

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 January 2020**

No.DHCC/2020/42

Dated: 11/03/2020

Index			
S.N.	Particulars		Page No.
(a)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	16.01.2020	Order in respect of Vivekanand Public School, B-Block, Anand Vihar (B-231) recommending refund of unjustified fee hike amounting to Rs. 1,87,62,129 alongwith 9% interest.
	2	17.01.2020	Order in respect of N K Bagrodia Public School, Sect.9, Rohini (B-309) recommending regularisation of excess fee charged by the school.
	3	23.01.2020	Order in respect of Vishwa Bharti Public School, Dwarka (B-146) recommending refund of unjustified fee hike amounting to Rs. 55,56,234 alongwith 9% interest.
	4	24.01.2020	Order in respect of Queen Mary's School, Model Town-III (B-544) recommending refund of unjustified fee hike amounting to Rs. 52,17,375 alongwith 9% interest.
(b)	Cause List of the cases taken up in January 2020 on 16.01.2020, 17.01.2020, 20.01.2020, 23.01.2020, 24.01.2020, 27.01.2020, 28.01.2020 and 30.01.2020.		92 Page No.
(c)	Miscellaneous/ Interim orders passed in January 2020		93 to 106

Place: Delhi

Secretary
 Delhi High Court Committee for Review of School Fee

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

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

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

Feedback

In the matter of:

From Upma

Vivekanand Public School, Anand Vihar, Delhi-110092 (B-231)

To Justice

Order of the Committee

System No.

Present: Sh. Manu RG Luthra, Chartered Accountant with Sh. Sunil Khanna, Manager of the school.

review of

The Committee received a complaint from one Ms. Upma Saxena, BU-55, SFS Flats, Pitam Pura, Delhi-34 on its Email link 110092. The

provided on the portal of Directorate of Education, containing various allegations against the school. The full text of the complaint is

(East) app'r reproduced below:

1) School is

Feedback regarding school Fee hike

From Upma Saxena

To Justice Anil Dev Singh Committee for review of School fee

Subject Manipulation done by school

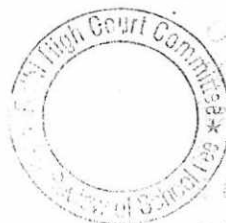
Message 25th Feb 2012 Chairman Justice Anil Dev Singh Committee for review of school fee Upper Bela Road Civil Lines Delhi-110054. I want to bring some points in the notice of Fee Committee for their perusal in regarding of Vivekanand Public School, B Block, Anand Vihar, Delhi-110092. There are so many manipulation done by school to show that school is not earning profit and increasing 10% tuition fee is necessary every year. Manipulation of school fund for the benefit of school management will be clear by analyzing Audit Report (received from DDE (East) against my RTI application) from 2006-2010.

1) School is collecting money from students for Picnic but showing it in school fund 2006, 2007, 2008,2009 2010 to picnic expenses 151,706, 31,650, 1,340,200, 1,331,862, 1,702,806.

2) It is the responsibility of the society who has established the school to raise funds from their own sources or donation from other association

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Committee for review of school fee Upper Bela Road Civil Lines Delhi-110054. I want to bring some points in the notice of Fee Committee for their perusal in regarding of Vivekanand Public School, B Block, Anand Vihar, Delhi-110092. There are so many manipulation done by school to show that school is not earning profit and increasing 10% tuition fee is necessary every year. Manipulation of school fund for the benefit of school management will be clear by analyzing Audit Report (received from DDE (East) against my RTI application) from 2006-2010.

for construction because immovable property of the school becomes the sole property of the Society only but school is spending a large portion of its budget on building maintenance/Repair/Construction-2006, 2007, 2008, 2009, 2010 To Building Maintenance/Repair/Construction 1,645,823, 1,376,538, 3,155,841, 9,888,612, 9,856,452.

3) Management is repaying loans for their luxury cars from school fund 2009-2010 To interest 81,584, 251,124

4. School is located on land allotted by DDA but they are showing hefty amount on ground rent 2006-2007,2008,2009,2010. Ground rent 147,570, 147,570, Nil 295,805, 48,000.

5. School is charging Annual Charges 17.5% of Annual tuition fee and Development Charges 15% of Annual tuition Fee in addition to it school is charging Rs 600/- yearly from each student as SMS charges (Fee Schedule 2010-2011 is enclosed) but Income Expenditure Account for the year Ending on 31st March 2010 shows by SMS charges (Income) 31st March 2010 886,175 To SMS charges (expenditure) 31st March 2010 303,850. When the expenditure is so less then why parents are taxed for extra amount otherwise also school should not have charged additional fee for such purpose as school is already charging Annual charges 17.5% of Annual tuition fee and Development charges 15% Annual Tuition fee which are meant for such purposes.

6) Similar anomalies are observed in other additional funds like information Practice Fee and Science Fee. Audit Report for the year 2006-2010 showed that the school is collecting extra amount then expending on the said funds Year 2006 2007 2008, 2009 2010. By information Practice Fee 155,830.00, Nil, 342,219.00, 427,444.00 548,268.00 To Computer expenses 236,250.00, Nil, 27,068.00 185,457.00, 81,907.00 Difference between Income & Expenditure 80,420.00, Nil +315151 +241,987.00,+466361.00. By Science Fee Nil Nil 322,350.00, 753,226.00, 11,11,209.00. To Science lab expenses Nil Nil 111,585,00, 90,691.00, 61,946.00 Difference between Income and expenditure 80,420, Nil + 210,765.00 + 662,535.00 +1,049,263.00.

From the above table it is clear that Vivekanand Public School, B Block Anand Vihar, Delhi-92 is charging too much from students. As per DSEAR 1973 the amount collected for special purpose must be utilized for the purpose otherwise should be refunded to the parents. This whole information had already sent to Director, Directorate of Education, Delhi, DDE(East) and also to Income Tax Department but I have no information that whether any action was taken or not. In addition to

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2009-2010. By
427,444.00
27,068.00
Expenditure
Science Fee Nil
lab expenses Nil
Income and
449,263.00.

above mentioned details I would like to state that Vivekanand Public School B Block Anand Vihar, Delhi-92 organizes Annual Fete and although money earned to be spent on some specific purpose but they have shown in the paper submitted to Deputy Secretary (Home) that the money spent on white wash and repair work. May be the two different departments do not sit together so they could find out the problem. In the name of fete all students are asked to sell the tickets and bring gifts for different stalls every year. To support expenses many bills are prepared and while careful analysis could be found out. Money collected in the name of building fund at the time of admission may be difficult to be proved but if checked during admission time would be easily found out. Staff statement of Vivekanand Public School, B Block Anand Vihar, Delhi-92 is different from the statement that is filled in DISE form every year. At least there are 7/8 members who are not included in staff statement submitted to DDE(East) but they are shown in DISE. Those are not getting fully salary neither they are confirmed although they are working there from more than 4 or 5 years.

Kith and kin of management interfering in day to day work and misusing school fund for their luxury. 1. Mr. Vaibhav Khanna S/o Mr. Sunil Khanna (Manager of the School) is Member of management and getting salary from school as Transport Incharge (photocopy of staff statement). 2. Mr. Saurav Khanna S/o Mr. Sunil Khanna (Manager of the school) is Member of management and getting salary from school as State Manager. 3. Mrs Manisha Bhatia, Daughter in -law of Mr K.L. Bhatia (Member of Management committee) is Member of management.

Parents of above said school are too stressed, but they fear if they complain their ward would be taxed.

Yours faithfully,

Upma Saxena

BU 55 SFS Flats, Plats Pitampura, Delhi-34.

While most of the issues raised in the complaint do not fall in the purview of this Committee which has been mandated to specifically examine the issue of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education, the Committee considered it appropriate to examine the

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

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for Secretary



do not fall in

mandated to

allegations of booking of large expenditures by the school, which were apparently not commensurate with the level of activity of the school or for educational purposes. Accordingly, it was decided to examine such issues when the Committee undertook the verification of the books of accounts of the school. Perusal of the documents available with the Committee showed that Ms. Upma Saxena was earlier the Principal of the school at the relevant time.

The Committee issued a questionnaire to the school on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission. The school submitted its reply vide letter dated 05/03/2012 as per which it implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. June 2009. Copies of salary bills for the months of May and June 2009 were enclosed to show the incremental salary. The school also enclosed copies of payment sheets showing payment of arrear salary.

However, the school stated that it had not increased the fee of the students pursuant to order dated 11/02/2009 issued by the Director of Education for implementation of VI Pay Commission nor had it recovered any arrear fee.

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

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Since the school had stated that it had not recovered any arrear fee nor increased any tuition fee pursuant to order dated 11/02/2009, a notice was issued to the school 23/03/2012 to produce its fee and salary records and books of accounts before the audit officer of the Committee on 11/04/2012. However, the school did not produce any record on that date nor submitted any explanation for its failure to do so. The school filed a letter in the office of the Committee on 17/04/2012 stating that the records could not be produced on 11/04/2012 due to unavoidable circumstances. It requested for giving a fresh date. Accordingly, a fresh notice was given to the school requiring it to produce its records on 03/05/2012. ~~ad Though~~ a functionary of the school appeared on that date, he did not produce copies of annual returns for the years 2008-09, 2009-10 and 2010-11 which the school was required to produce as the same had not been received by the Committee from the Directorate of Education. He was directed to produce the same on 08/05/2012 along with other records.

Sh. Sunil Khanna, Manager of the school ~~appeared on~~ 08/05/2012 before the audit officer of the Committee ~~and instead of~~ producing copies of annual returns for the three years, ~~produced only~~ the audited financials of the school and fee schedules for the three years. It would be appropriate to mention here that ~~as per the~~ Appendix 2 of the Delhi School Education Rules, 1973 ~~and 2010-11~~ 180 (1), the annual returns which the schools are required to submit

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 for Secretary



~~appeared on~~
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 produced only

comprise not just the audited financials and fee schedules, but also Budget estimates of receipts and payments of ensuing year, Enrolment of students as on 30th April, Pattern of concession/scholarship etc., Staff statement, and Statement showing the dates of disbursement of salaries.

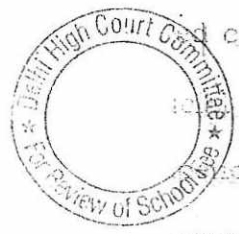
The audit officer of the Committee, after examining the fee schedules filed by the school observed that the school had actually increased the fee of the students as per order dated 11/02/2009 of the Director of Education and the same was contrary to what the school had stated in its reply to the questionnaire.

The Manager of the school informed that the full set of annual returns had already been submitted to the Dy. Director of Education (East). Accordingly, the Dy. Director was requested to transmit the documents submitted by the school to it to this Committee. The documents were received by the Committee on 10/05/2012. Perusal of the same revealed that the school had not submitted copies of its Budget Estimates for any of the years. This is a crucial document, examination of which would reveal as to what expenditures are included by the school while fixing the fee to be charged from the students.

