. Sec.

St. Margaret Sr. Sec. School, Prashant Vihar, Rohini, Delhi-85/(B-597)/Order

Page 5 of 10

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For Secretary



000070

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.)
	<u>Current Assets + Investments</u>		
	Cash in hand		
	Bank Balance	3,540,612	
	Fixed Deposits	12,293,264	
	Interest accrued on Fixed Deposits	1,198,577	
	Advance Recoverable	10,000	
	Recoverable from other Sister Institutions/ Parent Society	64,544,231	
	TDS	201,552	<b>81,788,236</b>
<b>Less</b>	<u>Current Liabilities</u>		
	Echo Club	12,156	
	TDS Payable	13,796	
	Provident Staff Fund	56,445	
	Salary Payable	63,277	<b>145,674</b>
	<b>Net Current Assets + Investments (B)</b>		<b>81,642,562</b>
<b>Less</b>	<b>Reserves required to be maintained:</b>		
	for future contingencies equivalent to 4 months salary	8,458,943	
	for accrued liability towards Gratuity as on 31.3.10	13,389,356	
	for accrued liability towards Leave Encashment as on 31.3.10	2,389,862	<b>24,238,161</b>
	<b>Funds available for implementation of 6th Pay Commission</b>		<b>57,404,401</b>
<b>Less</b>	<b>Additional Liabilities on implementation of 6th CPC :</b>		
	Arrear of Salary as per 6th CPC from 01.01.06 to 31.8.08	10,979,528	
	Arrear of Salary as per 6th CPC from 01.9.08 to 31.3.09	4,630,262	
	Incremental Salary in 2009-10 (as per calculation below)	9,687,381	<b>25,297,171</b>
	<b>Excess / (Short) Fund Before Fee Hike</b>		<b>32,107,230</b>
<b>Add</b>	<b>Additional Recovery for 6th Pay Commission:</b>		
	Arrear of tuition fee from 1.1.06 to 31.8.08	5,097,760	
	Arrear of tuition fee from 1.9.08 to 31.3.09	3,740,450	
	Incremental tuition fee in 2009-10 (as per calculation below)	8,663,268	<b>17,501,478</b>
	<b>Excess / (Short) Fund After Fee Hike</b>		<b>49,608,708</b>

**Excess fee charged/ recovered found to be prima-facie refundable 17,501,478**

**Working Notes:**

	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	15,689,448	25,376,829
<b>Incremental salary in 2009-10</b>	<b>9,687,381</b>	
	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	27,648,768	36,312,036
<b>Incremental tuition fee in 2009-10</b>	<b>8,663,268</b>	

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for Secretary





current as:

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institution:

The Committee considered the sum of Rs. 6,45,44,231, which the school had transferred to its sister concerns as noted supra, as funds available with the school, in view of the ratio of the judgments of the Hon'ble Supreme Court in the cases of Modern School vs Union of India (2004) 5 SCC 583 which has laid down that the transfer of funds to its Parent Society or other institutions under the same management is prohibited.

As would be apparent from the above calculation sheet, the net current assets of the school (including amount recoverable from sister institutions/parent society were Rs. 8,16,42,562. After providing for the accrued liability of gratuity and leave encashment and a reasonable reserve equivalent to four months salary for future contingencies, the school still had available with it a sum of Rs. 5,74,04,401. The total financial impact of implementing the recommendations of VI Pay Commission was only Rs. 2,52,97,171. As such, prima facie, the school had ample funds of its own and did not need to recover any arrear fee from the students for the period 01/01/2006 to 31/03/2009 or to increase the tuition fee w.e.f. 01/04/2009.

However, the school recovered a sum of **Rs. 88,38,210** (50,97,760 + 37,40,450) as arrear fee for the period 01/01/2006 to 31/03/2009. Further, the increase in tuition fee for the year 2009-10

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For

Secretary





The  
dated 13/0

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resulted in an additional revenue of **Rs. 86,63,268**. Accordingly, the

Committee was of the prima facie view that the total amount recovered

by the school pursuant to order dated 11/02/2009 of the Director of

Education amounting to **Rs. 1,75,01,478** was unjustified and

refundable to the students. A copy of the calculation sheet was

provided to Ms. Poonam Sehgal, Office Supdt. of the school on

14/06/2018 for rebuttal if any.

