

**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/2019/ 409

Dated: 21/10/19

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

4/27/10  
S.O.V

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

Sir,

I am directed to forward herewith a copy of report of Delhi High Court Committee for Review of School Fee for September-2019 which was submitted to the Registrar, High Court, Delhi on 18-10-2019 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.

DDE (PSB)

(Hukam Chand)  
Secretary to the Committee  
21/10/2019

17339/DE  
22/10/19

21/10/19



**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 September 2019**

No.DHCC/2019/408

Dated: 16/10/2019

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Place: Delhi

  
Secretary

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

HUKAM CHAND  
(Secretary)

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

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

000001

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

In the matter of:

**Bharti Public School, SwasthyaVihar, Delhi-110092(B-302)**

**Order of the Committee**


**Present: Sh. Puneet Batra, Advocate with Sh. H.C. Batra,  
Chairman 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 submitted its reply to the Committee vide its letter dated 10/05/2012. As per the reply to the questionnaire submitted by the school,

- (a) the school implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/04/2009.
- (b) It paid arrears of incremental salary, the details of which were given in an annexure, as per which the school paid a

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total sum of Rs. 32,17,507 (29,52,501 + 2,65,006) towards arrears for the period September 2008 to March 2009 on 28<sup>th</sup> April 2009. The arrears for the period January 2006 to August 2008 were paid in three installments- Rs. 36,34,424 (34,05,657 + 2,28,767) on 31/10/2009 and Rs. 2,13,523 on 26/04/2010.

- (c) The school increased the fee w.e.f. 01/04/2009 pursuant to order dated 11/02/2009 issued by the Director of Education. It also collected arrear fee @ Rs. 2415 per student for the period 01/09/2008 to 31/03/2009 and Rs. 3,000 for the period 01/01/2006 to 31/08/2008. However, from the students who took admission in 2007, the lump sum arrear was collected @ Rs. 2000 per student and from the student who took admission in 2008, the collection on this account was @ Rs. 1000 per student.

Preliminary calculations were prepared by the Chartered Accountants (CAs) deputed with this Committee by the Directorate of Education and they provisionally determined that the school had recovered fee in excess of what was required to meet the additional expenditure on increased salaries. The amount provisionally determined by them to be in excess was Rs. 79,14,686. However, the Committee observed that the CAs had made the calculations by extrapolating the monthly differential of fee and salary for 12 months, without making any attempt to co-relate the figures with the audited

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financials of the school. The Committee did not deem it to be a proper method and accordingly did not rely upon the calculations made by the CAs. 000003

The Committee issued a notice dated 14/05/2015, 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 also 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.

The school submitted its response under cover of its letter dated 01/06/2015. It also submitted the reply to the questionnaire regarding development fee. As per the reply submitted by the school, it collected development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11. The same was utilised for incurring capital expenditure as well as

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revenue expenditure. Till 2008-09, development fee was treated as a 000004  
revenue receipt but w.e.f. 01/04/2009, it was treated as a capital  
receipt. However, it conceded that no depreciation reserve fund was  
maintained for depreciation on assets acquired out of development fee.  
Since there was no utilised development fund or depreciation reserve  
fund which had got exhausted.

A notice of hearing was issued to the school on 29/06/2016,  
requiring it to appear before the Committee on 18/07/2016 and  
produce its books of accounts, fee and salary records for the years  
2006-07 to 2010-11. Sh. Puneet Batra, Advocate appeared with Sh.  
H.C. Batra, President of the Parent Society and Sh. Davinder Seth,  
Accountant of the school. An adjournment was sought on this date  
which was granted by the Committee for 24/08/2016.

On the next date, the Counsel appeared for the school. He was  
partly heard by the Committee.

The Committee perused the circular 28/02/2009 issued by the  
school to the parents regarding fee hike in pursuance of order  
11/02/2009 issued by the Director of Education. As per the circular,  
the school hiked tuition fee w.e.f. 01/09/2008 for pre primary classes  
to VII @ Rs. 300 per month and development fee @ Rs. 45 per month  
which is 15% of the hike in tuition fee. For classes IX to XII, the hike  
was @ Rs. 400 per month in tuition fee and Rs. 60 per month for  
development fee. Besides, the school also recovered lump sum fee @

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Rs. 3,000/3,500 per student for payment of arrears for the period

000005

01/01/2006 to 31/08/2008.

The Committee perused the original fee schedule for the year 2008-09. As per this schedule filed by the school in the year 2008-09, the school was originally charging development fee @ 10% of tuition fee. The Ld. Counsel for the school admitted that it was indeed so.

So far as the payment of arrear salary to the teachers is concerned, the Committee observed that while a substantial amount of salary had been paid through direct bank transfers, some amounts had been paid by way of individual cheques. The bank statement produced by the school did not show the exact mode of payment of the individual cheques. Accordingly, a direction was given that the competent authority of the school would state on affidavit as to whether the individual cheques to teachers were bearer or crossed account payee. The school was also advised to furnish certificates issued by bank regarding the mode of withdrawal of money in respect of these cheques.

With regard to regular development fee, the Committee noted that the school in its reply to the questionnaire had stated that in the year 2008-09, the development fee was treated as a revenue receipt. However, in the year 2009-10 and 2010-11, the same was treated as a capital receipt. The amount of development fee recovered in 2009-10 and 2010-11 was 58,70,020 and Rs. 70,75,477 respectively. In the

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000006  
detail of utilization of development fee, the school had submitted that the total capital expenditure incurred by it in 2009-10 was Rs. 57,79,222 out of which a sum of Rs. 29,38,772 was utilized for up gradation of school building. The remaining amount was utilized for purchase of furniture, fixture and equipments. However, the entire amount of development fee received in 2010-11 was shown to have been utilized for purchase of furniture fixture Rs. 25,91,433, the remaining amount had been utilized for purchase of land. The Ld. Counsel stated, in response to a query by the Committee, that the land was purchased in Noida Extension. The Committee also noted that the school had stated in its reply that no earmarked fund accounts are maintained for development fund and depreciation reserve fund as the capital expenditure incurred by the school was more than development fee received and no amount remained unutilized.

The Committee noted that the school had not furnished details of its accrued liabilities of gratuity and leave encashment. The Ld. Counsel for the school sought some time to do so. The school was accordingly directed to file the affidavit and bank certificates as mentioned above, and also detail of its accrued liabilities within two weeks.

The school filed a letter dated 24/09/2016 along with which an affidavit of S. Arora, Principal of the school was filed, which was not sworn before an Oath Commissioner or a Notary. However, since the

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same was accompanied by certificates issued by Canara Bank, Laxmi Nagar and Axis Bank Limited, giving details of the mode of payment of individual cheques, the same was accepted. However, the school did not file details of its accrued liability of gratuity and leave encashment. 000007

The Committee noted that while the payments made from Canara Bank were through bank transfers except Rs. 1,72,812 which were by bearer cheque, those made through Axis bank were through bearer cheques in case of the first and second installments of arrear payments and through direct bank transfer in the case of third installment.

The overall picture that emerged was that out of the total sum of Rs. 35,08,776 paid as arrears in the first installment, a sum of Rs. 21,22,860 was paid through bank transfer while the remaining amount Rs. 13,85,916, was paid through bearer cheques. In the second installment, out of total sum of Rs. 32,65,450, a sum of Rs. 27,73,627 was paid through bank transfers and the remaining amount of Rs. 4,91,803 was paid through bearer cheques. In the third installment, out of the total amount of Rs. 32,41,588, a sum of Rs. 30,68,776 was paid through bank transfer while a sum Rs. 1,72,812 was paid through bearer cheques.

On a query by the Committee, the Ld. Counsel for the school, on instructions from the President of the Parent Society,

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submitted that the regular salary that was paid to the staff for the month of April 2009, was paid through account payee cheques. The counsel for the school submitted that he would file a complete detail of salary paid in 2008-09 and 2009-10 individually in respect of all the teachers showing the mode of payment. 000008

The school filed written submissions dated 10.11.2016 giving the particulars of employee-wise salary paid every month with regard to their mode of payment. It was submitted that salary to the staff members were paid mostly through bank transfers. Only to a few employees, it was paid through bearer cheques till November 2009. From Dec. 2009 they were paid through bank transfer and account payee cheques. The same is the position with regard to payment of arrear salary. It was submitted that salary to all the employees who had intimated their bank particulars were paid through direct bank transfers. Only those employees having no bank accounts were paid through bearer cheques.

The Committee, during the course of hearing on 15/11/2016, again noted that the school had not filed the details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010. The Ld. Counsel again sought some time to submit the same. In the interests of justice, one week's time more was granted to do the needful. However, no such details were filed within the time granted. Accordingly the Committee considered that the school did not have any such liabilities.

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The Committee prepared the preliminary calculations to examine the justifiability of fee hike effected by the school for implementation of the recommendations of VI Pay Commission, keeping in view the funds already available with the school. As per the preliminary calculations, the Committee concluded that the school had available with it a sum of Rs. 3,43,72,533 as on 31/03/2008 i.e. effecting the fee hike. The calculation to this effect is as follows:

<b><u>Current Assets + Investments</u></b>		
Cash in Hand	1,561	
Cash at Bank	5,780,087	
Interest Receivable	1,471,743	
TDS	27,309	
Advance to Bharti Public School, RG	308,360	
Investments	32,543,066	40,132,126
<b><u>Current Liabilities</u></b>		
Fees Received in Advance	2,790,625	
Advance from TATA AIG	45,881	
Sundry Creditors	1,665,905	
Security	329,400	
Expenses Payable	927,782	5,759,593
<b>Net Current Assets + Investments (Funds available)</b>		<b>34,372,533</b>

The Committee calculated that the school ought to keep a sum of **Rs. 77,77,101** (equivalent to four monthssalary) in its reserve for any future contingency. Accordingly, the Committee considered that the school had available with it a sum of **Rs. 2,65,95,432** (3,43,72,533 - 77,77,101) which could be utilised by it for implementation of the recommendations of VI Pay Commission.

The Committee calculated that the total financial impact of implementing the recommendations of VI Pay Commission on the school was to the tune of **Rs. 1,76,58,181** upto 31/03/2010. While

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calculating this amount, the Committee excluded the payment of arrear salary by bearer cheques, which apparently did not appear to be genuine payments made by the school. The calculation of the total financial impact is as follows:

Additional Liabilities after implementation of VIth Pay Commission:		
Arrear of Salary as per 6th CPC for 1.1.06 to 31.3.09 (excluding payments through cash/ bearer cheques)	7,965,263	
Incremental Salary for 2009-10 (as per calculation given below)*	9,692,918	17,658,181

<b>*Incremental Salary for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	13,638,384	23,331,302
<b>Incremental salary in 2009-10</b>	<b>9,692,918</b>	

Accordingly, the Committee provisionally concluded that the school had enough funds of its own and did not need to hike any fee or recover any arrear fee from the students for implementing the recommendations of VI Pay Commission. Even after meeting its additional liabilities on account of implementation of recommendations of VI Pay Commission, the school would have been left with a surplus of **Rs. 89,37,251** ( 2,65,95,432 – 1,76,58,181).

However, instead of utilising its existing funds the school, as per the figures furnished by itself, recovered a sum of **Rs. 93,37,314** as arrear fee for the period 01/01/2006 to 31/03/2009. Further the hike in regular fee in the year 2009-10 resulted in an additional revenue of **Rs. 78,95,166** as follows:

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Incremental tuition fee for 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	31,534,010	39,429,176
Incremental tuition fee in 2009-10	7,895,166	

000011

The total additional fee recovered by the school amounted to Rs. **1,72,32,480** (93,37,314 + 78,95,166) Thus, the school after recovering the arrear fee and the enhanced fee in 2009-10, only swelled its surplus to **Rs. 2,61,69,731** (89,37,251 + 1,72,32,480) Prima facie, the entire amount of arrear fee and incremental fee for 2009-10 recovered by the school pursuant to order dated 11/02/2009 of the Director of Education amounting to Rs. 1,72,32,480 appeared to be unjustified.

In addition, since the school was admittedly not maintaining any depreciation reserve fund which is a substantive pre condition for charging development fee as laid down by Duggal Committee which was affirmed by the Hon'ble Supreme Court in the case of Modern School (supra), the Committee was of the prima facie view that the amount of development fee recovered in 2009-10 and 2010-11 amounting to Rs. 1,29,45,497 was unjustified.

Thus, prima facie, the school was required to refund a total sum of Rs. 3,01,77,977 (1,72,32,480 + 1,29,45,497) to the students.

A copy of the above calculation sheet was furnished to the school on 08/12/2016. The school was given an opportunity to make submissions in rebuttal to the calculation sheet.

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After the calculation sheet had been prepared by the Committee; the school filed actuarial valuation reports on its accrued liabilities for leave encashment and gratuity. As per the said reports, the school had a total accrued liability of Rs. 14,58,811 for leave encashment and Rs. 67,19,475 for gratuity.

000012

The school filed detailed written submissions in rebuttal of the calculation sheet prepared by the Committee. The Counsel for the school was also heard.

However, while preparing the order, the Committee considered it expedient to seek certain clarifications from the school. Accordingly, a fresh notice of hearing was issued to the school to appear on 15/10/2018.

Sh.Puneet Batra, Advocate appeared with Sh.H.C. Batra, President of the Parent Society of the school.

After arguing for some time in answer to the queries raised by the Committee, the learned counsel submitted, on instructions from the President of the Parent Society of the school, that the school would file a fresh rebuttal to the calculation sheet prepared by the Committee, in supersession of the rebuttal dated 22.12.2016. Liberty was granted to do so.

The school filed the fresh rebuttal dated 16/11/2018 and the learned counsel appearing for the school was heard.