The reluctance on part of the school to produce its full records and the observation of the audit officer that the school had misstated facts with regard to increase in fee in its reply to the questionnaire,

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appeared to lend credence to the complaint received from the Ex Principal of the school.

The preliminary calculations to examine the justifiability of fee hike effected by the school were made in the first instance by the Chartered Accountants deputed by the Director of Education to assist this Committee. They provisionally determined that the school recovered excess fee. However, on review of the calculations, the Committee observed that they were perfunctorily made and the quantum of excess fee as provisionally determined by them may be much more in view of the complaint received from the EX Principal of the school.

In order to verify the complaint, specific details of expenditure incurred by the school from 2008-09 to 2010-11 under the heads Building repair and maintenance, Picnic expenditure, Stationary and printing expenditure were requisitioned from the school vide letter dated 13/03/2014. Besides, the school was also directed to furnish complete break up of its fee revenues and salary expenditure during the aforesaid years. The school was also directed to furnish a copy of the circular issued to the parents regarding fee hike and collection of arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education.

The school furnished the break-up of its fee revenues and salary expenditure for the years 2008-09 to 2010-11 (though not in tabular

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Stationary and printing expenditure were requisitioned from the school vide letter dated 13/03/2014. Besides, the school was also directed to furnish complete break up of its fee revenues and salary expenditure during the aforesaid years. The school was also directed to furnish a copy of the circular issued to the parents regarding fee hike and collection of arrear fee pursuant to order dated 11/02/2009 issued by the Director of Education.

form) and also print outs of its ledgers of Building repair and maintenance expenditure, Picnic Expenditure and Stationary and Printing expenditure. The school also furnished a copy of circular dated 21/02/2009 regarding fee hike pursuant to order dated 11/02/2009 of the Director of Education.

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. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of VI Pay Commission. A questionnaire regarding collection and utilisation of development fee was also issued to the school.

The school furnished the information requisitioned from it under cover of its letter dated 27/05/2015. It also submitted reply to the questionnaire regarding development fee. Interestingly, the school stated that the bills/vouchers of financial year 2009-10 have been lost somewhere in Karkardooma, by a UDC who was going from the school to the Accountant. The school also enclosed a copy of FIR (in respect of non cognizable offence) lodged on 26/05/2015, mentioning the date

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for Secretary



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of occurrence of the event as 23/05/2015. The contents of FIR are as

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follows:

NCR Contents:

Complainant stated that on Saturday, 23rd May 2015, in afternoon our UDC was going from our school to our Accountant in Karkardooma and somewhere he lost Bills/Vouchers of F.Y. 2009-10 (01.04.2009 to 31.03.2010). I searched it everywhere but could not found it. Finally I come in P.S. to report lost Bills/Vouchers. From above said statement it is the matter of Bills/Vouchers lost. So registered a complaint and give one copy of complaint to the complainant. W/HC/DO.

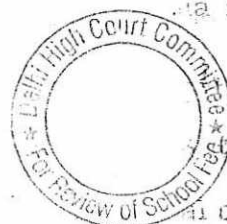
As per the reply to the aforesaid questionnaire, the school recovered development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. It claimed to have utilised the development fee for acquisition of fixed assets, which included a car purchased in financial year 2008-09 for Rs. 6,36,110, another car in financial year 2009-10 for Rs. 10,57,500 and yet another car in the 2010-11 for Rs. 10,84,195. It also mentioned the amount of development fee recovered which, inter alia included Rs. 49,99,774 in 2009-10 and Rs. 53,94,789 in 2010-11. It did not specifically mentioned whether development fee was treated as a capital receipt or as a revenue receipt. However, perusal of its audited financials revealed that it was treated as a revenue receipt. Further, it categorically stated that "No separate depreciation reserve fund has been maintained". Consequently, against the query whether depreciation reserve fund or unutilised development fund were kept in earmarked accounts or FDRs or Investments, the school stated "N/A".

Vivekanand Public School, Anand Vihar ,Delhi-92/(B-231)/Order

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Secretary



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Thus at the very outset, the school conceded that it was not complying with any of the pre conditions, on fulfillment of which, the school could recover development fee as per the recommendations of Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583 and made part of the various circulars issued by the Directorate of Education regarding fee right from 15/12/1999 to 11/02/2009.

The Committee issued a notice of hearing dated 27/06/2016 requiring the school to appear before it on 08/07/2016 and produce its fee records, salary records, TDS returns and Provident Fund Returns, bank statements and books of accounts for verification by the Committee.

Sh. Sunil Khanna, Manager of the school appeared with Sh. Sudhir Kumar, LDC.

He submitted that the Accountant had taken away the relevant vouchers of 2009-10. When he was confronted with the FIR dated 26 May 2015, which was just few days after the notice issued by this Committee, was received by the school which stated that the UDC was going from school to the Accountant of the school and he lost bills/vouchers of financial year 2009-10 (1st April 2009 to 31st March 2010), he backtracked and stated that the Accountant had taken away the vouchers of some other year. He further submitted that he

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 For Secretary



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got confused. He stated that he be given an opportunity to produce the records which were with the school on its computer and bank statement, fee register, salary sheets etc.

The Committee directed that the records be produced before its Audit officer on 21st July 2016 for examination by her.

The school produced its records before the audit officer and after verification, she recorded that the school had implemented the recommendations of VI Pay Commission w.e.f. June 2009. The school was paying its salary mainly through direct bank transfers. The school had also paid arrear salary to the tune of Rs. 20,28,374, mainly through bank transfers. Only a small amount of Rs. 47,176 had been paid in cash. She also recorded that the school increased its tuition fee @ Rs. 300 per month for the students of classes nursery to X and @ Rs. 400 per month for students of classes XI & XII. The fee of the students was directly deposited in the bank by them.

The school also filed written submissions dated 21/07/2016, stating that the actual amount of arrear fee realised by the school till that date was Rs. 7,30,266. However, the school paid salary arrear to its staff to the tune of Rs. 20,28,374. The school made provision for gratuity and leave encashment based on the management's estimate. Employee wise details of such liabilities were furnished indicating that the school has an accrued liability of Rs. 1,04,99,678 in respect of

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for Secretary



21/07/2016,
by the school till
salary arrear to
the provision for

gratuity as on 31/03/2010 and Rs. 5,07,857 towards leave encashment as on that date.

As per the chart of fee and salaries submitted by the school, it did not pay any arrear salary for the period 01/01/2006 to 31/08/2008 and also did not recover any arrear fee for the corresponding period. The arrear fee and arrear salary, as mentioned by the school pertained to the period 01/09/2008 to 31/03/2009.

On the next date of hearing, Sh. Manu Luthra, Chartered Accountant appeared along with the Manager and other functionaries of the school and produced the records of the school. On 08/09/2016, a copy of the complaint received from Ms. Upma Saxena was given to the authorized representatives of the school for the response of the school. The matter was posted for further hearing on 25/10/2016, for which a notice was also issued to the Complainant.

On the next date, Sh. S.K. Saxena appeared on behalf of his wife Ms. Upma Saxena who had lodged the complaint. He sought some time to make submissions as the matter was old. The school also did not file any response to the complaint. Accordingly, the matter was adjourned to 02/12/2016. However, the hearing was rescheduled for 22/12/2016 with due intimation to the school as well as to the complainant. On that date, no appearance was made on behalf of the complainant. On perusal of the audited financials of the school the Committee observed that the school had booked Complainant.

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For Secretary



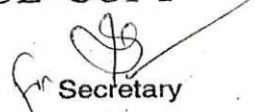
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mindboggling expenses particularly under the heads Building maintenance, Picnic expenses, Stationary and printing. The expenses booked by the school under these heads in different years were as follows :

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
Building repair & Maintenance	13,76,538	31,55,841	98,88,612	98,56,452	99,47,759
Picnic expenses		13,40,200	13,31,862	17,02,860	4,00,027
Repair & Maintenance		26,36,478			
Stationary & Printing		13,16,592	21,45,441	28,54,435	

In comparison to the expenditure under the above heads, the expenses incurred by the school under other heads are very low considering that the student strength of the school was 1574 in 2006-07 which progressively rose to 1750 in 2010-11. The school had 99 staff members on its roll in 2012.

The school was directed to produce its accounting records (including ledgers and bank statements) and vouchers for the aforesaid years before the Audit Officer of the Committee for detailed verification. The Manager of the school was also directed to file an affidavit to the effect that all the expenses had been incurred for the purpose of the school, indicating therein the various repair and maintenance works undertaken by the school during these years.

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On 29/12/2016, the Audit Officer of the Committee provided the school with a format in which the detail of the aforementioned expenditure was to be furnished by the school. The necessary details were furnished by the school on 30/01/2017. The affidavit of the Manager giving details of the expenditure on repair and maintenance of school building indicated that the expenditure was incurred mostly on capital account. However, the matter could not be concluded as the term of the Committee expired in the meantime. After the term of the Committee was extended by the Hon'ble High Court, a fresh notice of hearing was issued to the school to appear on 15/03/2018 and produced bills and supporting vouchers in respect of expenditure under the head Building repair and maintenance, Picnic expenses, Repair and maintenance and Stationary & Printing expenses. The school was also directed to produce its bank statements and books of accounts in a laptop as the same were maintained in Tally software. Notice was also sent to the complainant to be present on that date.

The notice issued to the complainant was returned unserved. The details filed by the school were perused by the Committee. The Committee noticed that besides the huge expenditure incurred under the head Building repair and maintenance, the school also incurred extraordinarily high expenditure under the head Picnic expense. The quantum of such expenditure was Rs.13.40 lakhs in 2007-08, Rs.13.31 lakhs in 2008-09, Rs.17.02 Lakhs in 2009-10 and Rs.4.00 lakhs in 2010-11. On perusal of the details filed by the school, the

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

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Committee noticed that the expenditure incurred under this head was in respect of the school tours, purportedly organized for the students, which were not only local, but also to places like Goa, Dalhousie, Kulu Manali, Jaipur, Alipur, Agra, Nainital, Nimrana Fort etc. The Committee also perused the audited financials of the school and observed that no receipt from the students in respect of these picnics and tours had been reflected therein in any of the years. The authorized representative who appeared for the school could not rebut this observation.

Regarding huge expenditure under the head Building and other repair and maintenance, the level of expenditure incurred particularly on building repair, year after year, showed that the same could not be routine maintenance on buildings.

The Committee was of the prima facie view that either the huge expenditure booked by the school under the head Building repairs was on capital account or was incurred in respect of construction taking place elsewhere. Either way, the same could not be a charge on the revenues of the school and become a component of fee charged from the students.

Likewise, the Committee was of the view that the expenditure booked under the head Picnic expenses was either for excursions of the family members of the school management, or if they were for organising picnics and outstations tours for the students, the cost thereof would have been recovered from the students but the same

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Secretary



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was suppressed in the accounts of the school. No school organizes picnics or excursions without recovering atleast the cost incurred thereon, if not more.

With regard to expenditure on Repair and Maintenance amounting to Rs. 26,36,478 in 2007-08 over and above the expenditure of Rs. 31,55,841 booked under the head building repair and maintenance, the Committee found no justification for such a huge expenditure. It appeared that the expenditure under the head Building repair and maintenance had been split into two accounts in that year to make them look reasonable. No expenditure was booked under the separate head in the year 2006-07, 2008-09, 2009-10 and 2010-11.