The school filed its rebuttal in writing vide written submissions

dated 13/09/2018 and the Counsel of the school was also heard in

the matter. The school did not dispute any of the figures taken by the

Committee to arrive at its preliminary finding that the school had

adequate funds of its own and did not need to hike any fee or recover

any arrear fee. Instead it pleaded that it would be put to great

financial distress if the refund was ordered as the amounts which

were transferred by it to the Parent Society or to its sister

organizations already stood invested in purchase of land for setting

up another school in Nimrana, Rajasthan. Therefore, the school

had to recover the arrear fee and also to increase the regular fee for

meeting its additional liability on account of implementation of the

recommendations of the 6<sup>th</sup> pay commission.

The learned counsel for the school submitted that the Parent

Society set up a school at Nimrana in the beginning, which was later

St. Margaret Sr. Sec. School, Prashant Vihar, Rohini, Delhi-85/(B-597)/Order

Page 8 of 10

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For Secretary



on converted into a college. The amount transferred to the Society was subsequently received back by the school and a major chunk of the same came in the year 2016-17. He further submitted that the school, upon receipt of money from the parent society, earmarked the same for caution money, leave encashment, gratuity, depreciation reserve fund, salary for four months, FDRs in joint names with DOE and CBSE, development fund, scholarship fund etc. .

The Committee has bestowed his consideration to the arguments put forth on behalf of the school and finds no force therein. It is not denied that the school illegally transferred funds to its Parent Society as a result of which it felt short of funds for implementing the recommendations of VI Pay Commission. The school cannot be heard to say that it committed an illegality and the punishment for committing such illegality should fall on the students who were forced to pay additional fees for implementing the recommendations of VI Pay Commission which was the liability of the school. The Hon'ble Delhi High Court in its judgment in WP (C) 7777 of 2009 by which this Committee was constituted, clearly laid down that the school could only resort to fee hike if it did not have adequate funds of its own. The arguments put forth by the school are not tenable and are hereby rejected.

**In view of the above discussion, the Committee is of the view that the school ought to refund the entire amount of Rs. 1,75,01,478 recovered by it as arrear fee and incremental fee in**

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for Secretary



Dated: 10/12/19  
terms of order dated 11/02/2009 issued by the Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 10/12/2019

St. Margaret Sr. Sec.

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For Secretary



S. No.	<b>Delhi High Court Committee for Review of School Fee</b> (Formerly Justice Anil Dev Singh Committee for Review of School Fee)
2	B-639

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**CAUSE LIST FOR DECEMBER 2019**

Cause

**Cause List for Monday, 2nd December 2019**

S. No.	Cat. No.	School Name & Address
1	B-187	Balwant Ray Mehta Vidya Bhawan, GK-II
2	B-356	Notre Dame School, Badarpur

Cause

**Cause List for Tuesday, 3rd December 2019**

S. No.	Cat. No.	School Name & Address
1	B-584	General Raj's School, Hauz Khas
2	B-564	Columbia Foundation School, Vikas Puri

**Cause List for Monday, 9th December 2019**

S. No.	Cat. No.	School Name & Address
1	B-389	
1	B-596	Vikas Bharti Public School, Rohini
2	B-639	Nutan Vidya Mandir, Dilshad Garden

**Cause List for Tuesday, 10th December 2019**

S. No.	Cat. No.	School Name & Address
1	B-60	The Heritage School, Sector-23, Rohini
2	B-597	St. Margaret's Sr. Sec. School, Prashant Vihar

**Cause List for Monday, 16th December 2019**

S. No.	Cat. No.	School Name & Address
1	B-137	St. Mary's School, Safdarjung Enclave

**Cause List for Wednesday, 18th December 2019**

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

**Cause List for Thursday, 19th December 2019**

S. No.	Cat. No.	School Name & Address
1	B-640	The Srijan School, North Model Town
2	B-151	G D Goenka Public School, Vasant Kunj

**Cause List for Friday, 20th December 2019**

S. No.	Cat. No.	School Name & Address
1	B-286	Mount Abu Public School, Sect.5, Rohini

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B-187

**Balvantray Mehta Vidya Mandir, G.K. II Delhi**

Present: Gp Capt. S.C. Bahri, Director/Manager, Mrs. Geeta Mallik, Admin Officer, Mrs. Alka Sharma, Accounts Asstt. and Mr. Peeyush Tyagi, Supervisor of the School.