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The Committee noted that the school had disputed the calculations sheet prepared by it on the following grounds :-

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- a. The Committee had not taken into consideration the provisions/reserves amounting to Rs.1,58,32,501, the detail of which is as follows:

Provision for Computer Lab.	7,77,725
Provision for purchase of transport vehicles	15,00,000
Provision for water cooler	1,67,840
Provision for water reservoir	1,59,236
Provision for working reserve	80,00,000
Provision for depreciation fund	27,27,700
Provision for infrastructure development	25,00,000
Total	1,58,32,501

- b. The Committee ought not to have excluded the amount of arrears paid to the staff by way of bearer cheques or in cash, as the same were paid at the specific request of the teachers. It was submitted that some of the teachers were not having bank account at the time of payment of 1<sup>st</sup> installment of arrears. By the time the 2<sup>nd</sup> installment of arrears was paid, most of them had opened the bank accounts and accordingly 2<sup>nd</sup> installment to such teachers was paid by bank transfer. It was further submitted that by the time of payment of 3<sup>rd</sup> installment, almost all the teachers had opened the bank accounts and accordingly the amounts were paid by bank transfers. The learned counsel appearing for the school relied on the bank certificates filed by the school to support his contention. He further contended that even the regular salary

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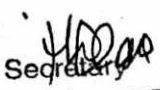


was paid to such teachers in similar manner at that time. Further, the school duly deducted TDS even from the arrears paid to the staff in cash or by bearer cheques.

000014

- c. The Committee had not taken into consideration the accrued liability of gratuity and leave encashment as on 31/03/2010 as initially the school did not provide this information when it was called upon to do so. However the actuarial valuation certificates had been filed by the school on 06/12/2016 and as such should be factored in the calculations.
- d. With regard to development fund the learned counsel contended that although it was treated as a revenue receipt upto 31.3.2009, from 2009-10 onwards it was treated as a capital receipt and was utilized for acquisition of permitted capital assets only. To the extent it remained unutilized, it was reflected as part of the development fund. The learned counsel further contended that the school had provided depreciation in the books. However, the unutilized development fund and depreciation reserve fund had not been kept in earmarked accounts but they formed part of the general FDRs which the school had. He relied upon the judgment of the Division Bench of Hon'ble Delhi High Court in LPA 291/2017 and LPA 340/2017 in the case of St. Marks Sr. Sec. Public School to contend that if the schools are maintaining a credit balance in their bank account corresponding to the amount standing to

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the credit of Depreciation Reserve Fund in their books of account, no prejudice would be caused to anyone, if the school merely transfer the said amount from the common pool account to a separate account specifically created for the said purpose. He submitted that the school had already opened a separate bank account for Depreciation Reserve Fund but the balance in the said fund account had been transferred only in respect of the years 2014-15 onwards. He submitted that the school was ready to transfer the remaining amount of depreciation from 01/04/2006 to 31/03/2014 from its general pool funds and sought time to do so.

Accordingly the matter was adjourned to 14<sup>th</sup> December 2018.

Thereafter, the school filed details of its accumulated depreciation reserve from 01/04/2006 to 31/03/2014, which aggregated to Rs. 1,66,81,477. The school also filed copies of FDRs made on 11/12/2018, which had been earmarked against depreciation reserve fund amounting to Rs.1,66,82,000. It was submitted that after 31/03/2014, the school was regularly earmarking the funds equivalent to depreciation charged for the particular year in a separate bank account. As such it was submitted that the school had later on fulfilled the requirement of keeping funds equivalent to depreciation charged in its accounts since 01/04/2006 and would be covered by the judgment of Hon'ble Delhi High Court in LPA No.291/2017. Accordingly, the learned,

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counsel appearing for the school submitted that no order for refund of development fee for the years 2009-10 and 2010-11 be made by this Committee. 000016

The learned counsel appearing for the school further submitted that he would submit the tax computation sheet of all the teachers to whom the arrears had been paid, whether by account payee cheques or by bearer cheques, alongwith copies of TDS returns ( Form 24Q ) to show the genuineness of the payment made to the staff, even where the payments were made by the bearer cheques.

Accordingly the matter was adjourned to 18/01/2019, subject to the orders of the Hon'ble High Court regarding extension of the term of the Committee as its term was expiring on 31/12/2018. However, since the term of the Committee was not extended by 18/01/2019, the hearing scheduled for this date was cancelled.

The term of the Committee was extended by the Hon'ble High Court vide its order dated 22/04/2019. Accordingly, a fresh notice of hearing was issued to the school requiring it to appear on 14/05/2019.

The Ld counsel for the school filed the copies of TDS return for the IV quarter in respect of salary paid to the employees as well as tax computation statement of all the employees. He pointedly drew the attention of the Committee to the fact that even where the payment of

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arrears were made by the bearer cheques, tax was deducted at source and deposited in the govt. account. In respect of 8 or 9 employees, where tax was not deducted, he submitted that their total income from salary for the financial year in which the TDS was deducted, did not exceed the threshold taxable limit. Copies of tax computation statements in respect of such employees were also filed. He submitted that this showed that the payments, although made by bearer cheques, were genuine and ought to be taken into the relevant calculations made by the Committee. Accordingly, he submitted that the full amount of arrears paid amounting to Rs. 1,13,74,657 ought to be taken into consideration instead of Rs. 79,65,263 taken by the Committee in the provisional calculation sheet.

He further submitted that since the depreciation reserve fund on fixed assets created out of development fee had now been put into the earmarked FDRs equivalent to the accumulated depreciation upto 31<sup>st</sup> March 2008, which amounted to Rs. 7,67,560 and therefore, this amount ought not be considered as part of the funds available for implementation of the recommendations of VI Pay Commission.

The school was required to file the balance sheet as on 31/03/2019, as the earmarked FDRs against development/depreciation reserve fund had been made in the year 2018-19.

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After taking a couple of adjournments on the ground that the balance sheet was under audit, the Ld. Counsel filed copy of the audited balance sheet as on 31/03/2019 and submitted that the entire depreciation reserve fund which was required to be provided upto 31/03/2019 amounting to Rs. 3,46,67,058 had been earmarked in FDRs in saving bank accounts. He submitted that in view of this and particularly in view of the fact that as on 31/03/2011 also, the school had sufficient FDRs, though not earmarked, to cover the depreciation reserve fund. He submitted that no order for refund of development fee ought to be made in such circumstances. However, since copies of FDRs and statement of earmarked bank account have not been filed by the school, the matter was adjourned to enable the school to do so.

On 09/09/2019, the Ld. Counsel for the school appeared and filed copies of earmarked FDRs and statement of saving bank account.

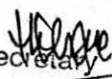
**Discussion:**

The Committee has considered the submissions made on behalf of the school. The various contentions made by the school are dealt with as follows:

**(a) Reserve of Rs. 1,58,32,501:**

The Committee cannot accept the contention of the school that out of the funds available with it, it ought to be allowed a reserve of Rs. 1,58,32,501 for incurring capital expenditure in future. Order

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dated 11/02/2009 of the Director of Education vide which the 000019 school was permitted to hike the fee for implementing the recommendations of VI Pay Commission clearly stated that the fee hike was not mandatory and all schools were required, first of all to explore the possibility of utilising the existing reserves to meet any shortfall in payment of salary and allowances as a consequence of increase in salary on account of implementation of recommendations of VI Pay Commission. The order even went to the extent of saying that the school should not consider the increase in fee to be the only source of augmenting the revenue but they should also venture upon other permissible measures for increasing revenue receipts. This order has been upheld by the Hon'ble Delhi High Court in WP (C) 7777 of 2009 by its judgment dated 12/08/2011, vide which this Committee also was constituted. Moreover, Rule 177 of the Delhi School Education Rules mandates that capital expenditure can only be incurred out of savings which are arrived at after payment of salaries to the staff. Hence payment of increased salaries on account of implementation of recommendations of VI Pay Commission has to be given precedence over incurring capital expenditure. Accordingly, the submission made by the school on this account is rejected.

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(b) Exclusion of payment of arrears by bearer cheques from the 000020  
calculations made by the Committee:

The Committee had excluded the payment of arrears by means of bearer cheques on the assumption that such payments did not appear to be genuine. However, the school has brought on record credible evidence in the shape of computation sheets of taxable salary, deduction and payment of TDS from such salaries, which includes the payments made by bearer cheques. The Committee also notes that out of a total sum of Rs. 1,13,74,697 paid as arrears, a sum of Rs. 79,65,263 was paid by direct bank transfers and only the balance was paid by bearer cheques. It is not a case where the entire amount of arrears was paid by bearer cheques. In each of the three installments through which the payment of arrears was made, the portion of payments by bearer cheques was rather small. Moreover, since the school has shown that tax was also deducted on payments by bearer cheques, the Committee accepts the contention of the school that no deduction should be made in respect of payment of arrear salary by bearer cheques. Accordingly the Committee will make the necessary adjustments to the tune of **Rs. 34,09,394** (1,13,74,657 - 79,65,263).

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(c) **Accrued Liability of gratuity and leave encashment:**


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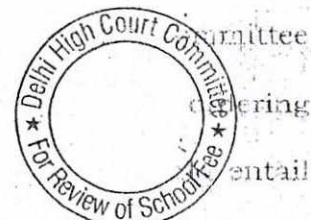
Since the school has filed the actuarial valuations reports in respect of its accrued liability of gratuity and leave encashment, although belatedly, the Committee will duly factor in the accrued liability of Rs. 67,19,475 on account of gratuity and Rs. 14,58,811, totaling Rs.81,78,286 on account of leave encashment, in its final determinations.

(d) **Development Fee for 2009-10 and 2010-11:**

The Committee agrees with the contention of the school that it possessed sufficient liquid funds as on 31/03/2011 to cover the total amount of depreciation reserve as on that date. The only hitch was that the school had not put the funds in earmarked FDRs or saving bank account. The Committee also agrees with the contention of the school that since now the school has put funds in earmarked FDRs to cover its accumulated depreciation reserve upto 31/03/2018, it should not be ordered to refund the development fee for 2009-10 and 2010-11. The Committee has already held in cases of some other schools that ordering refund of development fee in such circumstances would entail withdrawing money from the funds which have already been earmarked against depreciation reserve. This would only put the clock back, which is not desirable.

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**Determinations:**

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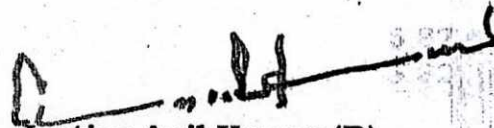
In view of the foregoing discussion, the Committee makes the following determinations:

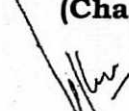
<b>Surplus as provisionally determined.</b>		<b>2,61,69,731</b>
<b>Less</b>		
(1) Arrears paid by bearer cheques	<b>34,09,394</b>	
(2) Accrued liability of gratuity and leave encashment	<b>81,78,286</b>	<b>1,15,87,680</b>
<b>Net surplus as finally determined</b>		<b>1,45,82,051</b>

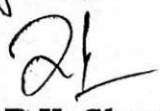
**Conclusion:**

As per the above determinations, out of the additional fee recovered by the school by way of arrears and by way of enhanced fee for 2009-10 amounting to Rs. 1,72,32,480, the school ought to refund Rs. 1,45,82,051, which it recovered in excess of its requirements, along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

  
Justice Anil Kumar (R)  
(Chairperson)

  
CAJ.S. Kochar  
(Member)

  
Dr. R.K. Sharma  
(Member)

Dated:11/09/2019

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

000023

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

**In the matter of:**

**Blue Bells School International, East of Kailash, New Delhi-  
110048 (B-669)**


**Order of the Committee**

**Present: Sh. S.S. Kalra, Chartered Accountant with Sh. Nirmal Chand Rana, Accounts Officer of the school**

This school, under cover of its letter dated 06/02/2012 addressed to the Dy. Director of Education, Distt. South, New Delhi (DDE) forwarded copies of its annual returns filed under Rule 180 of Delhi School Education Rules, 1973 and copies of its statement of fees filed under Section 17(3) of the Delhi School Education Act, 1973 for the years 2006-07 to 2010-11, details of salary paid to the staff for the years 2008-09 to 2010-11 and a statement showing the extent of fee increased, pursuant to order dated 11/02/2009 issued by the Director of Education. These documents were forwarded to this Committee by the DDE.

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

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and the incremental salary paid to the staff pursuant to the 000024  
implementation of the recommendations of the 6<sup>th</sup> pay commission.

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

A revised questionnaire was issued to the school on 11/09/2013, vide which, besides the queries contained in the questionnaire dated 27/02/2012, the relevant queries with regard to charging of development fee, its utilisation and maintenance of earmarked development and depreciation reserve funds, in order to examine whether the school was fulfilling the pre conditions laid down by Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583.

The school submitted its reply to the Committee vide its letter dated 24/09/2013. As per the reply to the questionnaire submitted by the school,

- (a) the school implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/04/2009. It paid arrears of incremental salary for the period September 2008 to March 2009 in April 2009. The arrears for the period January 2006 to August 2008 were also paid, on different dates starting from October 2009 to April 2011.

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(A total sum of Rs. 89,44,975 was stated to have been paid<sup>000025</sup> for the period September 2008 to March 2009 and another sum of Rs. 2,24,98,886 was stated to have been paid for the period January 2006 to August 2008.)

- (b) As a result of implementation of the recommendations of VI Pay Commission, the salary and PPF liability for the month April 2009 went upto Rs. 40,52,300 from Rs. 27,30,155 for month of March 2009.
- (c) The school collected arrear in terms of order dated 11/02/2009 issued by the Director of Education and also increased the regular fee w.e.f. 01/04/2009 at the rates prescribed by the order dated 11/02/2009.
- (d) The school charged development fee in all the five years for which information was sought. In the years 2009-10 and 2010-11, it collected the fees Rs. 97,64,115 and Rs. 90,32,870 respectively. It was utilised partly for capital expenditure on fixed assets and partly for the revenue expenditure like repairs and maintenance etc. (However, no specific answer was given to the query as to how the school treated the development fee in its accounts).
- (e) Though separate depreciation reserve fund was maintained on depreciation acquired out of development fee, with regard to depreciation reserve fund being kept in earmarked bank

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account, no clear answer was given by the school. It merely stated "N.A.". 000026

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 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.