Likewise, in respect of the expenditure of Rs. 63,16,468 incurred on Stationary and Printing in the years 2007-08 to 2009-10, the Committee was of the view that the same was highly excessive considering the student strength. It was very odd that there was no expenditure under this head in the year 2006-07 and 2010-11.

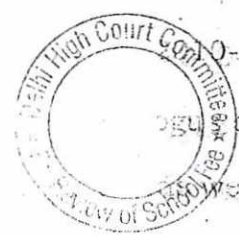
It appeared that the school had booked either bogus or personal expenditure in the accounts of the school and the funds were diverted out from the school funds. Some of the expenditures under the head Building Repair and Maintenance could be genuine but they were incurred on capital account, which also the school was not entitled to incur out of its fee revenues.

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

Rs. 63,16,468
2007-08 to 2009-10,
highly excessive
Page 16 of 31
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2010-11.
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Accordingly, the Committee considered that these expenditures ought to be taken as part of funds available with the school. The Committee prepared the following calculation sheet in order to examine the justifiability of fee hike effected and recovered by the school pursuant to order dated 11/02/2009 issued by Director of Education:

Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report			
	Particulars		Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in Hand	52,369	
	Bank Accounts	1,399,483	
	Advance to Staff	11,676	1,463,528
Less	<u>Current Liabilities</u>		
	Caution Money	1,035,150	1,035,150
	Net Current Assets + Investments		428,378
Add	Funds secreted out of school fund/ income not booked for the years 2006-7 to 2009-10:		
	(a) Building Repair & Maintenance	24,277,443	
	(b) Expenditure on school tours/ picnics	4,374,922	
	(c) Repair & Maintenance	2,636,478	
	(d) Stationery & Printing	6,316,468	37,605,311
	Funds deemed to be available		38,033,689
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	7,322,431	
	for accrued liability towards Leave Encashment as on 31.03.2010	507,857	
	for accrued liability towards Gratuity as on 31.03.2010	10,499,678	18,329,966
	Funds deemed to be available for implementation of 6th CPC before Fee hike		19,703,723
Less	Additional Liabilities on implementation of 6th Pay Commission:		
	Arrear of Salary as per 6th CPC for 1.9.08 to 31.3.09	2,028,374	6,777,916
	Incremental Salary for 2009-10 (as per calculation given below)	4,749,542	
	Excess / (Short) Fund Before Fee Hike	1,035,150	12,925,807
Add	Additional Recovery for implementation of 6th Pay Commission:		428,378
	Arrear of tuition fee for 1.9.08 to 31.3.09	730,266	
	Incremental tuition fee for 2009-10 (as per calculation given below)	7,637,300	8,367,566
	Excess / (Short) Fund After Fee Hike	4,374,922	21,293,373

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for Secretary



52,369	
1,399,483	
11,676	1,463,528
1,035,150	1,035,150
	428,378
24,277,443	
4,374,922	
2,636,478	
6,316,468	37,605,311
	38,033,689
7,322,431	
507,857	
10,499,678	18,329,966
	19,703,723
2,028,374	6,777,916
4,749,542	
1,035,150	12,925,807
	428,378
730,266	
7,637,300	8,367,566
4,374,922	21,293,373

Development fee refundable being treated as revenue receipt:

For the year 2009-10
For the year 2010-11
Total

Add: Excess tuition fee recovered
Total Amount refundable

	Rs.
	4,999,774
	5,394,789
	<u>10,394,563</u>
	8,367,566
	<u>18,762,129</u>
	31,293,723

Working Notes:

	2008-09	2009-10
Normal/ regular salary	<u>17,217,751</u>	21,967,293
Incremental salary in 2009-10	<u>4,749,542</u>	
	2008-09	2009-10
Normal/ Regular Tuition fee	<u>24,936,848</u>	32,574,148
Incremental tuition fee in 2009-10	<u>7,637,300</u>	

As would be apparent from the above calculation sheet, the Committee arrived at a preliminary finding that the school was deemed to have available with it a sum of Rs. 3,80,33,689. After providing for the accrued liabilities of gratuity and leave encashment and a reasonable reserve for future contingencies, amounting in aggregate to Rs. 1,83,29,966, the school had still a sum of Rs. 1,97,03,723. The total financial impact of implementing the recommendations of VI Pay Commission, to the extent it did, was Rs. 67,77,916. Therefore, the school had adequate funds available with it out of which it could have absorbed the additional expenditure incurred on implementing the recommendations of VI Pay Commission. However, the school recovered a sum of Rs. 7,30,266 as arrear fee for the period 01/09/2008 to 31/03/2009 and further the fee hike effected by the school w.e.f. 01/04/2009 resulted in an additional revenue of Rs. 76,37,300. Prima facie, these amounts were

	Rs.
	4,999,774
	5,394,789
	<u>10,394,563</u>
	8,367,566
	<u>18,762,129</u>

	2009-10
	<u>17,217,751</u>
	21,967,293
	2008-09
	2009-10
	<u>32,574,148</u>
	7,637,300

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

a sum of Rs.
Page 18 of 31
implementing the

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For Secretary



did, was Rs.
available with it
expenditure
of VI Pay
Rs. 7,30,266 as

refundable to the students as the school did not need to hike any fee or recover any arrear fee as per order dated 11/02/2009. Moreover, since the school was not complying with any of the pre conditions for charging development fee, the Committee was of the prima facie view that the school ought to refund a sum of Rs. 1,03,94,563 recovered by it for the years 2009-10 and 2010-11 pursuant to order dated 11/02/2009.

A copy of the calculation sheet prepared by the Committee as above, was given to the authorized representative of the school, with directions to file its rebuttal, if any, within 4 weeks.

The school filed its rebuttal vide written submissions and the authorized representative of the school was also heard by the Committee.

The Committee observed that along with the written submissions, the school had also filed its own calculation sheet as per which as against a surplus of Rs.2,12,93,373, which was provisionally determined by the Committee, the school showed that it was in deficit to the tune of Rs.1,63,11,938 upto 31.3.2010, after the implementation of the recommendations of the 6th pay commission and also after providing for a reserve for future contingencies amounting to Rs. 73,22,431.

On comparing the calculation sheet filed by the school with the provisional calculation sheet prepared by the Committee, the

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which was of showed that if 2010, after the pay commission contingencies

Committee observed that the school had accepted all the figures taken by the Committee except "funds diverted out of school funds/income not booked for the years 2006-07 to 2009-10 amounting to Rs.3,76,05,342.

The aforesaid figure of Rs.3,76,05,342 represented huge expenditure of building repair and maintenance, expenditure on school tours/picnics, expenditure on other repair and maintenance and expenditure on printing and stationary that was charged by the school in its income and expenditure accounts.

With regard to building repair and maintenance, the school furnished the breakup of expenditure incurred under this head which had been classified under broad categories.

The Committee examined the information furnished by the school and observed that major portion of the expenditure that had been debited to building repair and maintenance constituted capital expenditure.

The authorized representative appearing for the school referred to Rule 177 of the Delhi School Education Rules 1973 to contend that while it is provided that the capital expenditure by the school only out of the savings calculated in the manner provided in that Rule, however the rule also carved out an exception in respect of expenditure to be incurred for the needed expansion of the school or any expenditure of the development nature and

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School referred 1973 to contend can be incurred

expenditure to be incurred on expansion of the school building or for the expansion or the construction of any building or establishment of hostel or expansion of hostel accommodation. He submitted that the expenditure incurred by the school, although may be capital expenditure, but it was covered by the exception provided under sub Rule 2 of Rule 177.

With regard to expenditure on other repair and maintenance, he submitted that the details were given in the written submissions. He also contended that bulk of the expenditure under this head was also towards building repair and maintenance but the same was in advertently classified under a wrong accounting head.

With respect to Printing and Stationary, he contended that the expenditure was genuine and not excessive considering the students strength of the school and therefore ought not to have been added to the funds available with the school.

With regard to expenditure of the school on Tours and Picnic, he submitted that the school adopted the practice of arranging free excursions as an incentive to the students to perform better. These free excursions were provided to select students based on academic, co-curricular and such other merits, as deemed appropriate by the management from time to time.

With regard to development fee, he submitted that the treatment of development fee as a revenue receipt was merely an accounting

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For Secretary



and Picnic, arranging free in better. These ed on academic, appropriate by the

issue and as such, ought not to have been taken adverse note of. He further submitted that term "capital receipt" was not clearly defined anywhere. When queried about the fact that the school had not even claimed that it was fulfilling other pre conditions like maintenance of earmarked development fund or depreciation reserve fund he conceded that school was not maintaining any earmarked depreciation reserve fund.

Discussion and Determination:

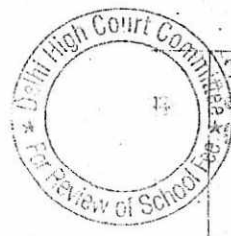
The Committee has considered the submissions made on behalf of the school. The school has contended that the expenditure of Rs. 2,42,77,443 booked under the head Building Repair and Maintenance from 2006-07 to 2009-10 and Rs. 26,36,478 in 2007-08 under the head repair and maintenance.

The school has given year wise break up of the aforesaid amount of Rs. 2,42,77,443 and Rs. 26,36,478 is as follows:

Year	Expenditure on routine repair and maintenance (Rs.)	Expenditure on addition/major renovation to school building including expenditure booked under a separate head in 2007-08 (Rs.)	Total expenditure (Rs.)
2006-07	3,20,170	10,56,368	13,76,538
2007-08	6,63,996	51,28,323	57,92,319
2008-09	4,99,656	93,88,956	98,88,612
2009-10	9,31,257	89,25,195	98,56,452
Total	24,15,079	2,44,98,842	2,69,13,921

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Total expenditure (Rs.)	
13,76,538	
57,92,319	

The school has contended that so far as expenditure on routine repair and maintenance is concerned, there should not be any issue that it was rightfully incurred out of the fee revenues. With respect to the capital expenditure of Rs. 2,44,98,842, the school has contended that even that was permissible as per Rule 177 of the Delhi School Education Rules, 1973.

It would be appropriate to record here that so far as the routine revenue expenditure on building repair and maintenance amounting to Rs. 24,15,079 is concerned, the Committee agrees with the contention of the school. The discussion with regard to the capital expenditure of Rs. 2,44,98,842 will be made in the succeeding paragraphs.

With regard to Picnic expenses, the contention of the school that it provided free excursions to the students as incentive is stated to be rejected. No school provides free excursions to the students for whatever reason. In fact, the schools generate substantial surpluses out of such tours and excursion. The school has not booked any receipts from the students to cover the cost of such excursions and tours. Obviously, it has suppressed its income on this account. No interference is required with the preliminary calculations made by the Committee on this account.