The matter was refixed to seek certain clarifications from the school. Gp Capt. S.C. Bahri, Director of the School along with Mrs. Geeta Mallick, Administrative Officer of the School who were present at the time of hearing request that some more time may be given to enable them to submit proper clarifications in the matter. As requested the matter is adjourned to 16<sup>th</sup> January ~~2019~~ at 11.00 am.

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

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

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

B-187

Dr. P.  
Tyagi

Gp Capt. S.C. Bahri,  
Director/Manager,  
Mrs. Geeta Mallik,  
Admin Officer,  
Mrs. Alka Sharma,  
Accounts Asstt.,  
and Mr. Peeyush Tyagi,  
Supervisor of the School.

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For Secretary



S. No.	2	3
S. No.	2	3
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S. No.	2	3

03/12/2019

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B-564

**Columbia Foundation School, Vikas Puri**

Present: Shri N.K. Mahajan, CA, Shri Anuj Mahajan, Consultant and Shri Pradeep Singh, Head Clerk of the School.

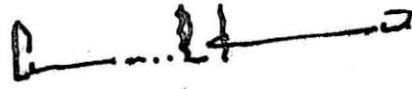
The matter partly argued on behalf of the school. Further arguments deferred at the request of the school. The matter is adjourned for 17<sup>th</sup> January 2020 for further arguments.



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



**J.S. KOCHAR  
MEMBER**



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

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For  Secretary





On th  
09/12/2019

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B-596

**Vikas Bharti Public School, Rohini, Delhi**

Present: Shri Kamal Gupta, Advocate, Shri A.S. Solanki, Manager and Ms. Rachna, UDC of the School.

The learned counsel appearing for the school submits that the revised Calculation sheet is disputed only on two issues that is with regard to the consideration by the Committee of capital expenditure incurred by the school on purchase of fixed assets and repayment of loan (other than those relating to buses which the school has demonstrated for purchase out of transport surplus) as part of funds available, and consideration of development fee for the year 2010-11 to be prima-facie refundable for non fulfillment of the pre-conditions laid down by the Hon'ble Supreme Court in the case of Modern School.

On the first issue that is with regard to capital expenditure the learned counsel appearing for the school relies on the judgment of Hon'ble Supreme court in the case of Modern School. He submits that there is nothing in the said judgment which would lead to the conclusion that capital expenditure of the same school cannot be incurred out of the fee revenue. On the contrary he submits that the judgment lays down that the capital expenditure of the same school can in fact be incurred out of the fee as provided in rule 177(2)(b) and 177(2)(c). In this regard he has particularly relied upon paras 14, to 23 of the aforesaid judgment.

A query was raised by the Committee with regard to reasonableness of surplus generated by the school and the learned counsel was asked to demonstrate at the school generated only a reasonable surplus which would not amount to profiteering. He has requested for some time be given to demonstrate the same with reference to the audited financials of the school.

With regard to the second issue that is development fee for the year 2010-11, he submits that the consideration of development fee by this Committee, particularly for the year 2010-11, is beyond its mandate as per the judgment of Hon'ble High Court in WPC 7777 of 2009.

As requested by the learned counsel the matter is adjourned to 20<sup>th</sup> January 2020 at 11.00 am. 26



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

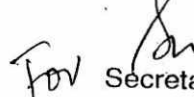


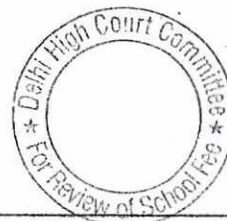
**J.S. KOCHAR**  
MEMBER



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

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Secretary



**The Heritage School, Rohini, Delhi**

Present: Shri Manu R.G. Luthra, CA, Shri Vikas Gupta CA and Shri Ajay Gupta, CA of the School.

The learned authorized representative appearing for the school has filed written submissions dated 10.12.2019 vide which the school has controverted the preliminary calculation sheet prepared by the Committee. On comparison between calculation sheet prepared by the Committee and that filed by the school as part of its written submissions, which is available at page 48, the Committee observes that there are divergences in four figures which were taken by the Committee, in the calculation sheet submitted by the school. These are as follows:-

- (a) The Committee had considered that the school had applied its fee revenues for incurring capital expenditure in the shape of repayment of loans and interest there on which were taken for purchase of fixed assets and improvements thereto. The school has omitted the same from its calculation sheet.
- (b) The school has estimated its requirement for reserve for future contingencies at Rs. 1,65,41,570, as against Rs. 1,19,42,597 estimated by the Committee.
- (c) The school has claimed its accrued liability of gratuity as on 31.03.2010 to be Rs. 67,92,765 as against Rs. 28,13,650 taken by the Committee.
- (d) The school has considered the incremental salary for the year 2009-10 to be Rs. 1,73,28,557 as against Rs. 1,65,04,492 which was considered by the Committee.