27/3 The school stated that it was closed for summer vacation and would submit the required information before 10<sup>th</sup> July 2015. The information was furnished by the school on 10<sup>th</sup> July 2015 under cover of its letter dated 09/07/2015. In its said letter, the school mentioned that there was no amount of parent society appearing in the balance sheet and therefore, no such information was required to be submitted. The school submitted valuation report of an actuary as per which it had accrued liability of gratuity amounting to Rs. 1,24,14,513 and Rs. 59,69,423 for leave encashment as on 31/03/2010. The school also submitted copy of a circular dated 27/02/2009 which was issued to the parents which merely informed the parents that the Managing Board had resolved to raise tuition fee and development fee as prescribed by its order dated 11/02/2009 and 25/02/2009.

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A notice of hearing was issued to the school on 28/02/2017 requiring it to appear before the Committee on 14/03/2017 and produce its books of accounts, fee and salary records for the years 2006-07 to 2010-11. A request was received from the school for adjournment. The request was acceded to by the Committee and the matter was posted for hearing on 12/04/2017.

Sh. S.S. Kalra, Chartered Accountant appeared with Sh. Nirmal Chand Rana, Accounts Officer of the school.

The Committee examined the circular dated 27/02/2009 issued by the school to the parents regarding fee hike in pursuance of order dated 11/02/2009 issued by the Director of Education. As mentioned supra, the circular did not give any details regarding the amount of fee hike except saying that the fee hike had been made in accordance with the aforesaid order dated 11/02/2009. The Committee also came across copies of two circulars filed by the school with the Directorate of Education, both of which were dated 19/02/2009. It appeared that one of these circulars was for the students of class X and the other one was for the students of class XII. However, the fee hike effected by the school w.e.f. 01/09/2008, as mentioned in these two circulars was Rs. 500 per month w.e.f. Sept. 2008. Consequently, the arrear fee recoverable for the seven months period of September 2008 to March 2009 would have been Rs. 3,500. The lump sum arrear fee as mentioned in the circulars was Rs. 4,500 per student. Hence, the total arrear fee that ought to have been mentioned in the circular was

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Rs. 8,000 per student. However, the total amount of fee arrear that 000028  
was mentioned to be recoverable from the students of class X was  
Rs.15,095 while the same for the students of class XII was Rs. 9,625.

The Committee observed that when the fee hike was the same  
for all the classes, the total amount of fee arrears could not have  
been different for different classes. When the Committee sought to  
verify this aspect of the matter from the fee records, the authorized  
representative of the school showed inability as the school had not  
brought its fee records at the time of hearing.

Accordingly, the school was required to file a class wise detail of  
the amount of fee arrear actually recovered, mentioning therein the  
rate at which they were recovered.

The school filed a letter dated 24/04/2017 giving break up of  
the demand of fee arrears of Rs. 15095 from the students of Class X  
and Rs. 9025 from the students of class XII. As per the break up, the  
circular issued for students of class X also included a sum of Rs.  
7,845 towards the regular fee for the next quarter. Excluding that the  
demand for arrear was Rs. 7,250. A sum of Rs. 2250 representing  
50% of the lump sum arrear fee was not included as the same was  
recoverable in two installments. Therefore, the total arrear fee that  
was payable by the students of class X was Rs. 9,500. The arrear fee  
for students of class X was Rs. 9,625 as per the circular issued to  
them. The difference of Rs. 125 was on account of the fact that the

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arrears of differential development fee were Rs. 1500 for class X and Rs. 1625 for class XII.

The school also furnished complete break up of the arrear fee demanded by it and filed copies of fee bills issued to the students pursuant to the fee hike effected by it. The position that emerges on examination of the aforesaid circulars and the fee bills is as under :

Classes	Lump sum arrears from 01/01/2006 to 31/08/2008	Arrears of Tuition Fee from 01/09/2008 to 31/03/2009	Arrears of development fee from 01/09/2008 to 31/03/2009	Total arrears recovered
I & II	3500	2800	960	7260
III to V	3500	2800	1050	7350
VI to VIII	3500	2800	1185	7485
IX	4500	3500	1500	9500
X	4500	3500	1500	9500
XI	4500	3500	1620	9620
XII	4500	3500	1625	9625

The Committee noticed that the arrears of development fee that had been recovered for the period 01/09/2008 to 31/03/2009 were much in excess of 15% of the arrears of tuition fee for the corresponding period.

The issue was put to the authorized representative who appeared for the school. He submitted a copy of another order dated 25/02/2009 issued by the Director of Education, vide which, para 6 of order dated 11/02/2009 was substituted to read as follows :

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"The parents of children, other than those studying in class X<sup>th</sup> & XII<sup>th</sup> shall be allowed to deposit the arrears on account of the above-tuition fee effective from 1<sup>st</sup> Sept. 2008 and the consequent 15% increase in development fee in three installments i.e. by 31<sup>st</sup> March 2009, 31<sup>st</sup> July 2009 & 31<sup>st</sup> October 2009 respectively"

The authorized representative submitted that vide this order the school was authorized to recover arrears of development fee @ 15% of the arrears of tuition fee to meet the deficit arising on account of implementation of the recommendations of the Sixth Pay Commission.

However, as noticed above the arrears of development fee that were recovered by the school were much more than 15% of arrears of tuition fee.

The Committee perused the original fee schedule for the year 2008-09 which was filed by it under Section 17 (3) of the Delhi School Education Act 1973 in the Office of the Dy. Director Education on 28/03/2008 and observed that the school originally charged development fee at a fixed rate of Rs.2300 per annum from the student of all the classes, irrespective of the amount of tuition fee recovered from them, which varied from class to class. Consequently, the development fee was not linked to the tuition fee at all. It was recovered at a fixed rate, within the overall cap of 15% placed by the Hon'ble Supreme Court in the case of Modern School (supra).

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The Committee also verified the chart of fee and salary submitted by the school alongwith its letter dated 09/07/2015, with reference to the audited financials of the school. The same appeared to be in order.

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The Committee observed that although the school had filed copies of its bank statements showing payments of arrear salary to the staff, it had not filed employee wise details. The school was directed to file the same.

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The authorized representative of the school also offered to file a calculation sheet to show that the school was in deficit after implementation of the recommendations of the 6<sup>th</sup> Pay Commission.

The school filed a letter dated 05/08/2017, alongwith statements giving justifications of recovery of arrears of development fee at the rates at which it was recovered and also employee wise details of the arrear salary paid to the staff. The school also filed a calculation sheet to demonstrate that the school was in deficit after implementation of the recommendations of 6<sup>th</sup> Pay Commission. The calculation sheet as filed by the school was as follows:

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Statement showing funds available as on 31.3.2008 and effect of hike in fee as per order dated 11.2.2009 and effect of increase in salary on implementation of recommendations of 6th pay Commission Report		
Particulars	Amount (Rs.)	Amount (Rs.)
<b>Current assets</b>		
Bank Balance	3,547,245.53	
Fixed Deposits	9,103,247.00	
Advance Recoverable (other than security deposits)	167,631.00	
Security Deposits	308,771.25	
<b>Total</b>		<b>13,126,894.78</b>
<b>Less: Current Liabilities</b>		
Welfare & Scholarship Fund	409,637.63	
Gratuity Fund	3,398,434.00	
Student Security (Students)	3,946,436.35	
Sundry Payables & Adjustables	70,318.00	
<b>Total</b>		<b>7,824,825.98</b>
<b>Net Current Assets</b>		<b>5,302,068.80</b>
<b>Less:</b>		
Arrear of Salary as per 6th CPC w.e.f 01.01.06 to 31.3.09	25,806,330.00	
Working Capital requirements (4 months)	15,401,533.33	
Incremental Salary as per 6th CPC in 2009-10	16,453,699.00	
Accrued liability of Gratuity as on 31.03.2010	12,414,513.00	
Accrued liability of Leave encashment as on 31.3.2010	5,969,423.00	
<b>Total</b>		<b>76,045,498.33</b>
<b>Excess/ Shortfall</b>		<b>(70,743,429.53)</b>
<b>Add:</b>		
Arrear of Tuition Fee for the period 01.01.2006 to 31.03.2009	11,036,196.00	
Development fee arrear for the period 01.09.08 to 31.03.09	773,135.00	
<b>Total</b>		<b>11,809,331.00</b>
<b>Excess/ Shortfall fund after fee hike</b>		<b>(58,934,098.53)</b>

The Committee verified the above calculation sheet submitted by the school. It observed that the school had taken the liability for gratuity twice - once as per the figure reflected in the balance sheet and the second time as per the actuarial valuation.

The Committee also observed that the school had not taken into account the incremental fee recovered by it in the year 2009-10

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in pursuance of order dated 11/02/2009 issued by the Director of Education, which amounted to Rs. 1,91,66,052. Besides, the figures of arrears of development fee that the school had taken, also appeared to have been taken at a lesser amount than the amount actually recovered.

The authorized representative of the school submitted that he would go through the calculation sheet again and file a corrected version. The Committee directed that the same may be filed before the next date of hearing. The school was also directed to produce its books of accounts and the fee records also on the next date of hearing.

The school filed written submissions dated 31/08/2017 along with which a revised calculation sheet was filed. As per revised calculation sheet also, the school claimed that it had incurred a deficit after implementation of recommendations of VI Pay Commission. However, the figure of deficit worked out by the school was reduced to Rs. 5,41,73,524.53 from Rs. 5,89,34,098.53, after considering its need to keep funds in reserve for accrued liabilities of gratuity, leave encashment and working capital which has seemingly been calculated as salary for four months in the year 2009-10.

However, the Committee noted that while the school had taken effect of incremental salary amounting to Rs. 1,64,53,699 in 2009-10 in its calculations, it had omitted to factor in the incremental fee

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recovered by it in 2009-10, which amounted to Rs. 1,91,66,052. <sup>000034</sup>

Further, the Committee noticed that the reply given by the school to the questionnaire issued by it with regard to treatment of development fee was ambivalent, in the statement of fee and salary filed by the school vide its letter dated 09/07/2015, the school had conceded that it was treating development fee as a revenue receipt. The Committee also confirmed from the audited financials that the school was not maintaining any earmarked depreciation reserve fund. Thus it was not fulfilling the pre conditions laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School (supra).

As per the information furnished by the school, it recovered a total sum of Rs. 76,29,340 in 2009-10 and Rs. 90,32,370 in 2010-11. When the issue was put to the authorized representative of the school, he contended that even if the aforesaid figures were factored in, the end result would still be that the school was in deficit after implementation of recommendations of VI Pay Commission.

With regard to arrears of development fee for the period 01/09/2008 to 31/03/2009 amounting to Rs. 21,35,275, which the school recovered, the Committee noted that it was much in excess of what was permitted to be recovered by the school vide order dated 11/02/2009 issued by the Director of Education. In fact, since the school was charging development fee at a fixed rate of Rs. 2300 per annum which was not linked to the tuition fee at all, there could have

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been no case of any consequential increase in development fee w.e.f. 01/09/2008 as a result of increase in tuition fee with effect from that date. The school was not justified in making any recovery on this account. The reliance placed by the school on a subsequent order dated 25/02/2009, which was issued by the Director of Education was clearly misplaced as the order merely substituted para 6 of the original order dated 11/02/2009 which read as under:

*6. The parents shall be allowed to deposit the arrears on account of the above Tuition Fee effective from 1<sup>st</sup> September 2008 by 31<sup>st</sup> March 2009.*

The subsequent order dated 25/02/2009 mentioned that the arrears of consequential increase of 15% in development fee along with increased tuition fee, could be recovered in three installments instead of only one installment as originally envisaged. It did not authorize the school to increase the development fee to 15% of tuition fee where it was charging development fee at a lesser rate than 15% or where the development fee was not linked to tuition fee at all.

However, before we discuss the import of this issue, it would be in order to examine whether the contention of the authorized representative that even if all the omissions made by the school in its calculation sheet are factored in, the end result would still be that the school incurred a deficit after implementation of the recommendations of VI Pay Commission.

The Committee has verified the revised calculation sheet filed by the school. The same shows that the school incurred a deficit of Rs.

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5,41,73,524.53. The following omissions were noticed by the Committee in the calculation sheet prepared by the school:

- (a) It had not factored in the incremental fee recovered by the school in 2009-10 which amounted to Rs. 1,91,66,052.
- (b) It had not factored in the fact that the development fee amounting to Rs. 1,66,61,710 (76,29,340+90,32,370) recovered in 2009-10 did not meet the parameters set by the Hon'ble Supreme Court and was therefore not justifiably charged.

The total effect of these adjustments amount to Rs. 3,58,27,762. The Committee also notes that the school has provided for a reserve for working capital requirement amounting to Rs. 1,54,01,533. The provision for reserve is inconsistent with its stand that it incurred deficit on implementation of the recommendations of VI Pay Commission.

Thus the deficit worked out by the school has to be moderated by a sum of Rs. 5,12,29,295 (3,58,27,762 + 1,54,01,533). After moderating as mentioned, the actual deficit incurred by the school amounts to **Rs. 29,44,229** (5,41,73,524 - 5,12,29,295).

Now we would examine whether the arrears of incremental development recovered by the school for the period 01/09/2008 to 31/03/2009 amounting to Rs. 21,35,275 which the school recovered by taking shelter of an order dated 25/02/2009, which clearly was

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inapplicable in the facts and circumstances of the case, should be ordered to be refunded.

As noticed supra that the school incurred an actual deficit (as distinct from a notional deficit) amounting to Rs. 29,44,229, the Committee is not inclined to order refund of the aforesaid amount of Rs. 21,35,275, which has already been considered as a source of revenue, while working out the actual deficit. Though the school was not entitled to recover the said amount by way of arrears of so called incremental development fee, it could have very well asked for an increase in tuition fee to that extent, over and above what was permitted by the order dated 11/02/2009.