With regard to Stationary and Printing expenses, the Committee finds it odd that the school did not book any expenditure under this

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Secretary



substantial surpluses
not booked any
excursions and
its account. No
was made by the

head in the years 2006-07 and 2010-11. However, in 2007-08, it booked a sum of Rs. 13,16,592 under this head which went up to Rs. 21,45,441 in 2008-09 and further to Rs. 28,54,435 in 2009-10. Although it appears that the school might have booked some amount of bogus expenditures under this head. However, the Committee cannot reach a definitive conclusion in this regard.. Accordingly, the Committee refrains from drawing any adverse inference against the school on this account.

The effect of the above discussion on the surplus generated by the school that was provisionally determined by the Committee is as follows:

Particulars		Amount in 2009-10 (Rs.)
Surplus as provisionally determined		21,293,373
Less:		
(1) Routine expenditure on repair and maintenance	24,15,079	
(2) Printing and Stationary expenses	6,316,468	87,31,547
Surplus after the above allowances		1,25,61,826

Coming to the contention put on behalf of the school that the school was entitled to incur the capital expenditure out of its fee revenues and Rule 177 of the Delhi School Education Rules, 1973 provides for such expenditure to be incurred out of fee, the Committee is of the view that the submission made on behalf of the school is contrary to the law laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. As noted

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

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For Secretary



out of its fee
on Rules, 1973

above, the school did not file copies of its Budget Estimates for any of the years while the remaining statements required to be filed under Rule 180 were filed by it. The Budgets would have revealed whether the capital expenditure incurred by the school was already budgeted and recovered as part of fee from the students. Perusal of the audited Income & Expenditure Accounts of the school reveals that the school generated substantial cash profits, despite treating the aforesaid capital expenditure as a revenue expenditure and charging the same against its fee income. This leaves no manner of doubt that the school had included the capital expenditure as part of the fees to be paid by the students.

The issue of whether capital expenditure could be part of the fee structure of the school was first examined by the Hon'ble Delhi High Court in *Delhi Abibhavak Mahasangh Vs. Union of India and others* AIR 1999 Delhi 124. It was held as follows:

47. The forceful submission put forth on behalf of the schools by Mr. Jaitley and by Mr. Gopal Subramaniam that what can be regulated and interfered with is the use of the amounts collected by the schools from the students and not the quantum also deserve to be rejected. It is same argument that only end use of the amount collected is the relevant consideration and not whether the amount collected for one head is spent on another. The scheme of the Act and the Rules is that there should be no diversion of funds and what is collected shall be spent for same purpose barring accidental savings. The incidental use of sums collected for some ancillary purpose may be different but not the deliberate levy for one purpose knowing that for the said purpose the amount required may be much less and knowing that the excess amount is levied and collected and later used for another purpose. We do not think that the object of the Act would stand satisfied, on simply showing that the amounts collected were spent for educational

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Fr Secretary



the schools, by what can be the amounts the quantum that only end sideration, and d is spent on is that there lected shall be

purposes. There may be some stray cases of such diversion of funds taking place. The approach relating to such stray cases may be different. The approach would, however, be different when one finds a continuous pattern of such diversion which is not permissible under the Act and the Rules and cannot be permitted under the garb of spreading education. But these are some of the aspects to be examined on facts in each case.

65. In view of the aforesaid discussion our conclusions may be summarized as under:-

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

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

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

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

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

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

Vivekanand Public School, Anand Vihar, Delhi-92/(B-231)/Order

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funds from the
cover capital
expenditure of the

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

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

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

(x) An independent statutory Committee, by amendment of law, if necessary, deserves to be constituted to go into factual matters and adjudicate disputes which may arise in future in the matter of fixation of tuition fee and other charges.

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

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

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

20. We do not find merit in the above arguments. Before analyzing the rules herein, it may be pointed out, that as of today, we have Generally Accepted Accounting Principles (GAAP). As stated above, commercialization of education has been a problem area for the last several

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for Secretary



...that expenditure in other schools or management authority under transferring the of Fund to the and, therefore,

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

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

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[Signature]
Secretary



Recognized school
Page 28 of 31
non-business
on the basis of
Accounting. Section
18(3) of the Act
used System of
Section 18(3),
rent, interest
5. Regarding the
income shall be
heads, namely,
rule 175
which deals with

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

This Committee, by its mandate, is bound to examine whether the principles laid down by the Hon'ble Supreme Court in the case of Modern School (supra) have been followed or not. Accordingly, the contention raised by the school that it could incur capital expenditure out of the fee revenues of the school is rejected.

No other issue remains to be discussed. As noted supra, after considering the contentions on the remaining issues, the Committee has arrived at a finding that by recovering arrear fee and increasing its

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examine whether
 it in the case of
 Accordingly, the
 capital expenditure.

regular fee in terms of order dated 11/02/2009 issued by the Director of Education, which in aggregate amounted to Rs. 83,67,566, the school generated a surplus of Rs. 1,25,61,826, after considering the funds deemed to be available with the school and after allowing for the reserves required to be maintained by it.

Accordingly, the Committee is of the view that the school did not need to hike any fee in terms of order dated 11/02/2009 nor to recover any arrear fee as envisaged in that order. The school ought to refund the aforesaid sum of Rs. 83,67,566 as above along with interest @ 9% per annum from the date of collection to the date of refund.

Development Fee:

We have already noted as to how the school was not fulfilling any of the pre conditions as prescribed by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). The school collected a total sum of Rs. 1,03,94,563 as development fee in the years 2009-10 and 2010-11, pursuant to order dated 11/02/2009 of the Director of Education. The same having been collected without complying with the law laid down by the Hon'ble Supreme Court was not justified. The school ought to refund the aforesaid amount of Rs. 1,03,94,563 also along with interest @ 9% per annum from the date of collection to the date of refund.

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For Secretary



in the case of ... sum of Rs. ... and 2010-11, ... of Education. ... with the law laid ... The school

Summary of recommendations:

000031

The school ought to refund Rs. 83,67,566 recovered by it as arrear fee and incremental fee for the year 2009-10 and Rs. 1,03,94,563 collected by it as development fee for the years 2009-10 and 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 16/01/2020

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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:

N.K. Bagrodia Public School, Rohini, Delhi-110085 (B-309)

Order of the Committee

Present: Sh. S.K. Gulati, Chartered Accountant.

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

The school submitted its reply vide letter dated 03/03/2012 as per which it implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. September 2008. It also enclosed a comparative statement showing the salary paid for the month of February 2009 before implementation of VI Pay Commission and that paid for March 2009 after implementation of the recommendations of VI Pay Commission, in respect of each employee. This indicates that the school started paying the increased salary w.e.f. March 2009 and September 2008 as stated earlier. As per this statement, the total monthly salary payable by the school for the month of February 2009 was Rs. 13,28,790 which rose to Rs. 20,79,263 in March 2009.

N.K. Bagrodia Public School, Rohini, Delhi-85/(B-309)/ Order

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Secretary



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each employee.
ncreased salary

The school also enclosed details of arrears of incremental salary paid to the staff, the aggregate of which was Rs. 93,92,312.

With regard to fee, the school admitted that it had hiked the fee by Rs. 300 per month as per order dated 11/02/2009 issued by the Director of Education. It also stated that it had recovered a sum of Rs. 53,43,750 towards arrear fee from the students.

Preliminary calculations to examine the justifiability of fee hike effected by the school were made in the first instance by the Chartered Accountants (CAs) deputed by the Director of Education to assist this Committee. They provisionally determined that the school recovered excess fee. However, on review of the calculations, the Committee observed that prima facie, the school fulfilled the necessary pre conditions for charging development fee and as such the FDRs earmarked by the school against development fund ought not to have been considered for determining the funds available with the school but the CAs had considered even such FDRs for this purpose. Accordingly, the Committee did not accept the calculations made by the CAs.

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

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For Secretary



its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment, a statement of the account of its parent society as appearing in its books and a copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of VI Pay Commission. A supplementary questionnaire regarding collection and utilisation of development fee was also issued to the school.

The school furnished the information requisitioned from it under cover of its letter dated 05/06/2015. It also submitted reply to the supplementary questionnaire regarding development fee.

As per the reply to the aforesaid questionnaire, the school recovered development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. The same was treated as a capital receipt and was utilised for permitted purposes. It was further stated that separate depreciation reserve fund was maintained for depreciation on assets acquired out of development fee and the depreciation reserve fund and the unutilised development fund were kept in earmarked investments, the details of which was also given by the school.

The Committee issued a notice of hearing dated 30/06/2016 requiring the school to appear before it on 19/07/2016 and produce its fee records, salary records, TDS returns and Provident Fund

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Returns, bank statements and books of accounts for verification by the Committee.

Sh. Sunil Kumar, Office Superintendent of the school appeared and filed an application seeking adjournment for the reason that the Accountant of the school was hospitalized. The request was acceded to by the Committee. On the next date, Sh. S.K. Gulati, Chartered Accountant appeared with Sh. Prashant Parashar, Principal & Sh. Vinod Goel, Accountant of the school.

The Committee perused the circular issued by the school to the parents of the students in pursuance of order dated 11.2.2009 issued by the Directorate of Education regarding fee hike. It observed that the school hiked the tuition fee by Rs. 300 per month and recovered a sum of Rs.2100 as arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009. However, the arrears of the incremental development fee for the corresponding period were recovered @ Rs. 700 per student for classes 1 to 10 and Rs. 770 per student for classes 11 & 12th. The hike in development fee as a percentage of the hike in tuition was more than 33% for all the classes. This was in addition to the recovery of a sum of Rs.3000 as lump sum fee of the period 01/01/2006 to 31/08/2008.

The authorized representatives of the school was directed to submit in writing, the justification for this abnormal hike in development fee.

N.K. Bagrodia Public School, Rohini, Delhi-85/(B-309)/Order

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The school filed written submissions dated 29/08/2016 with regard to the unusual hike in the development fee for the period 01/09/2008 to 31/03/2009. It was stated that the school was charging development fee @ 10% on the existing tuition fee till March 2009. However, vide para no. 14 of the order dated 11/02/2009, the Directorate of Education allowed the school to charge development fee @ 15% of annual tuition fee. Accordingly, the school enhanced the development fee @ 15% of the tuition fee w.e.f. 1st September 2008. The school also submitted the calculations as to how the arrears of incremental development fee amounting to Rs. 700/770 were arrived at.

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

As per the calculations, the school had available with it a sum of Rs. 1,77,65,046, as on 31/03/2008, other than the investments earmarked against development fund and depreciation reserve fund. The details are as follows:

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9/08/2016 with
for the period
the school was
on fee till March
11/02/2009, the
development fee
of enhanced the
September 2008.
w the arrears of
770 were arrived
to examine the
per order dated

with it a sum
the investments
a reserve fund.