No other figure of the preliminary calculation sheet prepared by the Committee has been disputed. It is further submitted that the development fee recovered by the school in the year 2009-10 and 2010 -11 has been erroneously shown as refundable in the calculation sheet prepared by the Committee as the school was fulfilling all the pre-conditions laid down by the Hon'ble Supreme Court in the case of Modern School for charging development fee. It is further submitted that instead of the school generating a surplus of Rs. 1,82,36,710 after affecting fee hike as per order dated 11.02.2009 of the Directorate of Education, the school actually incurred a deficit of Rs. 4,76,38,672.

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For Secretary



10/12/2019

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The last submission made by the authorized representative on the basis of calculation sheet filed by him needs to be dealt with first. As per the calculation sheet of the school itself, the total additional liabilities on account of increase in expenditure on salary after implementation of recommendation of 6<sup>th</sup> Pay Commission were to the tune of Rs. 3,50,13,473 against which the school generated additional revenue by increasing the tuition fee and recovering the arrear fee to the extent of Rs. 2,30,03,117. Hence at any rate the deficit incurred by the school on implementation of the recommendations of 6<sup>th</sup> Pay Commission could not have been more than Rs. 1,20,10,356, as per the figures given by the school itself. This is subject to verification of the calculation sheet submitted by the school after taking into consideration the funds available with the school at the threshold i.e. before the fee hike was affected.

With regard to the capital expenditure incurred out of the fee, the learned authorized representative submits that the same is permissible as per the provisions of rule 177 of the Delhi School Education Rules 1973. He further submits that the Committee has not taken into consideration the capital expenditure that was allowable under rule 177, the development fee received by the school which was specifically collected for incurring capital expenditure, the contribution made by the parent society for incurring capital expenditure and loans raised for purchase of fixed assets. However, he fairly concedes that at the same time the Committee had not taken into consideration the cost of fixed asset purchased to be representing capital expenditure and the Committee has merely considered the repayment of loans taken for incurring capital expenditure for purchase of fixed assets as the capital expenditure. He has accordingly, filed a comprehensive statement showing all the capital receipts and capital payments. On the basis of this statement he submits that the capital expenditure which was not incurred out of the permissible resources was just Rs.5,74,702 between 2006-07 and 2009-10. The Committee however, notes that the school has not taken the effect of this amount of Rs. 5,74,702 in the calculation sheet.

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*For* Secretary



10/12/2019

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The school has filed another statement showing that the capital expenditure on purchase of buses and repayment of loans taken for buses was partially met out of the surplus generated from transport fee. As per the statement filed by the school the capital expenditure on buses, to the extent it was not made from the transport fee surplus was Rs. 45,67,477 from 2006-07 to 2009-10. However, the Committee notes that even this sum of Rs. 45,67,477 has not been taken into account by the school in its calculation sheet.

The school has filed detailed income and expenditure accounts to show that it had generated sufficient revenue surplus in the years 2006-07 to 2009-10 which was available for incurring capital expenditure under rule 177 as aforesaid. The Committee has gone through these papers and observes that the cash revenue surplus in 2006-07 was 18.69% of its total fee revenue. Besides the school also charged development fee at the rate of 10% of tuition fee specifically for incurring capital expenditure. In 2007-08 the cash revenue surplus was 20.83% of its total fee revenue and the school also charged 10% of tuition fee as development fee for incurring capital expenditure. In the year 2008-09 the school generated a cash revenue surplus which was 10.29% of its fee revenues ( after excluding the extra ordinary items of arrear fee and arrear salary). In 2009-10, the school generated revenue surplus which was 11.31% of its fee revenues after excluding the arrear fee and arrear salary. Besides the school also recovered development fee at the rate of 15% of the tuition fee specifically for incurring capital expenditure.