**In these circumstances, the Committee regularizes the recovery of the unauthorized arrears of development fee amounting to Rs. 21,35,275 and accordingly recommends no intervention in the matter.**

Ordered accordingly.

Justice Anil Kumar (R)  
(Chairperson)

  
CA J.S. Kochar  
(Member)  
Dr. R.K. Sharma  
(Member)

Dated: 13/09/2019

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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:**

**Army Public School, Dhaula Kuan, New Delhi-110010 (B-138)**

**Order of the Committee**

**Present: Brig. S. Sajjanhar, Chairman with Shri Gunjan Sharma,  
Accountant and Shri Pramod Butola, LDC of the School.**

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

The school submitted its reply to the Committee vide its letter dated 06/03/2012. As per the reply to the questionnaire submitted by the school,

- (a) the school implemented the recommendations of VI Pay Commission. However it was not categorically stated that with effect from which date, it started paying the increased salary to the staff.
- (b) It paid arrears of incremental salary amounting to Rs. 2,35,84,726 in 2008-09 and Rs. 2,46,68,960 in 2009-10.

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(c) The school increased the fee pursuant to order dated 11/02/2009 . It furnished details of the tuition fee charged in 2008-09 prior to fee hike and that charged after fee hike w.e.f. Sept. 2008. The details as furnished by the school, were as follows:

Class	Tuition Fees of session 2008-09 Pre hike				Tuition Fees of Session 2008-09 Post hike Effective from Sept. 2008			
	Officer	JCO	OR	Civil	Officer	JCO	OR	Civil
I to V	880	665	480	1460	1580	1265	980	2260
VI to X	1020	795	630	1595	1720	1395	1130	2395
XI & XII	1165	1020	835	1895	1865	1620	1335	2695

(d) It charged lump sum arrears for the period 01/01/2006 to 31/08/2008 @ Rs. 4,500 per student. However, from the students who were admitted during 2007-08, the arrears were charged @ Rs. 3,000 per student and from the students who were admitted in 2008-09, the arrears were recovered @ Rs. 1500 per student.

(e) Development Fee continued to be charged @ Rs. 1440 per student even after the tuition fee was increased w.e.f. 01/09/2008.

The school did not file copies of circulars with regard to fee hike w.e.f. 01/09/2008 in order to verify whether the information furnished by the school vide its reply to the questionnaire was correct or not. Subsequently, the copies of the circulars were obtained from the school and the information, as furnished by the school was found to be correct.

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On collating the information furnished by the school with regard to fee hike effected w.e.f. 01/09/2008, the Committee observes that the school effected the fee hike which was much beyond even the maximum hike permitted by the order dated 11/02/2009 issued by the Director of Education. As per this order, the hike in tuition fee which the school could make w.e.f. 01/09/2008, depended upon the tuition fee which the school was charging prior to effecting the fee hike. The maximum hike permitted to the schools were as follows:

Category	Existing Tuition Fee (per month)	Increase in Tuition Fee (Maximum Limit) (Per month)
1.	Upto Rs. 500 p.m.	Rs. 100 p.m.
2.	Rs. 501 to Rs. 1,000	Rs. 200 p.m.
3.	Rs. 1,001 to Rs. 1,500	Rs. 300 p.m.
4.	Rs. 1,501 to Rs. 2,000	Rs. 400 p.m.
5.	Above Rs. 2,000	Rs. 500 p.m.

It is obvious that the maximum fee hike for different categories of students of the school could not be uniform since the existing tuition fee charged by the school fell in different categories as mentioned in the aforesaid order of the Directorate of Education. Some distinction was made by the school but it was not on the basis of the existing tuition fee. Rather it was on the basis of the category of the parents of the students i.e. whether they were Officers in the army or JCOs or Other ranks or were Civilians. However, it is noteworthy that the maximum fee hike allowed by the Director of Education was Rs. 500 per month in the highest category which was the minimum fee hike effected by the school in the lowest category.

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The following tables would illustrate the excessive fee hike effected by the school for different category of students:

**Category: Civilians**

Class	Tuition Fee w.e.f. 01.04.2008 (Rs.)	Tuition Fee w.e.f. 01.09.2008 (Rs.)	Increase w.e.f. 01.09.2008 (Rs.)	Maximum hike permitted as per order dated 11/02/2009 (Rs.)	Excessive fee hike per month (Rs.)
Ist to Vth	1460	2260	800	300	500
VIth to Xth	1595	2395	800	400	400
XIth and XIIth	1895	2695	800	400	400

**Category: Officers**

Class	Tuition Fee w.e.f. 01.04.2008 (Rs.)	Tuition Fee w.e.f. 01.09.2008 (Rs.)	Increase w.e.f. 01.09.2008 (Rs.)	Maximum hike permitted as per order dated 11/02/2009 (Rs.)	Excessive fee hike per month (Rs.)
Ist to Vth	880	1580	700	200	500
VIth to Xth	1020	1720	700	300	400
XIth and XIIth	1165	1865	700	300	400

**Category: JCOs**

Class	Tuition Fee w.e.f. 01.04.2008 (Rs.)	Tuition Fee w.e.f. 01.09.2008 (Rs.)	Increase w.e.f. 01.09.2008 (Rs.)	Maximum hike permitted as per order dated 11/02/2009 (Rs.)	Excessive fee hike per month (Rs.)
Ist to Vth	665	1265	600	200	400
VIth to Xth	795	1395	600	200	400
XIth and XIIth	1020	1620	600	300	300

**Category: Other Ranks**

Class	Tuition Fee w.e.f. 01.04.2008 (Rs.)	Tuition Fee w.e.f. 01.09.2008 (Rs.)	Increase w.e.f. 01.09.2008 (Rs.)	Maximum hike permitted as per order dated 11/02/2009 (Rs.)	Excessive fee hike per month (Rs.)
Ist to Vth	480	980	500	100	400
VIth to Xth	630	1130	500	200	300
XIth and XIIth	835	1335	500	200	300

With regard to lump sum arrear fee also, the school recovered the same uniformly at Rs. 4,500 per student, which was in fact the

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Class  
highest amount of arrear fee which the school could recover as per  
order dated 11/02/2009 where the existing tuition fee prior to fee  
Ist to  
Vth to  
Civilian  
above, the existing tuition fee of none of the students in any of the  
XIIIth  
categories was above Rs. 2000 per month.

Ist to  
Office  
Vth to  
Office  
The following table would illustrate the maximum amount of  
Office  
arrear fee that the school could recover from different categories of  
XIIIth  
Office  
students based on the existing tuition fee vis a vis the arrear fee  
(JCO)  
actually recovered by the school:  
(JCO)  
XIIIth

Class and category (Ors)	Existing Tuition Fee per month (Rs.)	Arrear fee actually recovered (Rs.)	Maximum arrear fee recoverable as per order dated 11/02/2009 (Rs.)	Excess arrear fee recovered (Rs.)
Ist to Vth (Civilians)	1460	4500	3000	1500
Vth to Xth (Civilians)	1595	4500	3500	1000
XIth and XIIth (Civilians)	1895	4500	3500	1000
Ist to Vth (Officers)	880	4500	2500	2000
Vth to Xth (Officers)	1020	4500	3000	1500
XIth and XIIth (Officers)	1165	4500	3000	1500
Ist to Vth (JCOs)	665	4500	2500	2000
Vth to Xth (JCOs)	795	4500	2500	2000
XIth and XIIth (JCOs)	1020	4500	3000	1500
Ist to Vth (Ors)	480	4500	2000	2500
Vth to Xth (Ors)	630	4500	2500	2000
XIth and XIIth (Ors)	835	4500	2500	2000

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Not only the school hiked the tuition fee and recovered arrear fee much beyond the maximum permissible limits as per order dated 11/02/2009 of the Director of Education, it appears that the school did not consider the possibility of utilising the existing reserves to meet any shortfall in payment of salaries and allowances, as a consequence of increase in the salaries and allowances of the employees on account of implementation of the recommendations of VI Pay Commission.

In order to examine whether the existing reserves of the school were sufficient to absorb the impact of salary hike pursuant to the acceptance of the recommendations of VI Pay Commission by the school, the Committee issued a notice dated 13/05/2015, 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, in a structured format devised by the Committee to facilitate the calculations. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books. The school was also required to furnish the audited financials of its hostel as its financials did not appear to be part of the audited financials of the school.

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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 also 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.

However, the school did not respond to the notice dated 13/05/2015 issued by the Committee. Accordingly a fresh notice was issued on 23/09/2015, requiring the school not only to furnish the information as per the earlier letters but also to appear before the Committee on 12/10/2015 and produce its books of accounts, fee records and salary records.

A letter was received from the Principal of the school on 05/10/2015 requesting for another date as the school Manager would not be available on the date fixed by the Committee. As requested by the Principal, the hearing was rescheduled for 03/11/2015. On this date, Col. A.K. Singh appeared with Sh. S.C. Singhal, Bursar and Sh. Gunjan Sharma, Accountant of the school. They furnished the required information except the employee wise detail of accrued liabilities of gratuity and leave encashment. Audited financials of the hostel were also furnished.

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The school also furnished reply to the supplementary questionnaire regarding development fee. As per the reply to the supplementary questionnaire, the school collected development fee in all the five years for which the information was sought from the students. It also gave details of utilisation of development fee, as per which the development fee was being utilised to meet both the revenue as well as capital expenditure. It was mentioned that the development fee was treated as a revenue receipt but it was also mentioned that the school maintained a depreciation reserve fund for depreciation on assets acquired out of development fee and the same was parked in earmarked FDRs.

The school furnished the employee wise details of its accrued liabilities of gratuity and leave encashment as on 31/03/2010 under cover of its letter dated 06/11/2015. As per the details submitted, the school estimated its accrued liability of gratuity to be Rs. 4,22,57,180. However, on perusal of the same by the Committee, it was observed that the school had also calculated its accrued liability of gratuity in respect of employees who had not yet completed 5 years of service. On exclusion of such employees, the accrued liability on account of gratuity was moderated to Rs. 3,63,43,286. The accrued liability on account of leave encashment, as furnished by the school was Rs. 1,01,03,938.

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

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reconstitution of the Committee, a fresh notice of hearing was issued to the school on 18/08/2017, requiring it to appear on 29/08/2017.

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The hearing was rescheduled on 03/10/2017 on account of certain exigencies.

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In the meantime, on the basis of the audited financials of the school and the information furnished by it from time to time, the Committee prepared preliminary calculations to examine the justifiability of the fee hike effected by the school, notwithstanding the fact that the hike effected by it was much more than the maximum hike which was permitted to the school.

As per the calculations prepared by the Committee, the school along with its hostel had available with it a sum of **Rs. 13,58,79,676** as on 31/03/2008 i.e. before effecting the fee hike. The details of the above figure worked out by the Committee are as follows:

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Particulars	School	Hostel	Total
<b>Current Assets + Investments</b>			
Cash/ Cheques/ Postage in Hand	3,559	4,028	7,587
Bank Balances in Savings Account	6,867,056	416,778	7,283,834
Investments excluding CBSC Reserve, Hostel Fund and SPAT Account	131,030,000	8,500,000	139,530,000
Prepaid Expenses	207,952	-	207,952
Sundry Debtors	60,590	-	60,590
Interest Accrued	8,087,191	289,268	8,376,459
Festival advance to staff	-	4,200	4,200
<b>Total Current assets+ Investments (A)</b>	<b>146,256,348</b>	<b>9,214,274</b>	<b>155,470,622</b>
<b>Less: Current Liabilities</b>			
Students Security Fund	3,305,400	105,000	3,410,400
Bus Fund	2,029,308	-	2,029,308
Provident Fund	1,355,702	-	1,355,702
Audit Fee payable	-	3,300	3,300
Salary payable	3,971,589	26,581	3,998,170
Advance Fee	4,489,395	28,250	4,517,645
Bills payable A/c	1,486,492	317,494	1,803,986
Hostel Account	357,332	(357,332)	-
Sundry creditors	347,458	-	347,458
Earnest Money deposit	2,084,642	40,335	2,124,977
<b>Total Current Liabilities (B)</b>	<b>19,427,318</b>	<b>163,628</b>	<b>19,590,946</b>
<b>Net Current Assets + Investments (A)-(B)</b>	<b>126,829,030</b>	<b>9,050,646</b>	<b>135,879,676</b>

Which The requirement of the school for keeping funds in reserve for meeting its accrued liability of gratuity and leave encashment and for future contingencies was assessed by the Committee at **Rs. 7,31,43,224**, as follows:

for future contingencies equivalent to 4 months salary	26,696,000
for accrued liability towards Gratuity as on 31.3.2010 (excluding employees having less than 5 years service)	36,343,286
for accrued liability towards Leave Encashment as on 31.3.2010	10,103,938
<b>Total Reserves</b>	<b>73,143,224</b>

After setting aside its requirement to keep funds in reserve, the school was left with **Rs. 6,27,36,452** (13,58,79,676 - 7,31,43,224), which was available with it for the purpose of meeting the increased expenditure on payment of enhanced salaries and arrears on account

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of implementation of the recommendations of VI Pay Commission. The additional financial impact of implementing the recommendations of VI Pay Commission, was assessed by the Committee at **Rs. 5,59,96,506** as per the following details:

Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 28.02.09	41,309,249
Incremental Salary as per 6th CPC from 01.04.09 to 31.03.10*	14,687,257
<b>Total additional expenditure due to implementation of 6th CPC</b>	<b>55,996,506</b>

*Increase in Normal/ regular salary	2008-09	2009-10
Normal/ regular salary (School)	64,428,225	79,148,306
Normal/ regular salary (Hostel)	972,517	939,693
Total	65,400,742	80,087,999
<b>Incremental salary 2009-10</b>	<b>14,687,257</b>	

Thus, prima facie, it appeared that the school had sufficient funds of its own and did not need to hike any fee or recover any arrear fee for meeting its additional expenditure on salaries on account of implementation of the recommendations of VI Pay Commission. Rather, even after meeting its additional expenditure on salaries out of its existing funds, the school was left with a surplus of **Rs. 67,39,946** (6,27,36,452 - 5,59,96,506). Yet it, not only hiked the fee but also hiked it beyond the maximum hike permitted vide order dated 11/02/2009 of the Director of Education. The additional revenues generated by the school by way of recovering the arrear fee and enhancing the tuition fee w.e.f. 01/09/2008 was to the tune of Rs. 6,03,67,929, as per the following details:

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Arrear of tuition fee for the period from 01.01.06 to 31.08.08	15,916,244
Arrear of tuition fee from 01.09.08 to 31.03.09	15,456,085
Incremental Tuition fee in 2009-10	28,995,600
<b>Total additional fees recovered for implementation of 6th CPC</b>	<b>60,367,929</b>

Apart from this, the school was apparently not fulfilling the pre conditions laid down by the Duggal Committee with regard to recovery of development fee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). The basic pre condition for recovery of development fee was its treatment as a capital receipt. The school admittedly treated development fee as a revenue receipt. Accordingly, prima facie, the Committee was of the view that the development fee recovered by the school in 2009-10 and 2010-11 amounting to Rs. 2,32,04,363 was not justified.