<u>Current Assets + Investments</u>		
Cash in Hand	32,151	
Bank Balance (OBC Rohini)	(911,971)	
Investments (FDRs with accrued interest) other than against Dev. Fund	23,499,789	
TDS	39,877	
Amount recoverable from M/s Grievous Protection Manager	4,213	
PTA account	9,475	22,673,534
<u>Current Liabilities</u>		
Caution Money	2,527,000	
Fees received in advance	801,250	
Sundry payables	1,580,238	4,908,488
Net Current Assets + Investments (Funds available)		17,765,046

The school had accrued liabilities of Rs. 25,31,651 for leave encashment and Rs. 78,85,707 for gratuity as on 31/03/2010. The employee wise details of which was submitted by the school. Excluding these amounts from the figure of funds available, the school was left with **Rs. 73,47,688** for implementing the recommendations of VI Pay Commission.

22,673,534

The total financial impact of implementing the recommendations of VI Pay Commission that fell upon the school was **Rs. 2,72,01,021** as per the following details:

17,765,046

Total Liabilities after implementation of VIth Pay Commission:		
Arrear of Salary as per 6th CPC from 1.1.06 to 31.8.08	9,464,677	25,31,651 for leave
Arrear of Salary as per 6th CPC from 1.9.08 to 31.3.09	4,608,056	78,85,707 for gratuity
Incremental Salary for 2009-10 (as per calculation given below*)	13,128,288	27,201,021

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Secretary



implementing the
the school was

*Incremental Salary for 2009-10	2008-09	2009-10
Normal/ regular salary of teaching staff	15,893,985	28,773,371
Normal/ regular salary of non-teaching staff	1,132,726	1,373,255
Provident Fund	787,447	795,820
Total regular salary	17,814,158	30,942,446
Incremental salary in 2009-10	13,128,288	

Thus, the school did not have sufficient funds of its own to implement the recommendations of VI Pay Commission and a fee hike was necessary to supplement the resources of the school. The amount which the school was required to generate was to the tune of **Rs. 1,98,53,333** (2,72,01,021-73,47,688). However, the school generated additional revenue to the tune of **Rs. 2,06,51,018**, which includes the increased development fee charged by the school for the period 01/09/2008 to 31/03/2009, at a rate which was in excess of what was permissible as per order dated 11/02/2009. The details of such additional revenue generated are as follows:

Total Recovery after VI th Pay Commission		
Arrear of tuition fee from 1.1.06 to 31.8.08	5,352,920	
Arrear of tuition fee from 1.9.08 to 31.3.09	3,941,700	
Arrear of Development fee	1,366,680	
Incremental fee for 2009-10 (as per calculation given below*)	9,989,718	20,651,018

*Incremental fee for 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	24,819,080	32,495,873
Computer Fee	45,725	2,050,400
Science Fee	-	308,250
Total Fee	24,864,805	34,854,523
Incremental fee in 2009-10	9,989,718	

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For
Secretary



20,651,018

Thus, apparently the school recovered a sum of **Rs. 7,97,685** (2,06,51,018 - 1,98,53,333) in excess of its requirement. This includes a sum of Rs.4,55,560 unauthorisedly recovered by the school as arrears of incremental development fee for the period 01/09/2008 to 31/03/2009.

Para 14 of the said order did not authorize the school to enhance the rate of development fee from 10% to 15% w,e,f, 01/09/2008 but was applicable prospectively. For the period 01/09/2008 to 31/03/2009, the school could only enhance the development fee which was consequent to the increase in tuition fee as per para 15 of the said order. The school was admittedly charging development fee @ 10% of the tuition fee in the year 2008-09 and was accordingly entitled to enhance the development fee @ 10% of the enhanced tuition fee. However, the school enhanced @ 15% of the enhanced tuition fee. The total arrear of development fee for the aforesaid period charged by the school was to the tune of Rs. 13,66,680 out of which a sum of Rs. 4,55,560 was unauthorisedly recovered.

The school was given another opportunity to justify the levy of excess development fee as aforesaid.

The authorized representative of the school filed a letter dated 27/11/2018, stating that the arrears received by the school on account of development fee amounting to Rs.13,66,680 were utilized

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For Secretary



for payment of salary arrears to staff in the year 2010-11. A copy of the ledger account of development fee arrear and salary arrears was also filed.

However, before recommending the refund of the aforesaid amount of **Rs. 7,97,685**, as determined above, the Committee notes that upto this stage, the Committee has not taken into consideration the requirement of the school to keep funds in reserve for future contingencies. The Committee has consistently held that the schools should not denude themselves of all the funds in implementing the recommendations of VI Pay Commission but must maintain a reasonable reserve for any future contingencies. The Committee has considered that the reasonable reserve would be equivalent to four months salary. As would be noticeable, the total regular salary of the school for the year 2009-10 was Rs. 3,09,42,446. The requirement of a reasonable reserve would amount to **Rs. 1,03,14,149**.

Some amount of development fee charged by the school in 2009-10 and 2010-11 was found to have been utilised for payment of salaries to activity staff. The amount of such mis-utilisation was Rs. 17,17,832. However, the same would also subsume in the requirement of the school to maintain reserve for future contingencies.

Considering the above factors, the Committee does not consider it to be a fit case where any refund should be recommended.

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For Secretary





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contingencies,


So far as the issue of hike in development fee at a rate which is in excess of what was permitted to the school vide para 15 of the order dated 11/02/2009, the same amounts just to Rs. 4,55,560.

As the aforesaid sum of Rs. 4,55,560 was utilised in payment of the increased salary to the staff pursuant to acceptance of recommendations of VI Pay Commission, the Committee, in exercise of its powers to recommend an enhancement of fee over and above what was permitted by the order dated 11/02/2009, the Committee hereby regularizes the charge of excess fee to the tune of Rs. 4,55,560.

Ordered accordingly.



Justice Anil Kumar (R)
(Chairperson)


CA J.S. Kochhar
(Member)


Dr. R.K. Sharma
(Member)

Dated: 17/01/2020

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Secretary



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

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

In the matter of:

Vishwa Bharti Public School, Sector-6, Dwarka, New Delhi-110075
(B-146)

Order of the Committee

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

The Committee issued a letter to the school on 17/02/2012, requiring it to file, inter alia, copies of statement of fees, complete details of salary paid to the staff before implementation of the recommendations of VI Pay Commission and after such implementation and the total outgo on account of payment of arrears of differential salary, a statement indicating the extent of fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education as also a statement of the arrear fee recovered pursuant to that order.

The school responded vide letter dated 28/02/2012 stating that the documents had already been furnished vide its letter dated 16/02/2012. The Committee had not received any letter dated 16/02/2012 from the school and there was no occasion for the school to write to the Committee on 16/02/2012 as the Committee had not sent any communication to the school before 17/02/2012.

Accordingly, the Committee issued a questionnaire to the school on 27/02/2012, eliciting information with regard to the arrear fee

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For Secretary



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for the school

and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear of salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6th pay commission.

The school did not file any reply to the questionnaire. A reminder was sent on 27/03/2012, which also remained unresponded. A revised questionnaire was issued to the school on 10/07/2013 which contained besides the queries regarding fee hike and salary hike after implementation of the recommendations of VI Pay Commission, also contained the relevant queries with regard to collection and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds.

The school filed its reply dated 31/07/2013 to the revised questionnaire issued by the Committee.

As per the reply submitted by the school, the school 'in principle' implemented the recommendations of VI Pay Commission w.e.f. January 2006 but in view of the stiff opposition from the parents Association and other agencies with regard to collection of arrear fee, the collection was kept in abeyance till the final outcome of the court case filed by various social organizations.

It was further stated that the payment of arrear salary to the staff for the period 01/01/2006 to 31/08/2008 was limited to Rs.

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15,89,718 which was recovered as arrear fee and the school did not generate any surplus out of such recovery.

It was further stated that the school had increased the salaries of the staff to accord with the recommendations of VI Pay Commission w.e.f. September 2008 itself, i.e. even before the issuance of order dated 11/02/2009 by the Director of Education requiring the schools to pay salaries as per the recommendations of VI Pay Commission. However, surprisingly the school in the later part of the letter stated that it had distributed a total sum of Rs. 78,31,904 (including Rs. 15,89,712 as aforesaid) as arrear salary of staff on various dates starting from 29/09/2009 to 24/09/2011. It appears that the details of salary for the months of August and September 2008 were given only to indicate the extent of salary hike. The payment was made only after the issuance of order dated 11/02/2009 between 29/09/2009 and 24/09/2011.

With regard to arrear fee for the period 01/09/2008 to 31/03/2009, the school did not give any specific figure but maintained that the fee was increased w.e.f. September 2008 itself i.e. before the issuance of order dated 11/02/2009. It enclosed an annexure showing the increase in fee @ Rs. 200 per month for classes I to VIII, @ Rs. 300 per month for classes IX & X and @ Rs. 400 per month for classes LKG and SKG. The rate of hike was the same as was prescribed by the order dated 11/02/2009 of the Director of Education. How the school came to know the rate of hike to be

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For Secretary



stated that

announced by the Director of Education about five months later,

remains a mystery.

With regard to development fee, the school submitted that it had charged development fee in all the five years for which the information was sought i.e. 2006-07 to 2010-11. The amount charged for the year 2009-10 was Rs. 6,59,926 while that for the year 2010-11 was Rs. 8,21,090. The school further stated that development fee was treated as a revenue receipt and was clubbed under the head 'School Fee' and credited to the Income & Expenditure Account. Further, the school stated that no depreciation reserve fund was maintained as the entire amount of development fee was utilised and no funds were left for this purpose.

Preliminary calculations to examine the justifiability of fee hike effected by the school were made in the first instance by the Chartered Accountants (CAs) deputed by the Director of Education to assist this Committee. They provisionally determined that the school recovered excess fee. However, on review of the calculations, the Committee observed that there appear to be certain inconsistencies in the calculations made by the CAs and the submissions made by the school in its reply to the questionnaire issued by the Committee.

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

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For Secretary



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

Although the notice sent by the speed post was returned undelivered, the school nevertheless filed a reply probably in response to the same notice sent by email. The school sought time as it was closed for summer holidays. It submitted its reply on 06/07/2015 giving the details sought for. Surprisingly, the school stated that it had recovered a sum of Rs. 21,79,900 as arrear fee for the period 01/09/2008 to 31/03/2009, when earlier it had submitted that the school had hiked the fee w.e.f. September 2008 itself and the same was billed to the students every month. The school also filed copies of circular issued to the parents asking for payment of arrear fee for the periods 01/01/2006 to 31/08/2008 as well as 01/09/2008 to 31/03/2009. The school also stated that it had taken a group gratuity policy from Life Insurance Corporation of India.

The Committee issued a notice of hearing dated 27/06/2016 requiring the school to appear before it on 01/07/2016 and produce its fee records, salary records, TDS returns and Provident Fund

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For Secretary



order d:
Returns, bank statements and books of accounts for verification by
per the
the Committee.

Rs. 400/-

Sh. K.K. Kundan, Accountant of the school appeared and
requested for adjournment as the records required to be produced
before the Committee were with the parent society which was at
Jammu. The records were produced on the next date of hearing, when
Sh. Sh. Gyan Prakash, Accounts Manager of the school also appeared.