With respect to the requirement for reserve for future contingencies, the contention of the school is that besides the salary for the year 2009-10 the expenditure of employer contribution to PF amounting to Rs. 18,54,321 ought also be taken into account as the same is also in the nature of salary. Apart from this authorized representative contends that the Committee had erroneously calculated the reserve for future contingencies equivalent to three months salary instead of four months salary which has been the norm fixed by the Committee in all the cases. The Committee has verified this from its calculation sheet and the audited financials of the school and accepts the contention of the school in this regard.

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For Secretary



10/12/2019

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With regard to incremental salary the authorized representative submits that in its earlier submissions given on 21.12.2015 the school itself had committed an error in providing the information with regard to regular salary for the year 2008-09 and 2009-10. The components of salary which were included in the figures given earlier were not the same as such the two figures were not comparable for calculating the incremental salary for the year 2009-10. He has given the detailed break up for salary expenses for the year 2008-09 and 2009-10 at pages 85 and 86 of the written submissions.

The Committee has considered the detailed break up and accepts the contention of the authorized representative. The incremental salary of 2009-10 is accordingly revised as follows:-

Salary Head	2008-09	2009-10
Salary	2,95,06,622	4,70,93,362
Summer vacation salary	3,33,658	87,913
DA arrears	1932	5,29,382
Employers provident fund	17,61,755	18,54,321
Total	3,16,03,967	4,95,64,978

Incremental salary in 2009-10 = 1,79,61,011

With regard to the accrued liability of gratuity it is submitted that the accrued liability of gratuity as on 31.03.2010 was Rs. 67,92,765 instead of Rs. 28,13,650 taken by the Committee. The school has submitted its detailed calculation at page 81 to 84 of the written submissions. The Committee observes that it had taken the figure of Rs. 28,13,650 based on the details of accrued liability submitted by the school itself on 31.12.2015. The authorized representative submits that details submitted earlier were in respect of only those employees who had completed five years of service, while the details now submitted include all the employees who had completed more than six months of services which is considered to be fit for the purpose of payment of gratuity.

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For Secretary



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The Committee does not accept this submission of the school under provisions of payment of gratuity act, the liability to pay gratuity accrues only when the employee completes five years of service. No liability for gratuity accrues before the employee completes five years of service.

No other contention has been raised by the school. Order reserved.



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



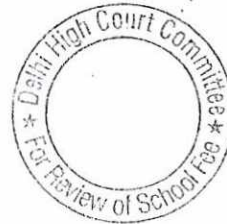
**J.S. KOCHAR**  
**MEMBER**



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

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For Secretary



16/12/2019

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B-137

**St. Mary's School, Safdarjung Enclave, Delhi**

Present: Mr. George Koshi, CA, Shri Nikhil Philip, Manager and Shri P.A. Sivaggen Accountant of the School.

After some arguments Mr. George Koshi CA appearing for the school request that the matter be taken up after 17<sup>th</sup> January 2020. As requested the matter is adjourned to 24<sup>th</sup> January 2020 at 11.00 am.



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



**J.S. KOCHAR**  
MEMBER



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

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*For* Secretary



18/12/2019

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Dr. J.  
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B-389

**BGS International School, Dwarka, Delhi**

Present: Shri Rajesh Kanojia, Admin Officer of the School.

Shri Rajesh Kanojia, Admn Officer of the School is present and submits that the Chartered Accountant of the School who is representing in the matter is pre-occupied with some other matters and as such this matter may be adjourned to any convenient date in the month of January 2020.

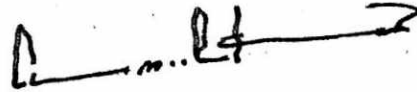
As requested the matter is adjourned to 27<sup>th</sup> January 2020 at 11.00 am.



**Dr. R.K. SHARMA  
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**J.S.KOCHAR  
MEMBER**



**JUSTICE ANIL KUMAR (Retd.)  
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**Srijan School, North Model Town, Delhi**

Present: Shri Devashish Tewary, Admn Officer, Ms. Sweta Bansal, Accountant and Shri Amit Kukreja, Accountant of the School.

The authorized representative appearing for the school have been partly heard on the written submissions filed by the school on 25<sup>th</sup> November 2019.