The school put on notice of the prima facie findings of the Committee and the calculation sheet incorporating the above calculations was furnished to it on 03/10/2017 for rebuttal, if any. The matter was posted for hearing on 13/11/2017.

Brig. S. Sajjanhar, Chairman of the school appeared along with other officials of the school.

The school filed written submissions dated 11/11/2017 and the Chairman of the school was heard.

The main thrust of the argument put forth on behalf of the school was that the FDRs to the tune of Rs.13,95,30,000 were being maintained in order to generate interest income so that the fee

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charged from the students was kept at minimum. Further, it was submitted that the Committee has also not given any consideration to the FDRs which are held vis. a vis the asset replacement fund which the school has kept aside for replacement of fixed assets. The amount outstanding in depreciation reserve fund as on 31/03/2008 was Rs. 4,11,58,203. It was further submitted that the development fee which the school charged was also utilized for meeting the revenue expenses of the school mainly the salary of staff. It was further submitted that the sum of Rs.1,82,96,331 was received as corpus fund from the Army Headquarter to make up the shortfall of the funds to the school. However, this sum was refundable and had actually been refunded along with 50% of the interest received on 24/05/2016. The school furnished a copy of the letter dated 16/03/2016 received from AWES Cell Hqs. Western Command, directing the school to refund the amount and also a copy of letter dated 24/05/2016, vide which the school gave details of the amount refunded in terms of the aforesaid letter. It was submitted that the Committee ought to take the aforesaid sum of Rs. 1,82,96,331 as a liability of the school while making the relevant calculations.

It was also submitted by Brig. Sajjanhar that the school should be able to pay its regular revenue expenditure including salary out of its current year's income in normal course. The existing reserves of the school which the school utilized for reducing

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the fee of the students by generating interest ought not be disturbed.

**Discussion:**

The Committee has considered the arguments put forth by the Chairman of the school. The various contentions put forth are discussed as under:

**(a) Keeping apart FDRs to the tune of Rs.13,95,30,000:**

The argument put forth on behalf of the school that the existing FDRs amounting to Rs. 13,95,30,000 should not be disturbed as the same are utilised to earn interest to keep the fee of the students low is not tenable. The order dated 11/02/2009 of the Director of Education specifically stipulated that all schools must first of all, explore the possibility of utilising the existing reserves to meet any shortfall in payment of salaries and allowances, as a consequence of increase in the salaries and allowances of employees on account of implementation of the recommendations of VI Pay Commission. This order has been upheld by the Hon'ble Delhi High Court in WP (C) 7777 of 2009 by its judgment dated 12/08/2011 by which this Committee was also constituted. It may be worthwhile to mention here that the Committee has already excluded a sum of Rs. 2,66,96,000 out of the aforesaid FDRs by allowing the school to keep a reserve to that extent for future contingencies. No further

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concession can be made for the school in view of the specific stipulation in the order dated 11/02/2009 that the school must first of all utilize its existing reserves to meet the additional expenditure on salaries. If the income by way of interest gets reduced, the school would be free to increase its fee, which as we have noticed, the school is not shy of.

**(b) Exclusion of depreciation reserve fund a.k.a. Asset replacement fund):**

The contention that the sum of Rs. 4,11,58,203 representing depreciation reserve fund in the balance sheet of the school as on 31/03/2008 ought to be taken out of the calculations is flawed. The school could claim the earmarked depreciation reserve fund to be taken out of reckoning to the extent of depreciation on capital assets acquired out of development fee if it was fulfilling the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). However, admittedly the school was not fulfilling the pre conditions. It was admittedly treating development fee as a revenue receipt and as conceded by the Chairman of the school during the course of hearing, the school was utilising development fee for meeting the revenue expenses of the school, mainly the salary of the staff. Since the depreciation reserve fund was created out of the surplus of the school from its fee revenues, the same was also available for

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meeting the additional expenses on salary as a result of implementation of the recommendations of VI Pay Commission. The Committee has already noticed the stipulation in the order dated 11/02/2009 of the Director of Education that the school must first of all utilize the existing reserves.

**(c) Exclusion of Rs. 1,82,96,331 representing corpus fund.:**

The contention of the school that the sum of Rs. 1,82,96,331 included by the Committee as part of funds available represents contribution made by the Army Head quarter temporary to make the shortfall of fund should be treated as a liability is accepted as the school placed evidence on record that this amount has subsequently been refunded to the Army Headquarter.

In view of the foregoing discussion, the Committee arrives at following conclusions:

- (a) The total funds available with the school as on 31/03/2008 for meeting the additional expenditure on salaries on account of implementation of the recommendations of VI Pay Commission were **Rs.4,44,40,121** (6,27,36,452 - 1,82,96,331).
- (b) The total additional expenditure on salaries as a result of implementation of recommendations of VI Pay Commission was **Rs. 5,59,96,506.**

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- (c) Thus the school had a shortfall of **Rs. 1,15,56,385** (5,59,96,506 -4,44,40,121).
- (d) The additional revenue generated by the school by way of fee hike and recovery of arrear fee for implementation of the recommendations of VI Pay Commission was **Rs. 6,03,67,929.**
- (e) The school thus recovered excess fee to the tune of **Rs. 4,88,11,544** ( 6,03,67,929 - 1,15,56,385).
- (f) The development fee amounting to **Rs. 2,32,04,363** recovered by the school in 2009-10 and 2010-11, was without fulfilling the pre conditions laid down by the Duggal Committee, and affirmed by the Hon'ble Supreme Court and the development fee was not charged for the purpose for which it was meant.

**Conclusion:**

**In view of the above discussion, the school ought to refund a sum of Rs. 4,88,11,544 recovered by it in excess of its requirements for meeting the additional expenditure on account of salaries consequent to the implementation of the recommendations of VI Pay Commission. While making the refund, the school will make necessary adjustments amongst different categories of students from whom the fee was charged in excess of the maximum permissible limit as per order dated 11/02/2009. Additionally, the school ought to refund a sum of**

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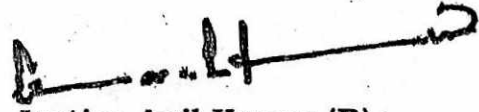





Rs. 2,32,04,363 collected by it as development fee for the years 2009-10 and 2010-11 without fulfilling the necessary pre conditions for its charge. All the refunds will be made along with interest @ 9% per annum from the date of collection to the date of refund.

However, we are informed that the parents of the students belonging to the Armed Forces would have got reimbursement of a part of the tuition fee which was hiked and has been ordered to be refunded from the Govt. To the extent the parents have got reimbursement, the amounts will be withheld from the refunds and paid back to the Govt.


Ordered accordingly.



Justice Anil Kumar (R)  
(Chairperson)



CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated:20/09/2019

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE, NEW DELHI** 000056

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

**In the matter of:**

**Kasturi Ram International School, Narela, Delhi-110040(B-290)**

**Order of the Committee**

**Present: Shri A.K. Bhatnagar, Director 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 respond either to the questionnaire or to the reminders sent by the Committee. A fresh communication was sent to the school on 06/05/2013 vide which a revised questionnaire was issued to the school. The revised questionnaire besides containing the queries raised vide the original questionnaire dated 27/02/2012 also required the school to submit its response on additional queries with regard to charging of development fee in order to ascertain whether the school was complying with the pre conditions laid down by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC

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583. However, the school did not respond to this communication also. 000057  
The Committee sent reminders on 19/09/2013, 10/10/2013, 08/12/2013 and 07/01/2014. However, the school remained unresponsive and uncommunicative.

The Committee issued another notice dated 14/05/2015, 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. The school was also required to file its response to the revised questionnaire issued by the Committee. However, the school again remained defiantly unresponsive. Ultimately, the matter was fixed for hearing on 29/07/2015 vide notice dated 09/07/2015.

The school, later on submitted the information sought vide notice dated 14/05/2015 as per which it claimed to have paid arrear salary to the tune of Rs. 37,38,318 for the period 01/01/2006 to 31/03/2009 consequent upon implementation of the recommendations of VI Pay Commission. It also admitted that it had recovered a sum of Rs. 32,93,061 as arrear fee from the students for the corresponding period. It further claimed that as a result of

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implementation of the recommendations of VI Pay Commission, the 000058  
regular salary paid by the school rose from Rs. 64,33,176 in 2008-09  
to Rs. 84,45,502 in 2009-10. However, it did not submit any details  
of its accrued liabilities of gratuity and leave encashment.

In reply to the revised questionnaire issued by the Committee,  
the school stated that it had implemented the recommendations of VI  
Pay Commission w.e.f. July 2009 but hiked the fee pursuant to order  
dated 11/02/2009 issued by the Director of Education w.e.f. April  
2009. With regard to development fee, the school stated that it was  
charging development fee which was being treated as a revenue  
receipt and no separate depreciation reserve fund was maintained nor  
the unutilised development fund was kept in an earmarked bank  
account. In fact, in answer to the requirement to give utilisation of  
development fee from 2006-07 to 2010-11, it stated 'N:A'. This was in  
line with the treatment given to the development fee which the school  
admittedly showed as a revenue receipt.

Thus, of its own showing, the school was not complying with  
any of the pre conditions laid down by the Duggal Committee which  
were subsequently affirmed by the Hon'ble Supreme Court in the case  
of Modern School (supra).

Ms. Rekha Gupta, an Accounts Assistant of the school appeared  
on the date of hearing, without any authority letter from the  
competent authority to appear on behalf of the school. She submitted

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that the concerned person of the school was not available. At her request, the matter was directed to be relisted on 10/08/2015. 000059

Coincidentally, a complaint was received from one Sh. Ashok Kumar Aggarwal, who claimed that three of his children were studying in the school. It was submitted that the school had raised more fee than was required on the pretext of implementing the recommendations of VI Pay Commission and prayed that the excess recovery made by the school be ordered to be refunded.

On the next date of hearing, Sh. Sunny Bansal, Manager of the school appeared with Ms. Rekha Gupta and filed an authorisation signed by the Principal of the school. He reiterated what was already stated by the school in its reply to the questionnaire.

Based on the audited financials of the school and information furnished by it in response to notices issued by the Committee, the Committee observed that the funds available with the school as on 31/03/2008 i.e. before effecting the fee hike were in the negative zone to the tune of **Rs. 4,77,538** as the current liabilities of the school exceeded the current assets to that extent. The calculation leading to this observation was as follows:

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000060		
<u>Current Assets + Investments</u>		
Cash in Hand	334,938	
Cash at Bank	845,688	
Fixed Deposits with Banks including interest on FDRs	997,124	
Prepaid Insurance	75,798	2,253,548
<u>Current Liabilities</u>		
Sundry Creditors excluding Jyotika Educational Welfare Society	1,890,273	
Expenses Payable	840,813	2,731,086
<b>Net Current Assets + Investments (Funds Available)</b>		<b>(477,538)</b>

This was an unusual situation and not practically feasible. The current liabilities can exceed the current assets only if either the school was incurring cash losses or was diverting funds to its parent society or other entities or was utilising its fee revenues for creating fixed assets.

At first

glance of the audited financials of the school, it became apparent that the school was utilising its fee revenues for creating fixed assets. This was being done by creating fixed assets like building, buses and cars, by taking loans from banks and/or from other entities and making repayment of such loans and interest thereon out of the fee recovered from the students. In short, the capital expenditure of the school was being recovered by the fee of the students, which as per the judgment of the Hon'ble Supreme Court in the case of Modern School (supra) was not permissible, which clearly laid down that capital expenditure could not form part of the fee structure of the school. The school could incur capital expenditure only out of savings from the fee in the manner calculated as per Rule 177 of Delhi School Education Rules, 1973.

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As per the calculations made by the Committee, the capital expenditure incurred by the school by way of making repayment of loans and interest thereon for creating fixed assets in 2007-08 to 2009-10, was to the tune of Rs. 4,06,13,429, as per the following details:

Decrease in Loans (repayment) in 2008-09	24,771,329
Decrease in Loans (repayment) in 2009-10	4,265,573
Interest on loans paid in 2007-08	7,093,051
Interest on loans paid in 2008-09	2,595,409
Interest on loans paid in 2009-10	1,888,067
<b>Total Diversion of fee towards repayment of loans and interest</b>	<b>40,613,429</b>

The Committee considered the aforesaid sum of the **Rs. 4,06,13,429** incurred by the school for capital expenditure as deemed to be available to it for the purpose of ascertaining the funds available with the school for implementing the recommendations of VI Pay Commission as they had been used in a manner, which was, prima facie, in contravention of the law laid down by the Hon'ble Supreme Court.