The Committee examined the circulars issued to the parents of
students regarding fee hike effected by the school in pursuance of
order dated 11/02/2009 issued by the Directorate of Education. As
per the circulars, the school hiked the tuition fee w.e.f. 1.09.2008 @
Rs. 400/- p.m. for classes LKG & SKG, by Rs. 200/- p.m. for classes
1st to 8th, by Rs. 300/- p.m. for class 9 & 10th. Besides, the school
also recovered lump sum arrear fee to the extent it was allowed vide
circular dated 11.02.2009. It was submitted that the school charged
development fee only from the new students at the time of admission
and the same was treated as a revenue receipt.

It was further submitted that the school implemented the
recommendations of the VIth Pay Commission w.e.f. August 2009 and
paid arrears of salary for the period January 2006 to July 2009.
However, the arrears of salary for the period 01/01/2006 to
31/08/2008 amounting to Rs. 15,89,718 were paid only on 12th July
2011, although the school had recovered bulk of the arrear fee, to the

Vishwa Bharti Public School, Sector-6, Dwarka New Delhi-75/(B-146)/Order

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Secretary



31/03/2010

extent it was recovered, in the year 2008-09 itself. It was further submitted that the payment of arrear salary was withheld as some social organizations had filed a writ petition in the Hon'ble Delhi High Court and the school was not certain whether the fee collected by the school could be retained by it or would have to be refunded.

The Committee perused details of fee and salary of the school filed vide its letter dated 06/07/2016. The Committee observed that in the said statement the school had shown a sum of Rs. 24,40,614/- as arrear salary for the period 01/09/2008 to 31/03/2009 besides Rs. 36,69,569 provided in 2008-09 and Rs. 1,32,003 paid in 2011-12, which was contrary to what the details were given by the school in its reply to the questionnaire. However, during the course of hearing the authorized representatives clarified that the same pertained to the period April 2009 to July 2009 since the actual hike in salary was effected w.e.f. August 2009 and that the same ought to be considered as part of regular salary for the period 2009-10.

With regard to the accrued liability of gratuity, the authorized representative submitted that the school had taken a group gratuity policy of LIC and contributed to it on annual basis. As such, the school did not have any liability for payment of gratuity to the staff. Further, with regard to the accrued liability of leave encashment he stated that the same was paid at the time of retirement and as such the school cannot estimate its liability as on 31st March 2010.

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For Secretary



Return

Current Assets
 Cash in hand
 Cash at Bank
 Fixed Deposits
 interest
 Advance
 Fee recoverable
 TDS
 Less: Current Liabilities
 Caution Money
 Security Deposit
 Sundry Creditors
 Expenses Payable
 Net Current Assets

Based on the audited financials of the school and the information furnished by it in its various communications to the Committee and during the course of hearing, the Committee prepared a calculation sheet to examine the justifiability of fee hike effected by the school pursuant to order dated 11/02/2009.

As per the calculation sheet, the school had available with it a sum of **Rs. 1,68,63,687** as on 31/03/2008, as per the following

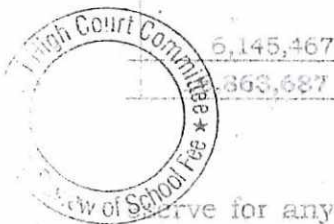
details:

<u>Current Assets + Investments</u>		
Cash in hand	7,984	
Cash at Bank	1,439,366	
Fixed Deposits with Bank alongwith accrued interest	21,339,247	
Advance	23,357	
Fee recoverable from Students	116,680	
TDS	82,520	23,009,154
<u>Less: Current Liabilities</u>		
Caution Money Refundable	1,295,400	
Fee received in Advance	3,355,517	
Security Deposit	25,000	
Sundry Creditors	369,570	
Expenses Payable	1,099,980	6,145,467
Net Current Assets (Funds available)		16,863,687

The requirement of the school to keep funds in reserve for any future contingency was estimated to be Rs. 63,78,404, leaving the school with **Rs. 1,04,85,283**, which was available with it for meeting the additional expenditure on salaries on implementation of the recommendations of VI Pay Commission.

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 For Secretary



6,145,467
 16,863,687
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The additional expenditure on salary on implementation of the recommendations of VI Pay Commission was calculated to be Rs. 70,64,035 as per the following details:

Total Liabilities after implementation of VIth Pay Commission:		
Arrear of Salary as per 6th CPC	3,801,572	
Incremental Salary for 2009-10 (as per calculation given below*)	3,262,463	7,064,035

*Incremental salary in 2009-10	2008-09	2009-10
Normal/ regular salary	15,872,748	19,135,211
Increase in 2009-10	3,262,463	

Thus apparently, the school had adequate 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. However, while resorting to fee hike and also recovering arrear fee (though not fully), the school generated an additional revenue of Rs. 84,57,981 as per the following details:

Total Recovery after VI th Pay Commission		
Arrear of tuition fee	3,769,618	
Arrear of Development fee		
Incremental tuition fee for 2009-10 (as per calculation given below*)	4,688,363	8,457,981

*Incremental tuition fee in 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	16,378,456	21,066,819
Increase in 2009-10	4,688,363	

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For Secretary



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Prima facie, the entire fee hike effected by the school as well as
 rebuttal
 arrear fee recovered by it amounting to Rs. 84,57,981 was unjustified
 and liable to be refunded to the students. Moreover, since the school
 represent
 was admittedly treating development fee as a revenue receipt and no
 earmarked development fund or depreciation reserve fund was
 maintained, the development fee recovered by the school in 2009-10
 amounting to Rs. 6,59,926 and Rs. 8,21,090 recovered in 2010-11
 (i)
 was also liable to be refunded. Thus, prima facie, the school was
 required to refund a sum of Rs. 99,38,997 to the students.

A copy of the above calculations was given to the school for
 rebuttal if any.

(ii) The school filed its rebuttal in writing and the authorized
 representative of the school was also heard on the same.

The Committee noticed that the school had disputed the
 Vishwa Bhar
 calculation sheet on the following grounds:

- (i) Advance of Rs. 23,357 and TDS of Rs. 82,520 ought not to
 have been included in the figure of funds available since the
 advance would be treated as an expenditure in the next year
 and TDS refund was due from the Income Tax Department
 for a number of years which the school was not getting.
- (ii) There was a requirement of Rs. 23,86,600 for creating
 development fund out of the development fee received prior
 to 2008-09 and that ought to have been taken into

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For Secretary



(iv)

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consideration by the Committee as the auditors appointed by

the Delhi Administration had opined that the school had

(v) wrongly treated development fee as a revenue receipt for all the previous years.

(iii) The reserve required for future contingencies ought to have factored in the expenses other than salary also, while calculating the figure for the same. If such expenses are also factored in, the resultant figure of the Rs. 1,01,53,417 and not Rs. 63,78,404 as taken by the Committee.

(iv) Arrears of salary amounted to Rs. 15,89,718 for the period January 2006 to August 2008 which were paid in 2011-12 had been omitted from the calculation sheet.

(v) The incremental salary on account of implementation of recommendations of VI Pay Commission had been wrongly worked out as the salary for 2008-09 which had been taken by the Committee included a sum of Rs. 53,40,190 which were as arrears of V Pay Commission in 2008-09.

Along with the written submissions, the school also filed a calculation sheet prepared by it which showed a net deficit of Rs. 13,18,169 instead of a surplus of Rs. 1,18,79,229 as calculated by the Committee.

The school also objected to inclusion of development fee for the year 2009-10 and 2010-11 amounting to Rs. 14,81,016 which had been taken

Vishwa Bharti Public School, Sector-6, Dwarka New Delhi-75/(B-146)/Order

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Secretary



copy of
been taken by the Committee to be refundable on account of the same
Administ
having been treated as a revenue receipt.

verification

With regard to arrear salary amounting to Rs. 15,89,718 for the
The
period January 2006 to August 2008 paid in 2011-12, the
officer of
Committee after verification, found the contention to be correct.

During the

The school was required to produce its books of accounts,
as arrear
salary register and bank statements for the year 2008-09 to
towards
substantiate of its claim of having paid of Rs. 53,40,190 as arrears of
amount
V Pay Commission in that year. The school was also directed to file a
2008-09
copy of the audit report of the auditors appointed by the Delhi
salary tax
Administration before the audit officer of the Committee for
arrears to
verification.

The

The school produced the necessary records before the audit
and obser
15,89,718 for the
2011-12, the
officer of the Committee and after verification, she recorded that
Vishwa Bharti
correct.
during the year 2008-09, the school paid a total sum of Rs. 44,82,789
as arrears of V Pay Commission and a further sum of Rs. 8,57,401
towards school's contribution of provident fund on the aforesaid
2008-09
amount. Thus a total sum of Rs. 53,40,190 was paid in the year
as arrears of
2008-09 which pertained to earlier years but was reflected in the
salary expenditure of 2008-09. However, the period to which such
Delhi
arrears pertained was March 2004 to June 2008. Committee for

The Committee partially accepted the contention of the school
and observed that the exclusion from the figure of salary of 2008-09

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Secretary



in order would be limited to the period ending March 2008 only as the that must arrears for the period April 2008 to June 2008 would in any case form should be part of the salary of 2008-09. . The calculations for this were done in raised by the following manner:

According to the Committee	Arrear from March 2004 to June 2008 (52 months)	5,340,190
	Less: Arrear from April 2008 to June 2008 (3 months)	<u>308,088</u>
	Arrear to be excluded from salary of 2008-09	<u>5,032,102</u>

As many of the contentions raised by the school appeared to be in order and accepted by the Committee, the Committee considered that instead of dealing with all of them, a fresh calculation sheet should be prepared taking on board such contentions which were raised by the school and found to be in order by the Committee. Accordingly, the following revised calculation sheet was prepared by the Committee:

5,340,190
<u>308,088</u>
<u>5,032,102</u>

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

Less	Particulars	Amount (Rs.)	Amount (Rs.)
	<u>Current Assets + Investments</u>		
	Cash in hand	7,984	
	Cash at Bank	1,439,366	
	Fixed Deposits with Bank alongwith accrued interest	21,339,247	
Add	Advance	23,357	
	Fee recoverable from Students	116,680	
	TDS	82,520	23,009,154
Less	<u>Current Liabilities</u>		
	Caution Money Refundable	1,295,400	
	Fee received in Advance	3,355,517	
	Security Deposit	25,000	
	Sundry Creditors	369,570	
	Expenses Payable	1,099,980	6,145,467
	Net Current Assets (Funds available)		16,863,687
Less	Reserves required to be maintained:		
	for future contingencies (equivalent to 4 months salary)	6,378,404	
	for accrued liability towards Leave Encashment as on 31.03.10		
	for accrued liability towards Gratuity as on 31.03.2010	1,182,191	7,560,595
	Funds available for implementation of 6th Pay Commission before Fee hike		9,303,092
Less	Total Liabilities after implementation of VIth Pay Commission:		
	Arrear of Salary as per 6th CPC (including arrear paid in 2011-12)	5,391,290	
	Incremental Salary for 2009-10 (as per calculation given below)	7,984	
		8,294,565	13,685,855
	Excess / (Short) Fund Before Fee Hike	21,339,247	(4,382,763)
Add	Total Recovery after VI th Pay Commission	23,357	
	Arrear of tuition fee	3,769,618	
	Arrear of Development fee	82,520	23,009,154
	Incremental tuition fee for 2009-10 (as per calculation given below)	4,688,363	8,457,981
	Excess / (Short) Fund After Fee Hike		4,075,218

Development fee refundable being treated as revenue receipt :

For the year 2009-10	659,926
For the year 2010-11	16,821,090
Total	1,481,016
Add: Fee recovered in excess of requirement	4,075,218
Total amount apparently refundable	5,556,234

Working Notes:

	2008-09	2009-10
Normal/ regular salary + PF (Excluding arrears from March 2004 to March 2008 paid in 2008-09)	10,840,646	19,135,211
Incremental salary in 2009-10	8,294,565	
Normal/ Regular Tuition fee	16,378,456	21,066,819
Incremental tuition fee in 2009-10	4,688,363	(4,382,763)

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Rs.
659,926
821,090
1,481,016
4,075,218
5,556,234

Thus even after taking the submissions made by the school on board, the school was provisionally found to have recovered excess tuition fee/arrear fee to the tune of **Rs. 40,75,218**, apart from the development fee for the year 2009-10 and 2010-11 amounting to **Rs. 14,81,016**, which the school was liable to refund.