At the outset, the Committee notices that it has taken into account only the repayment of loans for acquisition of fixed assets and cost of cars purchased from 2006-07 to 2010-11 as capital expenditure which was apparently incurred out of the fee revenues of the school. A detailed statement of all capital expenditures and capital resources that might have been raised by the school was not prepared. For this reason the amount of capital expenditure which has been considered by the Committee to have come out of the fee revenues may not be accurate. A fresh comprehensive statement of all capital receipts and capital payments will be made to compute the correct amount.

The school has contended that for working out the incremental salary in the year 2009-10 after the implementation of recommendations of 6<sup>th</sup> Pay Commission, the Committee has considered the total amount of salary in the year 2008-09 which was reflected in the audited income and expenditure account of the school. This amount also included the arrear salary which was provided for the year 2008-09. Accordingly, the incremental salary for the year 2009-10 has been incorrectly calculated to be Rs. 22,02,292. The school has provided the detailed break up of regular salary paid in 2008-09 and 2009-10 as per which the regular salary rose from Rs. 1,27,98,845 to Rs. 2,55,02,246. The school has also filed the copies of ledger accounts of different heads of salaries in 2008-09 and 2009-10. The Committee notices that in the year 2009-10 the school has also included arrears of salary paid to the employees who left the school by the same <sup>time</sup> ~~token~~. This should also be excluded from the regular salary for 2009-10, the details of which have been given by the school. The authorized representative contends that if this is excluded from the salary of 2009-10, it would require to be included in the arrear salary which has been separately taken by the Committee. She undertakes to provide a complete detail of payment of arrear salary and payment of regular salaries in the year 2008-09 and 2009-10. Needless to say that the details ought to match with the audited financials of the school.

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The school has contended that so far as calculation of incremental fee is concerned, the same ought to be reduced by Rs. 46,82,700 which was recovered from the new students admitted in 2009-10. However, the school has not given any particulars of the salaries paid to the new teachers that were employed during 2009-10. The Committee notices that the staff strength of the school rose from 57 in March 2009 to 71 in December 2009.

The school has also contended that a sum of Rs. 4,80,446 was its accrued liability for leave encashment as on 31<sup>st</sup> March 2010 which ought to be taken into consideration. The same was omitted from the calculation sheet as the school has not provided the employees-wise detail of such liability. The authorized representative submits that she would provide the employee wise detail on the next date of hearing.

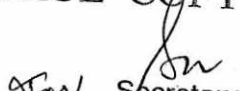
The matter is accordingly adjourned to 28<sup>th</sup> January 2020 at 11.00 am.

  
Dr. R.K. SHARMA  
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J.S. KOCHAR  
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**G.D. Goenka Public School, Vasant Kunj**

Present: Shri Nipun Gupta, Advocate of the School

The learned counsel appearing for the school submits that Shri Kamal gupta Advocate is not able to appear today on account of the change in date of hearing. He submits that the matter be adjourned to 20<sup>th</sup> January 2020 when another matter being argued by Shri Kamal Gupta, is listed for hearing.

As requested the matter is adjourned to 20<sup>th</sup> January 2020 at 11.00 am.



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



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



**JUSTICE ANIL KUMAR (Retd.)**  
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**Mount Abu Public School, Sec-05, Rohini Delhi**

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

The learned counsel appearing for the school submits that the so far as the development fee for the year 2009-10 and 2010-11 are concerned, the school is in the process of earmarking the funds to the extent of unutilized development fee and depreciation on assets acquired out of development fee. It is submitted that the school has already started complying with the pre-conditions in the subsequent years. He seeks some time in order that the school may earmark the entire amount that is required to be set apart upto 2018-19. It is also submitted that the Managing Committee of the school will also pass a resolution to that effect which will be placed before the Committee.

With regard to the rest of the calculations determining the apparent refund out of the fee hike effected in pursuance of order dated 11.02.2009. It is submitted that the school had certain savings which were utilized for incurring capital expenditure which is permissible under rule 177. The details of such savings <sup>and</sup> also the calculations with regard to revenue surplus generated by the school from 2006-07 to 2009-10 will be placed before the Committee. It is submitted that there would eventually be no amount which would be found to be refundable.

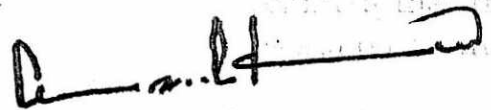
As requested time is granted to the school for carrying out above exercise and the matter is adjourned to 20<sup>th</sup> January 2020 at 11.00 am.



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




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



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

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