Thus the Committee considered that the school had available with it a sum of **Rs. 4,01,35,891** (4,06,13,429 - 4,77,538), which could be utilised for implementation of the recommendations of VI Pay Commission. However, the Committee has taken a consistent view that the entire funds available with the school should not be

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considered as available for implementation of the recommendations of 000062  
 VI Pay Commission and the schools ought to maintain a reasonable  
 reserve equivalent to four months expenditure on salary. In case of  
 this school, the requirement for reasonable reserve amounted to **Rs.  
 40,91,665**. Thus, in view of the Committee, the funds available with  
 the school for implementing the recommendations of VI Pay  
 Commission were to the tune of **Rs. 3,60,44,226** (4,01,35,891 -  
 40,91,665).

The Committee calculated the additional financial impact of  
 implementation of the recommendations of VI Pay Commission on the  
 school was to the tune of **Rs. 95,19,245** as per the following details:

<b>Additional Liabilities after implementation of VIth Pay Commission:</b>		
Arrear of Salary as per VIth Pay Commission 1.1.06 to 31.03.09	3,738,318	
Incremental Salary for 2009-10 (as per calculation given below)*	5,780,927	9,519,245

<b>*Additional Liabilities after implementation of VIth Pay Commission:</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	6,494,069	12,274,996
<b>Incremental salary in 2009-10</b>	<b>5,780,927</b>	

Thus, prima facie, the school had ample funds of its own and did not need to hike any fee or recover any arrear fee from the students to meet the additional expenditure on implementation of recommendations of VI Pay Commission. However, the school

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admittedly recovered a sum of **Rs. 32,93,061** as arrear fee for the 000063  
period 01/01/2006 to 31/03/2009. Additionally, the increase in fee  
w.e.f. 01/04/2009 resulted in an additional revenue of **Rs. 31,57,395**  
as per the following details:

<b>Incremental tuition fee for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	10,235,345	13,392,740
<b>Incremental tuition fee in 2009-10</b>	<b>3,157,395</b>	

Thus, prima facie, the school was required to refund the entire arrear fee and incremental fee of 2009-10, amounting to **Rs. 64,50,456** (32,93,061+31,57,395) which was recovered on the pretext of implementing the recommendations of VI Pay Commission. On top of it, since the school was not complying with the pre conditions for charging development fee as per the law laid down by the Hon'ble Supreme Court, the school was also, prima facie required to refund the total amount of development fee recovered by it in 2009-10 and 2010-11 which amounted to **Rs. 45,09,967**.

A copy of the above calculations was furnished to the school along with the notice dated 27/11/2015 vide which the school was given an opportunity of being heard on 07/12/2015.

Sh. Sunny Bansal and Ms. Rekha Gupta again appeared in response to the above notice and contended that the amount of FDRs which the Committee had included in the figure of funds available should not have been included as they were in the names of CBSE,

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DOE and DDA. They further contended that the balance owing to the parent society ought to be considered as a current liability since the money received from the society was utilised for repayment of loans, which the Committee had considered as part of funds available.

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However, the matter could not be concluded at that stage on account of resignation of Justice Anil Dev Singh as Chairman of the Committee.

After reconstitution of the Committee, fresh hearings were afforded to the school. In order to examine the contention of the school that the repayment of loans were made out of the funds received from the parent society, the Committee considered it expedient to examine the Receipt and Payment Accounts of the school. However, it observed that the school was not filing its Receipt and Payment Accounts as part of its annual returns under Rule 180 of the Delhi School Education Rules, 1973 as per which it was mandatory that the school filed its Receipt and Payment Accounts every year. Accordingly, the school was directed to file the same in hearing held on 09/10/2018. On 26/11/2018, the school sought to file the Receipt and Payment Accounts which were found to be ex facie incorrect as they showed huge receipt of money from its sundry creditors which supplied goods/services to the school. Accordingly, the school was directed to file proper and correct Receipt and Payment Accounts.

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On 06/12/2018, the school filed copies of its Receipt and Payment Accounts for the years 2007-08, 2008-09 and 2009-10. Perusal of the Receipt and Payment Accounts showed that during the financial year 2008-09 the school, besides making addition of other fixed assets, acquired a motor vehicle at a cost of Rs. 32 lacs by taking a vehicle loan from ICICI bank. It also observed that the repayment of loan was made out of the fee revenues of the school. On a query by the Committee, the authorized representative who appeared for the school submitted that it was an Audi Car which was given to the Principal for official use.

The Committee observed from the salary statement for the year 2008-09 that the Principal was being paid a salary in the pay scale of RS.10000-325-16500/- during 2008-09, which apparently did not justify giving an Audi Car to her, even for official use. The school was directed to furnish a copy of the appointment letter of its Principal.

The Committee also observed that the school had not filed the details of arrear fee that was demanded from the parents of the students pursuant to order dated 11/02/2009 issued by the Director of Education nor had filed a copy of the circular issued to them intimating the details of such payments required to be made. The school was directed to file the same and also the calculation regarding the amount of arrears which was recovered from the students.

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A copy of the complaint received by the Committee from Sh. Ashok Kumar Aggarwal was also furnished to the authorized representative of the school for rebuttal, if any.

The matter was fixed for further hearing on 12/12/2018. A notice was also directed to be issued to the Complainant for that date.

The Complainant Sh. Ashok Kr Aggarwal appeared and was heard in the matter. He submitted that his three children were studying in the school and the school recovered a total sum of Rs.7331 towards lump sum arrears as well as arrears of incremental tuition fee and development fee for the period 01/09/2008 to 31/03/2009 from two of his children, namely Pooja Aggarwal who was studying in class 8<sup>th</sup> and Aarti who was studying in class 7<sup>th</sup>. He also submitted that a sum of Rs. 7,205 was recovered in the like manner from Pushkar Aggarwal, who was a student of class 3<sup>rd</sup>. He submitted that the recovery of arrear fee from him was unjustified and excessive.

The school filed its reply to the complaint vide letter dated 10/12/2018, stating that the fee was hiked and arrears were recovered in accordance with order dated 11/02/2009 issued by the Director of Education for implementation of the recommendations of the 6<sup>th</sup> pay commission. Along with the reply the school furnished the calculations with regard to recovery of arrear fee from students of different classes.

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On perusal of the details filed by the school, it became apparent that the school recovered lump sum arrears @ Rs.3000 per student from the students of classes Nursery and KG and @ Rs.3500 from students of classes 1<sup>st</sup> to 8<sup>th</sup> . Further, the tuition fee of students of classes Nursery and KG was hiked by Rs.300 per month w.e.f. 1<sup>st</sup> Sept. 2008 and for the students of remaining classes it was hiked by Rs. 400 per month. Further the school recovered arrears of development fee for the period 01/09/2008 to 31/03/2009 @ Rs.1839 per student of classes Nursery & KG, @ Rs.2071 per student of classes 1<sup>st</sup> to 5<sup>th</sup> and @ Rs. 2199 per student of classes 6<sup>th</sup> to 8<sup>th</sup> .

The Committee observed that the ratio of hike in development fee to hike in tuition fee was between 73 & 78% of increased tuition fee. As per the fee structure of the school for the year 2008-09 it was charging an annual development fee at a fixed rate of Rs.5000 per student. However, during the course of hearing the authorized representative appearing for the school submitted that since this amount was much more than 15% of the annual tuition fee, it was not actually recovered from the parents.

The Committee was of the view that this aspect was required to be examined with reference to the books of accounts of the school as well as the fee receipts for the year 2008-09.

The authorized representative of the school sought to justify the recovery of arrear of development fee at a rate which was more than

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75% of the arrear of incremental tuition fee, on the ground that since 000068  
the school did not recover the development fee as we reflected in its  
fee schedule, it recovered development fee @ 15% of the total tuition  
fee w.e.f. 01/09/2008 and not just on the incremental tuition fee. He  
submitted that this was permitted by order dated 11/02/2009 by  
referring to clause 14 of the order.


The school also filed a copy of the appointment letter of the  
Principal to justify the submission made on the last date of hearing to  
the effect that the Audi car that was purchased by the school was  
used for to and fro transportation of the Principal from home to  
school.

The school was directed to produce its books of accounts on a  
laptop as the same were reported to be maintained in Tally Software,  
for examination by the Committee. The school was also directed to  
produce copies of its fee receipts for the years 2008-09 and 2009-10.

However, on the next date of hearing, the school neither  
produced the fee records for the year 2008-09 nor its books of  
accounts to support its contention that the school did not recover  
the fixed rated development fee of Rs.5000 per student, which was  
reflected in its fee schedule. More time was sought for doing the  
needful.

A fresh notice of hearing was issued to the school on  
24/04/2019 requiring the school to appear before the Committee on

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13/05/2019. However, despite service of notice to the school, no appearance was made by it. In the interest of justice no adverse inference was drawn and the school was directed to appear on 29/05/2019 by a fresh notice. On this date, the Manager of the school appeared and filed sample copies of fee receipt for all quarters of 2008-09 to show that the school did not recover any development fee in 2008-09 originally. However, the school did not produce its books of accounts for 2008-09 and 2009-10, which it was directed to produce vide order dated 12/12/2018. The authorized representative of the school submitted that there were certain issues with the accounting data of those years. However, he submitted that the print outs of those accounts were available which could be produced before the Committee. Accordingly, he was directed to produce the same on next date of hearing.

However, the Committee observed that even if the submission made by the authorized representative to the effect that it did not collect any development fee in the year 2008-09 was correct, the school would not be entitled to recover any arrears of incremental development fee for the period Sept. 2008 to March 2009. The question of incremental development fee after the issue of order dated 11/02/2009 would arise only if the school was charging development fee originally as a percentage of tuition fee in the year 2008-09 and the tuition fee got increased w.e.f. 01/09/2008 pursuant to order dated 11/02/2009 of the Director of Education. Clause 15 of the said

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*H. H. Chauhan*  
Secretary



order contemplated recovery of incremental development fee as a result of increase in tuition fee. It did not authorize the school to start charging development fee or recover any arrears thereof w.e.f. Sept. 2008 where the school was not originally charging development fee.

The school was directed to produce the print outs cash book, bank book and ledgers for the year 2008-09 and 2009-10 on the next date.

However, the school produced the print outs of its books of accounts maintained in Tally software for the year 2009-10 only. The Committee had directed the school to produce the print outs for both the years 2008-09 and 2009-10. Primarily the books for 2008-09 were required to be verified to test the veracity of the submission of the school that the school had not charged any development fee in 2008-09, despite the fact that the fee schedule of the school for that year contained a charge of development fee. The Manager of the school who was present at the time of hearing, submitted that even the print outs of ledger accounts of 2008-09 were not available. However, the Committee observed that the school had filed a copy of the ledger account of arrears of VI Pay Commission which were recovered in the year 2008-09 along with the fee and salary statement filed on 20/07/2015. It appeared to the Committee that the school was intentionally not producing the books of accounts for the year 2008-09 to conceal some information.

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The Committee observes that the school had filed a ledger account of salary arrears (VI Pay Commission) showing a total outgo of Rs. 37,38,318 on this account. However, the school did not file copies of its bank statements to show that the payments had been made through banking channel. The school was directed to produce its complete bank statements for the years 2008-09 and 2009-10 on the next date of hearing.

Further, while going through the books of accounts for the year 2009-10, the Committee observed that certain amount of revenues of the school were diverted to Kasturi Ram KG International School. The Manager of the school admitted that the financials of the main school did not include the financials of KG school.

The school was directed to file the audited financials of the KG school and also the information pertaining to fee and salary and other information as detailed in the notice dated 14/05/2015, on or before the next date of hearing. The matter was adjourned to 08/07/2019.

On three successive dates thereafter, the school did not put in appearance before the Committee. Finally on 18/09/2019, Shri A.K. Bhatnagar, Director of the School appeared and filed a letter dated 18/09/2019 which was signed by Shri Sunny Bansal, Manager of the School. It was submitted that the records which the Committee had directed the school to produce vide order dated 04/06/2019, were

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not available as they had been destroyed by termites. It was further submitted that the case of the school might be disposed on the basis of documents already submitted and clarifications given in the earlier hearings.

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The Committee observes that the school has not been able to rebut the preliminary calculations made by the Committee, with which it was confronted and as per which the school was prima facie required to refund the entire arrear fee and incremental tuition fee and development fee recovered by it pursuant to order dated 11/02/2009 of the Director of Education. The school raised just two objections to the preliminary calculations, which are as follows:

- (1) The FDRs amounting to Rs. 9,97,124, which the Committee had taken as part of funds available with the school, ought to be excluded from the calculations as the same were in the name of CBSE, DOE and DDA.
- (2) Since the Committee had considered the repayment of loans as part of funds available, the balance owing to the parent society ought to be deducted from the funds available as the society had provided funds for repayment of loans.

**Discussion and Determination:**

So far as the first objection of the school is concerned, although the school has provided no evidence that the FDRs were in

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the names of CBSE, DOE and DDA, the Committee accepts the contention of the school at its face value for the reason that the amount involved is insignificant considering the overall picture.

However, the second contention of the school needs to be examined exhaustively.. The Committee had considered only the repayment of loans for purchase of fixed assets as fee revenue diverted for capital expenditure. The school contends that there was no diversion of fee revenues but repayments were made out of funds provided by the parent society. To test the veracity of this contention, the Committee has prepared a comprehensive statement of all capital receipts and capital payments/expenditures to examine whether all the capital expenditures were incurred out of capital receipts (including sums contributed by the parent society). If the finding is in affirmative, the contention of the school would hold ground.