The Committee provided a copy of the above revised calculation sheet to the school on 27/11/2018 for rebuttal, if any.

The school filed written submissions dated 20/12/2018 alongwith audited financials for the year 2016-17.

For the purpose of proper appreciation of the contentions raised by the school, the written submissions filed by the school are reproduced here below verbatim:

Dear Sir,

Kindly refer to your aforesaid revised statement showing funds available as on 31/03/2008 and the effect of hike in fees and increase in salary during the financial year 2008-09 wherein a surplus of Rs. 4075218/- has been worked out to show that our school was extraordinarily benefited by rising the tuition fees during the financial year 2008-09.

In this regard, we would like to clarify again that the calculations/workings by the Hon'ble Committee in the above statement forwarded to us or by and large correctly based on the information provided by us but in some cases we have our own reservations and submissions which need definite review and rectification. As such, the management of the school would like to place its submissions before the Hon'ble Committee for further consideration and review.

1. That our earlier submissions with regard to the surplus in our bank account representing development fund received by the school during the financial year 2006-07 & 2007-08 amounting to Rs. 2386600/- which is not due for inclusion in

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[Signature]
Secretary



showing funds as and increase surplus of Rs. of was extra financial year

claim that the above statement had information reservations and

the gross income of the school has not been reduced while working out the overall surplus. We reiterate that the amount for these years i.e. 2006-07 & 2007-08 represents liability of the school which is not liable to be included as surplus money but is specifically marked for development purposes and thus is eligible for reduction from the over all surplus as computed at Rs. 4075218/-.

2. That the development fees for the financial year 2009-10 & 2010-11 has been wrongly treated as revenue income as on 31/03/2009 for the following reasons:

a. That the development fees received for the year 2009-10 has been mostly spent in the later part of the year and we have figures to prove that as against development fees of Rs. 659926/- recovered we have incurred an expenditure of Rs. 662012/- upto 31/03/2010 thereby there is no surplus in respect of development fund received during this year.

b. That the development fund of 2010-11 received at Rs. 821090/- has been similarly spent in excess of amount received and a total expenditure of Rs. 873236/- incurred during that year is also proof of the fact that no income has been generated by the school on this account in fact the excess expenditure of Rs. 54232/- on this account which needs to be reduced from overall cash surplus worked out as per the calculations furnished.

Therefore, income/revenue received of Rs. 1481016/- needs to be deleted and instead a further reduction of Rs. 54232/- is eligible to be made from the surplus of Rs. 4075218/- as shown in the statement of account of excess expenditure over income incurred by the institution in respect of development fund upto 31/03/2011.

3. The reserve for future contingencies equivalent to four months salary as worked out at Rs. 6378404 is also agitated to be incorrect being based on expenditure figures for the financial year 2009-10 and is under reported. We would also like to submit that the definition of "reserves" for four months besides salary include expenditure towards co-curricular and administrative expenses for this period of four months which are incidental and necessary to running of a school on day to day basis. Therefore recalculation of actual reserves required need to be recalculated from existing figure of Rs. 6378404/- to be increased by Rs. 3775013/- needed by the school for incidental expenses other than salary to run a school. We vehemently state that a school cannot be run by payment of

Vishwa Bharti Public School, Sector-6, Dwarka New Delhi-75/(B-146)/Order 6/- n. Page 16 of 21e

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For Secretary



salaries to staff only unless until the school is fit for the purposes of imparting education. In this regard, incidental expenditure like plying of buses for students & staff, stationery consumed, repairs and maintenance of assets, electricity & water charges, sports materials and laboratory expenses, telephone, water & ward and all such other expenses are very necessary to run a school on modern lines satisfactorily. Therefore, the accounting for of only salary for four months is incorrect and we strongly recommended that expenditure on other incidentals also needs to be accounted for to work out any justifiable surplus an institution has. The incidental expenditures on contingencies for four months as claimed by us in the past also works out to Rs. 3775013/- which needs to be included in the calculation statement and therefore the total liabilities on account of four months reserves shall worked out to Rs. 10153417/- and not Rs. 6378404/-. Once this expenditure of Rs. 3775013/- is reduced from the surplus, there is no surplus available with the school which can be deemed to have been received in excess of the requirements of the school.

We once again pray that Rs. 3775013/- is justifiable to be included and reduced from the overall figures to arrive at any surplus with the school as on 01/09/2008.

4. We further submit that for all practical purposes the fixed deposits with banks as appearing in our financials statements for 2007-08 include investments/deposits on account of Development Reserve Funds for all previous years and therefore most of the deposits lying in banks represent not the surplus funds but development reserve funds invested in banks which are not to be taken into account for calculation of surplus funds. Since for only two previous years the development fund has exceeded more than Rs. 23.86 lacs and keeping in view the operations of the school for the last more than twelve years, the development fund reserve on an estimate will be more than Rs. 250.00 Lacs which is represented by the FDR's of Rs. 213.39 Lacs as on 31/03/2008. Therefore, in our concerted opinion the amount of FDR's at Rs. 213.39 Lacs needs to be deleted in full for purposes of calculation of surplus funds.

We would as such again request the Hon'ble Committee Members to have a consideration of our objections on its merits and pass orders approving the increase in fees.

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Discussion & Determination:

The school has primarily objected to the following three figures taken by the Committee in its calculation sheet:

- a. The development fees of Rs. 2009-10 and 2010-11 amounting to Rs. 14,81,016, ought to be excluded from the amount determined to be refundable on the ground that the same has been spent by the school and no surplus out of that remained with the school.
- b. The amount considered to be a reasonable reserve for future contingencies by the Committee to the tune of Rs. 63,78,404 ought to be enhanced by Rs. 37,75,013 in order to account for the annual expenditure of the school other than salary i.e. all overheads.
- c. The fixed deposits available with the school to the tune of Rs. 2,13,39,247 ought not to be considered as part of funds available as the same would represent the development reserve fund.

Additionally, the amount of available funds ought to be reduced by the Committee to the tune of Rs. 23,86,600, which represents development fee received by the school in 2006-07 and 2007-08, which was not transferred to development reserve but was treated as a revenue receipt.

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The contentions raised by the school reflect a confused state of mind on part of the school. Three of the aforesaid contentions are related to the development fee charged by the school from 2006-07 to 2010-11. The school in its reply to the questionnaire issued by the Committee, which has been referred to in the earlier part of this order, categorically stated that the development fee was treated by it as a revenue receipt and was clubbed under the head 'School Fee' and credited to the Income & Expenditure Account. It further stated that no depreciation reserve fund was maintained as the entire amount of development fee was utilised and no funds were left for this purpose. The school now contends that the FDRs amounting to Rs. 2,13,39,247 reflect the amounts collected against development fee over the years. It cannot blow hot and cold. After contending that the entire amount of development fee was utilised by it, it cannot contend that the aforesaid sum represented the unutilised development fee. The further contention that a sum of Rs. 23,86,600 representing development fee received for the years 2006-07 and 2007-08 should additionally be set aside only compounds the untenable contention raised by the school as how the amount can be set aside when it has already been utilised. The contention regarding not ordering refund of development fee for the years 2009-10 and 2010-11 recovered by the school pursuant to order dated 11/02/2009 issued by the Director of Education is also devoid of merit as the school was admittedly not following any of the pre conditions prescribed by Duggal Committee for charging

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development fee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583. Accordingly all these contentions raised by the school are rejected.

The last contention regarding enhancing the reserve for future contingency by Rs. 37,75,013 which the school claims is equivalent to four months expenditure on overheads i.e. expenditure other than salaries, also has no force in it. If we go strictly by the ratio of the judgment of the Hon'ble Delhi High Court in WP(C) 7777 of 2009, we should not have allowed any reserve for future contingencies. However, keeping in view the practical aspect that the school should not be denuded of all the funds available at its disposal while meeting its increased financial liabilities on account of implementing the recommendations of VI Pay Commission, the Committee considered that a reasonable reserve ought to be kept by the school. The quantum of such reserve was considered by the Committee to be equivalent to four months of average salary of the school for the year 2009-10. This has been applied by the Committee as a thumb rule in case of all schools and no exception can be made in case of this particular school. Accordingly, this contention of the school is also rejected.

In the light of the foregoing discussion, the Committee sees no reason to modify any of its determinations made vide the revised calculation sheet. Accordingly, the school ought to

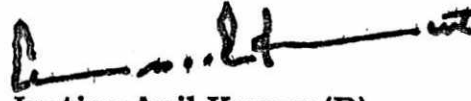
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refund a sum of Rs. 40,75,218 out of the arrear fee and incremental fee recovered by the school pursuant to order dated 11/02/2009 issued by the Director of Education and also refund the development fee for the year 2009-10 and 2010-11 amounting to Rs. 14,81,016. Both these sums ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.


Justice Anil Kumar (R)
(Chairperson)


CA J.S. Kochar
(Member)


Dr. R.K. Sharma
(Member)

Dated: 23/01/2020

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Secretary



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

In the matter of:

regard to the
Queen Mary's School, Model Town, Delhi-110009 (B-544)

the staff pu
Order of the Committee

**Present: Sh. Sandeep Masih, Admn./Accounts Manager &
 Sh. Pradeep Kumar Verma, UDC, of the school .**

**Sh. Rohit Handa & Ms. Ruchi Jain (Parents of students,
 Complainants in the matter)**

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

The school did not respond to the questionnaire nor to the
 reminder sent by the Committee.

The Committee issued a revised questionnaire on 26/09/2013,
 which besides the queries raised vide questionnaire dated
 27/02/2012, also contained the relevant queries regarding collection
 of development fee and maintenance of earmarked depreciation
 reserve fund and development fund.