Perusal of the Receipt and Payment Accounts of the school, revealed that from 2006-07 to 2009-10, the school raised capital receipts to the tune of Rs. 8,43,55,048, as follows:

Financial Year	Capital Receipts			Total
	Contribution from Society	Loans raised	Sale of Fixed Assets	
2006-07	179,996	48,613,618	-	48,793,614
2007-08	9,151,416	-	-	9,151,416
2008-09	22,701,219	3,708,799	-	26,410,018
2009-10	-	-	-	-
<b>Total</b>	<b>32,032,631</b>	<b>52,322,417</b>	<b>-</b>	<b>84,355,048</b>

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*[Signature]*  
Secretary



During the same period, the school incurred the following 00074

capital expenditures/payments:

Financial Year	Capital Payments/ Expenditure			Total
	Repayment of Loan and interest	Purchase of Fixed Assets	Diversion to Society	
2006-07	4,677,355	49,594,746	-	54,272,101
2007-08	11,538,051	1,361,314	-	12,899,365
2008-09	30,704,013	3,844,440	-	34,548,453
2009-10	8,212,310	180,058	-	8,392,368
<b>Total</b>	<b>55,131,729</b>	<b>54,980,558</b>	<b>-</b>	<b>110,112,287</b>

Thus during the years 2006-07 to 2009-10, the school incurred capital expenditure to the tune of Rs. 11,01,12,287 against which it raised capital receipts only to the tune of Rs. 8,43,55,048. Obviously, the balance amount of Rs. 2,57,57,239 (11,01,12,287 - 8,43,55,048) of capital expenditure came out of the revenue receipts of the school viz. the fee of the students. The Hon'ble Supreme Court in the case of Modern School vs Union of India ( 2004) 5 SCC 583 has held that capital expenditure cannot form part of the fee structure of the school. Accordingly, the Committee considers the aforesaid amount of Rs. 2,57,57,239 as part of funds available with the school which could have been utilised for discharging the liabilities of increased salaries on account of implementation of the recommendations of VI Pay Commission. It is noteworthy that in the preliminary calculations made by the Committee, a sum of Rs. 4,06,13,429 was considered as the fee diverted for capital expenditure.

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Accordingly, the preliminary calculations of funds available deemed to be available with the school, made by the Committee requires to be modified to the extent of Rs. 1,48,56,190 (4,06,13,429 - 2,57,57,239). The same also requires to be modified to the extent of Rs. 9,97,124, being the amount of FDRs held in the names of CBSE, DOE and DDA.

As per the original calculations, the Committee had determined that the school had available with it a sum of Rs. 4,01,35,891, which could be utilised for implementing the recommendations of VI Pay Commission. However, in view of the above discussion, the aforesaid figure gets reduced to **Rs. 2,42,82,577** (4,01,35,891 - 1,48,56,190 - 9,97,124).

The additional financial impact of implementing the recommendations of VI Pay Commission upto 31/03/2010 was determined to be **Rs. 95,19,245**, which the school has not disputed.

In view of the foregoing determinations, the school did not need to hike any tuition fee or development fee or recover any arrear fee from the students pursuant to order dated 11/02/2009 of the Director of Education, which permitted the schools to hike the fee only to bridge the gap between funds already available with the school and those required to meet the additional expenditure of increased salaries. However, the school recovered a sum of **Rs. 64,50,456** as

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000076  
arrear fee and incremental fee on the basis of order dated  
11/02/2009. The school has not disputed this determination also.

Accordingly, the Committee is of the view that the school ought to refund the entire amount of **Rs. 64,50,456** recovered purportedly in pursuance of the order dated 11/02/2009 along with interest @ 9% per annum from the date of collection to the date of refund. As the Committee has recommended the refund of entire fee recovered as per order dated 11/02/2009, the question of excess recovery of arrears of development fee over that permitted by clause 15 of the said order becomes redundant.

With regard to regular development fee for the years 2009-10 and 2010-11, the school has not even given any feeble explanation as to how it was fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra). In fact, the school has in a way conceded that it was not fulfilling any of such pre conditions as it treated development fee as a revenue receipt and did not maintain any earmarked depreciation reserve fund. As a matter of fact, it did not have any liquid funds which could be earmarked against depreciation reserve.

**In view of the above discussion, the Committee is of the view that, besides refunding the entire amount of incremental fee and arrear fee recovered by the school amounting to Rs. 64,50,456 purportedly pursuance of order dated 11/02/2009, the**

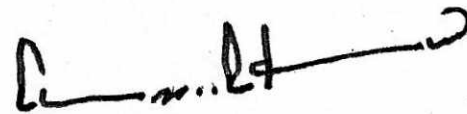
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school ought also to refund the regular development fee amounting to Rs. 45,09,967 charged for the years 2009-10 and 2010-11, without fulfilling the requisite pre conditions laid down by the Hon'ble Supreme Court. All the refunds ought to be made along with interest @ 9% per annum from the date of collection to the date of refund.


Ordered accordingly.



Justice Anil Kumar (R)  
(Chairperson)



CAJ.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated: 20/09/2019

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Secretary



000078

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

**CAUSE LIST FOR SEPTEMBER 2019**

**Cause List for Wednesday, 4th September 2019**

S. No.	Cat. No.	School Name & Address
1	B-302	Bharti Public School, Swasthya Vihar
2	B-148	Venkateshwar International School, Dwarka

**Cause List for Friday, 6th September 2019**

S. No.	Cat. No.	School Name & Address
1	B-95	Modern Convent School, Dwarka
2	B-492	G.D. Goenka Public School, Sector-22, Rohini

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

S. No.	Cat. No.	School Name & Address
1	B-356	Notre Dame School, Badarpur
2	B-574	Manav Bharti India Intl. School, Panchsheel Park
3	B-302	Bharti Public School, Swasthya Vihar

**Cause List for Wednesday, 11th September 2019**

S. No.	Cat. No.	School Name & Address
1	B-622	Hillwoods Academy, Preet Vihar
2	B-488	Queen Mary's School, Sect.25, Rohini
3	B-669	Blue Bells International School, East of Kailash
4	B-302	Bharti Public School, Swasthya Vihar

**Cause List for Friday, 13th September 2019**

S. No.	Cat. No.	School Name & Address
1	B-639	Nutan Vidya Mandir, Dilshad Garden
2	B-120	The Heritage School, Vasant Kunj
3	B-60	The Heritage School, Sector-23, Rohini
4	B-669	Blue Bells International School, East of Kailash

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

S. No.	Cat. No.	School Name & Address
1	B-151	G D Goenka Public School, Vasant Kunj
2	B-286	Mount Abu Public School, Sect.5, Rohini
3	B-622	Hillwood Public School, Preet Vihar

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*[Signature]*  
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**Cause List for Wednesday, 18th September 2019**

S. No.	Cat. No.	School Name & Address
1	B-684	Lovely Public School, Priya darshini Vihar
2	B-290	Kasturi Ram International School, Narela
3	B-622	Hillwood Public School, Preet Vihar
4	B-286	Mount Abu Public School, Sect.5, Rohini

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

S. No.	Cat. No.	School Name & Address
1	B-640	The Srijan School, North Model Town
2	B-424	Pragati Public School, Dwarka
3	B-138	Army Public School, Dhaula Kuan
4	B-290	Kasturi Ram International School, Narela

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04/09/2019

B-302

Bharti Public School, Swasthya Vihar

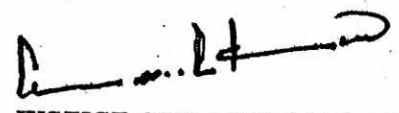
An application has been received from the Principal of the School requesting for another date on account of illness of Shri Puneet Batra, Advocate. As requested the matter is adjourned for 9th September 2019 at 11.00 am.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



04/09/2019

B-148

**Venkateshwar International Public School, Dwarka**

Present: Shri Gauri Shankar, Accountant, Shri Kamal Solanki, Director Finance and Shri Harish Kumar Admin Officer of the School.

The school has filed a reconciliation statement showing the Receipts and out-goes on transportation between the statement filed on 24.08.2018 and the statement filed on 12.07.2019. It is submitted that while the statement filed on 24.08.2018 contained the expenditure incurred on cars besides on the buses used for transportation of students. The statement filed on 12.07.2019 is exclusive of the expenditure on cars. The school has produced its account to substantiate its claim.

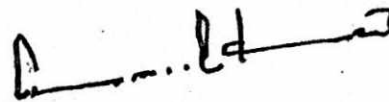
In the light of the submissions, a revised Calculation Sheet may have to be prepared. Accordingly the matter is adjourned to 3<sup>rd</sup> October 2019 at 11.00 am.



Dr. R.K. SHARMA  
MEMBER

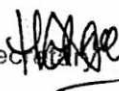


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary  




**Modern Convent School, Dwarka**

Present: Shri Manu RG Luthra, CA, Dr. Sheetal Mann, Principal and Shri Vinay Kaushik, OS of the School.

The matter was relisted for seeking certain clarifications on the written submissions dated 14.12.2016 filed by the school. The school has objected to the preliminary calculations prepared by the Committee on 4 counts as follows:-

1. The diversion of funds for purchase of fixed assets taken by the Committee to be Rs. 54,84,530 ought not be taken into account as the Committee has not considered as the same were funded out of capital receipts which were available during those years.
2. The diversion of funds to the Parent society has been taken in excess of actual amount of transfer as the Committee has also considered transfer made by means of general entries in the account of the Parent society.
3. The Committee has not considered an amount of Rs 93,11,831 which the school owe to the Parent society as a current liability.
4. The treatment of Development fee as Revenue Receipt instead of Capital Receipt is merely an accounting error and as such ought not to be held against the school.

The Committee has considered the submissions made on behalf of the School and is of the view that the first three objections can be taken care of if the school prepares a comprehensive statement of all the capital Receipts and Capital payments made by it from 2006-07 to 2009-10. So far as the fourth objection is concerned i.e. regarding development fee, apart from the accounting treatment there are other substantive requirements which are to be fulfilled by the school in order to be eligible to charge development Fee i.e. the development Fee ought to be utilized for specified capital assets like furniture and fixtures and equipments and earmarked depreciation reserve fund is to be maintained to park the accumulated depreciation on assets acquired out of development fee so that the funds are available at the time their replacement becomes necessary.

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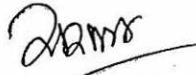
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06/09/2019

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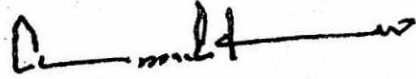
The authorized representative requests for some time to prepare the comprehensive statement of capital receipt and capital payments. As requested the matter is adjourned to 14<sup>th</sup> October 2019 at 11.00 am.



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

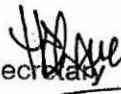


**J.S. KOCHAR**  
MEMBER



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

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06/09/2019

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B-492

G.D. Goenka Public School, Rohini

Present: Shri Manu RG Luthra, CA, Shri Vipul Garg, Chairman and Shri Deepak Arora, Accounts Officer of the School.

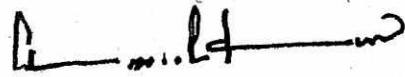
The authorized representative appearing for the school request for some time to be given to examine the aspect of the amount considered by the Committee as diverted for incurring capital expenditure. As requested the matter is adjourned to 4<sup>th</sup> October 2019 at 11.00 am.



Dr. R.K. SHARMA  
MEMBER



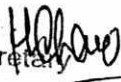
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MEMBER



JUSTICE ANIL KUMAR (Retd.)  
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09/09/2019

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B-356

Notre Dame School, Badarpur

Present: Shri Justine Varghese, Teacher of the School.

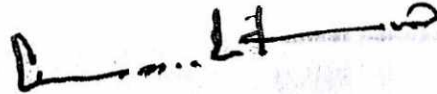
An application has been received from the representative of the school seeking postponement of the date of hearing. As requested the matter is adjourned to 3<sup>rd</sup> October 2019 at 11.00 a.m.



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



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



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

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Secretary



**Manav Bharti India Int. School, Panchseel Park**

Present: Shri Sanjeev Kapoor, CA, Smt. Mithilesh Chaudhari, Principal and Shri H.P.Mishra, Accountant of the School.

The Learned authorized representative appearing for the school submits that although the refunds of income tax which were outstanding as on 31<sup>st</sup> March 2008 were either received or adjusted against subsequent years demands, the liquidity position of the school substantially remained the same as the refunds which <sup>were</sup> ~~are~~ due in the subsequent years were also attached.

*24*

The school is required to file the following:-

1. Date of receipt/adjustment of refunds which were outstanding as on 31<sup>st</sup> March 2008 along with documentary evidence.
2. The details of subsequent years refunds which are pending with Income Tax department along with copies of orders passed by the Appellate authorities. It is submitted that final appellate authority has held in favour of the school and but the refunds have not yet been released by the Income Tax department.

The court is adjourned to 11<sup>th</sup> October 2019 at 11.00 am.

*By matter*

*[Signature]*

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

*[Signature]*

**J.S. KOCHAR  
MEMBER**

*[Signature]*

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

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Secretary *[Signature]*





09/09/2019

000087

B-302

**Bharti Public School, Swasthya Vihar**

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

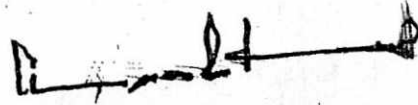
The school has filed a detail of FDRs and Savings Bank Account along with their copies in evidence of earmarked Depreciation Reserve Fund as on 31<sup>st</sup> March 2019. Order reserved.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



11/09/2019

**B-622****Hillwoods Academy, Preet Vihar, Delhi**

Present: Sh. Khalil Ahmed, Supervisor of the school.

On the last date of hearing, the Committee had recorded that the school had not produced its books of accounts nor the balance sheet of the Parent Society where it had been directed to produce the same.

Today also, an application for adjournment has been received from the school seeking another date as due to certain unavoidable circumstances, the Accounts Executive of the school is unable to attend the hearing. In the notice of hearing, the school was specifically required to produce its Receipt and Payment accounts for the years 2006-07 to 2010-11 as they had not been filed by the school as part of its annual returns under Rule 180.

In the circumstances, the Committee is unable to accede to its request for adjournment. The order will be passed on the basis of the material available on record.

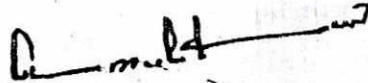
Order reserved.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



11/09/2019

B-488

Queen Mary's School, Rohini, Delhi

Present: Sh. Vikas Goyal, And Ms. Rooma Jain, Chartered Accountants of the school.

The matter has been refixed for seeking certain clarifications with respect to the written submissions filed by the school in rebuttal of the calculation sheet. The authorized representatives appearing for the school have given the following clarifications:

- (a) Out of the total FDRs and accrued interest amounting to Rs. 19,69,517 which had been taken by the Committee as part of funds of available, one FDR for Rs. 5.00 lacs with accrued interest 84,183 was held in the joint name of the school and the Dy. Director of Education as security. Accordingly the same ought not to be considered as part of funds available.
- (b) The Committee ought not to have considered the expenditure in respect of the amounts paid to the man power suppliers for security and support staff like maids and ayas for the purpose of working out the incremental salary in 2009-10 as well as for the purpose of calculating the reserve for future contingencies.
- (c) The Committee ought not to have restricted the reserve for gratuity to employees who had completed 5 years of service but it should be provided for all the employees, irrespective of the length of service.
- (d) The development fee charged by the school have been utilized for purchase, upgradation and replacement of furniture fixture and equipments in the years 2009-10 and 2010-11 and merely for a technical reason that the school was not maintaining a separate bank account. It ought not to be ordered to be refundable.

However, during the course of hearing the authorized representatives of the school conceded that the school was not maintaining any earmarked depreciation reserve fund equivalent to the amount of depreciation charged on assets acquired out of development fee. It is noted that the figures of development fee for 2009-10 and 2010-11 as taken by the Committee have not been disputed by the school.

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26  
Secret

11/09/2019

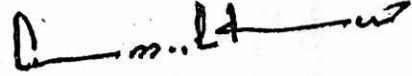
Arguments heard. Recommendation reserved.



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



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



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

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**Secretary**

11/09/2019

B-669

**Blue Bells International School, East of Kailash, Delhi**

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

The Ld authorized representative appearing for the school has filed written submissions dated 09/11/2019 and has also filed copies of the orders passed by this Committee in cases of 6 others schools which he submits are in perimaterial with the facts of this school. It is submitted that as per the revised calculation sheet filed by the school along with written submissions dated 31/08/2017 which has been checked by the Committee, the school was in deficit even after hiking the fee as per order dated 11/02/2009. It is further submitted that even if the calculations made by the committee in its order dated 05/09/2017 are given effect to, the net result would still be that the school was in deficit after implementation of the recommendations of VI Pay Commission. With regard to the issue of excess recovery of the arrears of development fee for the period 01/09/2008 to 31/03/2009, it is submitted that the same was recovered relying on another order dated 25/02/2009 issued by the Director of Education and in any case the amount was utilized for payment of arrear salary to the staff. It is also submitted that even if technically the school is considered to have charged excess arrears of development fee, the same ought not to be ordered to be refunded in view of the deficit incurred by the school which was more than the excess recovery of arrears.


Arguments heard. Recommendations reserved.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



13/09/2019

B-639

**Nutan Vidya Mandir, Dilshad Garden, Delhi**

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

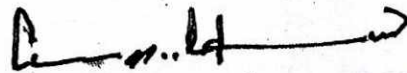
The school has not brought anything on record to rebut the adverse observations made by the Committee in its previous order. Even today, the Counsel of the school submits that he has not brought the necessary documents and seeks short date to do the needful. A last opportunity is given to the school to bring on record all the necessary documents. Matter will be come up for further hearing on 4<sup>th</sup> Oct. 2019.



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

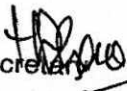


**J.S. KOCHAR**  
MEMBER



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

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Secretary


13/09/2019

B-120

The Heritage School, Vasant Kunj, Delhi

Present: Sh. Punit Batra Advocate and Sh. K.P.S. Rao, Advocate of the school.

The Ld. Counsel appearing for the school submits that the Chairman of the school has expired last week and therefore the matter could not be discussed. He seeks an adjournment. In view of the circumstances, the matter is adjourned to 16th Oct. 2019.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



13/09/2019

B-60

**The Heritage School, Rohini, Delhi**

Present: Present: Sh. Punit Batra Advocate and Sh. K.P.S. Rao, Advocate of the school.

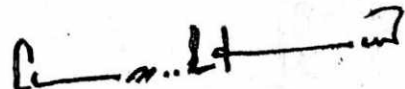
The Ld. Counsel appearing for the school submits that the Chairman of the school has expired last week and therefore the matter could not be discussed. He seeks an adjournment. In view of the circumstances, the matter is adjourned to 16th Oct. 2019.



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



**J.S. KOCHAR**  
MEMBER



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

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16/09/2019

000095

B-151

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

Present: Shri Birender Singh Accounts Officer of the School,

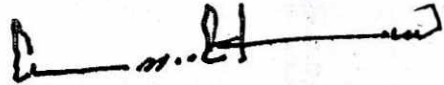
An application has been filed by the school seeking adjournment on the ground that the counsel of the school is unwell today. The Committee observes that the school has been taking adjournments on the one ground or the other on numerous dates in the past. The Committee is not inclined to entertain any further request for adjournment. However, one last opportunity is given to the school to make final submissions on 10<sup>th</sup> October 2019 at 11.00 am.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



16/09/2019

000096

B-286

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

Present: Shri Jasvinder Singh, Admn Supervisor of the School.


An application has been received from the school seeking adjournment on the ground that its Sr. Accounts Officer is unwell. The Committee notes that the school is being represented by two counsels and none of them is present today. Illness of Sr. Accounts Officer is not the ground for adjournment. However, in the interest of justice one last opportunity is given to the school to appear on 18<sup>th</sup> September 2019 at 11.00 am and make its final submissions. No further request for adjournment will be entertained by the Committee.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary



16/09/2019

000097

B-622

Hillwood Academy, Preet Vihar, Delhi

Present: Ms Rita Srivastava, Principal and Shri Nikhil Goel CA of the School.


The school has even today not produced the Receipt and Payment Account of the Parent society or its books of accounts despite the fact that the hearing was refixed on its application dated 13.09.2019. The Principal of the School is present at the time of hearing submit that there was some misunderstanding regarding producing of records. She is directed to go through the order dated 7.06.2017 and 11.07.2017, and produce the required records. The matter will come up for further hearing on 18.09.2019 at 11.00 am. No further adjournment will be granted under any circumstances.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



18/09/2019

000098

B-684

**Lovely Public School, Priya Darshini Vihar, Delhi**

Present: Shri Puneet Batra, Advocate and Shri Saurabh Malhotra, CA of the School.

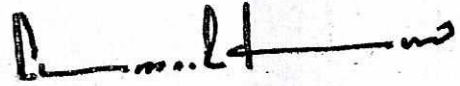
The Learned Counsel appearing for the school submits that the school would like to file written submissions in rebuttal of the calculation sheet. The same may be filed within three weeks. The matter will come up for hearing on 14<sup>th</sup> October 2019 at 11.00 am.



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



**J.S. KOCHAR  
MEMBER**



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

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18/09/2019

000099

B-290

**Kasturi Ram International School, Narela**

Present: Shri A.K. Bhatnagar, Director of the School.

Shri A.K. Bhatnagar, Director of the School appears and files a letter dated 18.09.2019 signed by Shri Sunny Bansal, Manager of the School. It is submitted that the records which the Committee had directed the school to produce vide order dated 4.06.2019 are not available as they have been destroyed due to termite. It is further submitted that the case of the school may be disposed on the basis of documents already submitted and clarifications given in the earlier hearings.

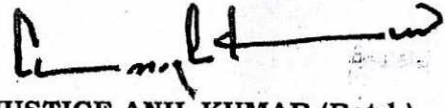
Order reserved.



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



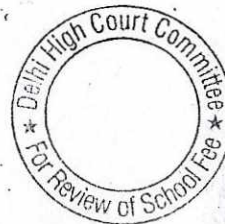
**J.S. KOCHAR**  
**MEMBER**



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

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Secretary




**Hillwood Academy, Preet Vihar, Delhi**

Present: Ms. Rita Srivastava, Principal and Shri Nikhil Goel, CA of the School.

The school has filed copies of audited financials of its parent society i.e. Harvard India Society/Hillwood India Society for the years 2006-07 to 2010-11. On perusal of the same the Committee observes that the School has transferred large sums to the parent society for establishing school at Greater Noida. A sum of Rs. 64,42,113 has been transferred from Hillwood Academy Junior school and another sum of Rs. 14,52,016 has been transferred from Hillwood Academy Senior School. These sums had been invested for land at Greater Noida and partially for construction of building at Greater Noida for establishing the school. A sum of Rs.72,90,551 has been invested in land in Greater Noida.

The balance sheet of the Parent society also reveals that the school has collected large amount of donations. The school is required to file a detail of the persons from whom the donations have been received by the Parent Society from 2006-07 to 2010-11 and also produce the copies of the receipts issued to the donars along with the ledger account of donations received.

Submission has been made by the Principal of the School that the school is permitted to invest its savings for expansion and establishment of other recognized schools and as such there is no infirmity in investing its saving for the establishment of school at Greater Noida. It is further submitted that there was no transfer of funds from the school to the society for establishment of school at Greater Noida. The funds have gone directly from the school fund for establishment of school at Greater Noida. Only the accounting entries have been routed through the Parent Society. The matter will be taken up for further hearing on 18<sup>th</sup> October 2019 at 11.00 am.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
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18/09/2019

000101

B-286

Mount Abu Public School, Rohini, Delhi

Present: Shri Puneet Batra, Advocate Shri Bharat Kumar, Trustee of the School.

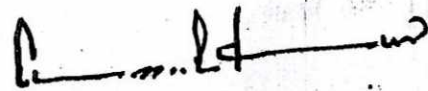
The matter is adjourned to 14<sup>th</sup> October 2019 at 11.00 am on account of indisposition of the Counsel appearing for the school.



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



**J.S. KOCHAR  
MEMBER**



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

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Secretary

20/09/2019

000102

**B-640**

**The Srijan School, Noeth, Model Town Delhi**

Present: Shri Dewashish Tewary, Admn Officer, Ms.Sweta Bansal, Accountant, Shri Amit Kutreja, Accountant and Shri Arpit Srivastava, Accountant of the School.

It appears that the preliminary Calculation Sheet to examine the justifiability of the fee hike of the school for implementation of recommendation of 6<sup>th</sup> Pay Commission has not been given to the School. Accordingly, the matter will be taken up for further hearing on 21<sup>st</sup> October 2019.



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



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



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

Sweta Bansal  
Amit Srivastava

Sweta Bansal  
Amit Srivastava

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Secretary





20/09/2019

000103

B-424

**Pragati Public School, Dwarka, Delhi**

Present: Shri Rajiv Malik, Authorised Signatory and Shri Inder Pal Singh, Accounts Incharge of the School.

The School has filed written submission dated 20<sup>th</sup> September 2019 vide which it has revised certain figures with regard to diversion of fee for capital expenditure. As per the chart filed by the school it is clear that there was no such diversion if the development fee received and the surplus in the transport fund are considered. The Learned authorized representative appearing for the School Shri N.K. Mahajan who was to argue in the matter is unable to appear today and accordingly request for a date after 30<sup>th</sup> September 2019. As requested the matter is adjourned to 15<sup>th</sup> October 2019.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



20/09/2019

000104

B-138

**Army Public School, Ridge Road, Dhaula Kuan Delhi**

Present: Shri Gunjan Sharma, Accountant and Shri Pramod Butola, LDC of the School.

While finalizing the recommendations to be made in this case the Committee observed that certain vital information like the exact quantum of fee hike per student of different categories i.e. officers or JCOs, other ranks/civilians was not available on record as the school had not filed the circulars which were issued to the students for hike in fee pursuant to order dated 11.02.2009 issued by Directorate of Education. Accordingly, the information was called for from the school and today the authorized representatives appearing for the school have filed copies of the circulars. As per the circulars filed by the school initially the school hiked the fee w.e.f. 1.09.2008 vide circular dated 06.02.2009, without waiting for the order from the Government. However, the fee w.e.f.1.09.2008 for different categories was subsequently revised vide order dated 25.03.2009 issued in the name of HQ Delhi area. As per this order the fee was hiked even further. The comparative position of fee charged by the school in the year 2008-2009 vis-à-vis revised w.e.f. 01.09.2008 is as follows:-

Category: Civilians

Class	Tuition Fee w.e.f. 01.04.2008	Tuition Fee w.e.f. 01.09.2008	Increase w.e.f. 01.09.2008
Ist to Vth	1460	2260	800
VIth to Xth	1595	2395	800
XIth and XIIth	1895	2695	800

Category: Officers

Class	Tuition Fee w.e.f.01.04.2008	Tuition Fee w.e.f. 01.09.2008	Increase w.e.f. 01.09.2008
Ist to Vth	880	1580	700
VIth to Xth	1020	1720	700
XIth and XIIth	1165	1865	700

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20/09/2019

000105

Category: JCOs

Class	Tuition Fee w.e.f.01.04.2008	Tuition Fee w.e.f. 01.09.2008	Increase w.e.f. 01.09.2008
Ist to Vth	665	1265	600
Vith to Xth	795	1395	600
XIth and XIIth	1020	1620	600

Category: Other Ranks

Class	Tuition Fee w.e.f.01.04.2008	Tuition Fee w.e.f. 01.09.2008	Increase w.e.f. 01.09.2008
Ist to Vth	480	980	500
Vith to Xth	630	1130	500
XIth and XIIth	835	1335	500

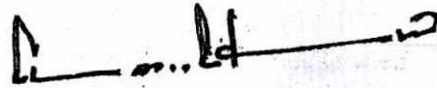
Apart from this the school also recovered lumsum arrears @ of Rs. 4500 per student for all the categories to cover the period 01.01.2006 to 31.08.2008. The development charges @ 15% of the total annual tuition fee was also recovered. Earlier the development fee was recovered at the fixed rate of Rs. 1440 per student irrespective\* of the amount of tuition fee <sup>of</sup> category of students. The school has also filed a copy of a Gazette notification as per which tuition fee upto Rs. 1000 per child is reimbursable by the Government in case of all Government employees. The preliminary calculations made by the Committee had already been shared with the school and the school has also filed its response thereto. Accordingly, the matter is reserved for orders.



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



**J.S. KOCHAR**  
MEMBER



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

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