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With
 The school submitted its reply to the revised questionnaire vide
 as per order
 its letter dated 29/10/2013. As per the reply submitted by the
 w.e.f. 01/0
 school, it implemented the recommendations of VI Pay Commission
 structure re
 and started paying the increased salary w.e.f. April 2009. It also
 to 31/08/12
 enclosed copies of payment instructions given to the bank regarding
 the school
 payment of salaries to the staff for the months of March 2009 and
 classes I to
 April 2009 to show that it had increased the salaries.
 classes VI

The school also enclosed details of arrears of incremental salary
 the period
 paid to the staff, the aggregate sum of which was Rs. 63,63,169.

With regard to fee, the school admitted that it had hiked the fee
 as per order dated 11/02/2009 issued by the Director of Education
 w.e.f. 01/09/2008. It encloses copies of circulars issued to the
 students regarding payment of arrear fee for the period 01/09/2008
 to 31/03/2009 and 01/01/2006 to 31/08/2008. As per the circulars,
 the school collected lump sum arrear fee @ Rs. 3000 per student of
 classes I to V and @ Rs. 3,500 per student for pre-school classes and
 classes VI to VIII. Further, it demanded arrears of differential fee for
 the period 01/09/2008 to 31/03/2009 @ Rs. 300 per month and Rs.
 400 per month for different classes. However, it did not give the
 information regarding the total collection on account of arrear fee.

With regard to development fee, the school stated that it had
 recovered development fee from the year 2008-09 onwards. In the
 year 2009-10, it collected a total sum of Rs. 48,46,385 and in the year

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also require

its claim of

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2010-11, it collected Rs. 58,78,712. It further stated that though development fee was treated as a revenue receipt, the school maintained earmarked FDRs against unutilised development fund and depreciation reserve fund.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish within 10 days, details of different components of fee and salaries for the years 2008-09, 2009-10 and 2010-11, duly reconciled with its Income and Expenditure Account. The school was also required to furnish copies of its banks statements in support of its claim of having paid the arrears of VI Pay Commission, the details of its accrued liabilities of gratuity and leave encashment and a statement of the account of its parent society as appearing in its books. A supplementary questionnaire regarding collection and utilisation of development fee was also issued to the school.

The school, vide its letter dated 09/06/2015 requested the Committee to allow it to file the requisite information by first week of July as the school was closed for summer vacation. However, the school did not file the required information till 20/08/2015, when a fresh notice was issued to the school, requiring the school not just to furnish the information but also to appear before the Committee on 14/09/2015.

None appeared on behalf of the school. However, the school furnished the required information and documents in the office of the

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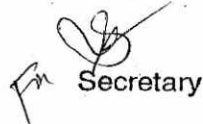
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Committee on 16/09/2015. A fresh notice of hearing was issued for 20/10/2015. Sh. Sandeep Masih, Administration and Accounts Officer of the school appeared. He submitted that though the school was functioning since 2003, it got recognition only w.e.f. 01/04/2008. He submitted that the school had implemented the recommendations of VI Pay Commission and paid the full amount of arrears of salary to the staff upto 31/03/2009. All such payments were made through direct bank transfers. In support, he furnished copies of the bank statements. He further submitted that the school had hiked the tuition fee in accordance with order dated 11/02/2009 issued by the Director of Education and the fee hike was justified as the school did not have adequate funds of its own out of which it could pay the increased salaries for implementation of the recommendations of VI Pay Commission. He further submitted that the school did not have any transactions with its parent society and there were no accrued liability of gratuity and leave encashment as on 31/03/2010 as the school got recognition only w.e.f. 01/04/2008.

The matter could not be pursued further as the term of the Committee expired in the meantime.

A Complaint against the school was received in the office of the Committee on 10/07/2017 which was signed by Ms. Anu Dewan, Mr. Rohit Handa and Ms. Ruchi Jain who represented themselves to be the parents of the students studying in the school. The complaint gave comparative figures of the tuition fee, development fee and annual

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charges charged by the school from the year 2010-11 to 2016-17 and it was contended that the school resorted to steep hike in fee. It further stated that the school directed the parents to deposit transport charges directly to a third party agency and the school was also recovering a security amount of Rs. 5000 from each student in the name of the third party agency as security against transport charges. By adopting this mechanism, the school was hiding the total revenue generated by it from the parents. It was requested that the Committee undertake a complete audit and the school ought to be directed to refund the extra money charged from the parents during all these years.

Subsequently, the complainants filed another letter on 21/09/2017, the contents of which are reproduced below:

Respected Sir,

This is in continuation with our letter dated 10th July 17 regarding with Diary No. 232 dated 10th July 17 pertaining to above subject on fee hike by Queen Mary's School, Northend, Delhi-110009. Said school has been allotted land by DDA but each year Fee hike has been pushed on parents.

The topic of fee hike as been raised with school authorities at various levels but school has been behaving like Dumb and Deaf. We, parents of school, request you to please take appropriate actions to validate Balance Sheets for respective year along with school transport fee collection and financial reports as school authorities had been running school transport themselves and taking transport fee in their own name through fee booklets.

Anu Dewan

Rohit Handa

Ruchi Jain

Enclosed

RTI response on financial records which reflects surplus with Queen Mary's School Northend Model Town Delhi-110009.

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for Secretary



12/10/2017
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Along with the above complaint, the complainants enclosed financial position of the school for three years i.e. 2006, 2007, & 2008 obtained from Central Board of Secondary Education under Right to Information Act 2005. The information as obtained by the school, was as follows:

Financial Position of the Institution			
Year	Income (Rs.)	Expenditure (Rs.)	Surplus/Deficit
2008	28092316	19261271	Surplus
2007	18167044	16259387	Surplus
2006	16314055	13956451	Surplus

produced at
The Committee issued a fresh notice of hearing to the school for 12/10/2017 and simultaneously issued a notice to the complainant for the same date to produce evidence in support of allegations made in the complaint.

Sh. Sandeep Masih appeared for the school. Sh. Rohit Handa & Ms. Ruchi Jain, the Complainants appeared in person.

The Complainants contended that the school had surplus funds with it and did not need to hike the fee for implementation of the recommendations of the 6th Pay Commission. In support, they produced audited balance sheets of the school for the years 2008-09 & 2009-10.

The Committee observed that in order to ascertain whether the school had surplus funds with it before the fee hike was effected in

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pursuance of order dated 11/02/2009 issued by the Directorate of Education, the funds position would require to be ascertained with reference to the balance sheet of the school as on 31/03/2008 as the fee hike was effected w.e.f. 01/09/2008. The Complainants requested the Committee to allow them to inspect the file. Sh. Sandeep Masih, who had been authorized by Principal of the school to appear before this Committee, submitted that he could not object to an inspection of the record of the Committee by the parents of the students. Accordingly, the office of the Committee was directed to allow inspection to the Complainants and if desired by them, to provide a copy of the balance sheet as on 31/03/2008.

The Complainants were directed to furnish a copy of the complaint alongwith all the documents which they relied upon to the school within 7 days. Simultaneously the school was directed to file its response to the Complaint within 3 weeks.

After obtaining a copy of the balance sheet as on 31/03/2008, the Complainants filed a fresh complaint on 20/10/2017 with the school. A perusal of the same shows that instead of making any allegations to the effect that the school had sufficient funds of its own out of which the school could meet its additional financial liabilities on implementation of the recommendations of VI Pay Commission, the Complaint was more in the nature of certain interrogatories raised on the school. After giving the figures of fee collection under different heads, they merely raised a query as to how the fee could increase by

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12% in 2008-09 and by 82% in 2009-10 and whether it was on account of any increase in number of students? How could the annual charges show a decrease in 2009-10 when there was increase in tuition fee that year? There were substantial savings from annual charges vis a vis the expenditure incurred on repair and maintenance, electricity and water charges, printing and stationary, security expenses and vehicle running and maintenance and that showed the school was charging excessive annual charges. Why was the provision for VI Pay Commission arrears made in the year 2009 only and no such provision was made in the year 2010? How many classes were converted into smart classes? The school was regularly collecting transport fees but the same was not reflected in the final accounts. The school was collecting funds from the parents for various functions but the same were not reflected in the Income & Expenditure Account.

Per contra, the school filed its reply in the office of the Committee on 14/11/2017 stating that false, baseless and mischievous allegations were made by the Complainants and they had not adverted to the fund position of the school as on 31/03/2008, which was the core issue to be examined whether the school had funds of its own for implementing the recommendations of VI Pay Commission and whether the fee hike effected pursuant to order dated 11/02/2009 was justified or not. The school also gave point wise reply to the allegations made in the complaint. It gave the details of funds available with it as on 31/03/2008 and mentioned that the

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For
Secretary



complainant

concerned,

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entire amount available with it could not have been utilised for implementing the recommendations of VI Pay Commission as the school had to also keep funds in reserve for meeting its accrued liabilities, gratuity, leave encashment etc. It also gave the details of the financial effect of implementing the recommendations of VI Pay Commission and contended that the fee hike was justified and the school could not have met its additional liabilities otherwise.

The Committee observed that the contentions of the complainants, in so far as the limited jurisdiction of this Committee is concerned, which needed to be examined by it were whether the school had concealed its income under the head transport fee and other miscellaneous heads like school almanac, class photographs, picnics and workshops and further whether the school had sufficient funds of its own out which it could meet the additional expenditure on implementation of the recommendations of VI Pay Commission. This Committee was not the proper forum for raising the other contentions. Further, the Complainants were misusing this forum to ferret out certain information from the school which they wanted. This could not be permitted.

The authorized representative who appeared for the school submitted that the transport was outsourced in those years and whatever collections were made from the students were paid in totality to the transporter. For this reason, the income from transport fee did

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For Secretary



examined

raised by it

not appear in its annual financials as the same was set off against the

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payments made to the transporter.

contended

In order to ascertain the truth of the contention made on behalf of the school and verify the other allegations in the complaint, the school was directed to produce its books of accounts, which were reportedly maintained in Tally software, in a laptop on the next date of hearing.

submitted

The school produced its books of accounts which were examined by the Committee with reference to the contentious issues raised by the Complainant. The Committee observed as follows:

1. With regard to the transport fee, the Complainant had contended that the school was collecting the same but not reflecting it in its financials. On examination by the Committee, it was observed that the school collected a sum of Rs.43,98,702 as transport fee in 2006-07, Rs.45,60,215 in 2007-08, Rs. 79,32,175 in 2008-09 and Rs.31,75,480 in 2009-10. The entire collection on this account, after deduction of a royalty of Rs.55,000 per annum, was paid to the transport contractor M/s. Sun Beam Travels. It was contended by the Complainant that the transport contractor was in some way related to the Principal of the school. However, the authorized representative of the school submitted that there was no such relationship as alleged. Whether the transporter was related to the Principal of the school or not, is not an issue which requires to be

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determined by the Committee. On further query by the Committee, the authorized representative of the school submitted that initially there was no formal contract with M/s Sun Beam Travels and the understanding was that whatever transport fee was collected from the students, would be passed over to them. However, subsequently a formal contract was entered into with them. The school was directed to produce a copy of the contract on the next date of hearing. It was submitted on behalf of the school that since there was no net surplus from the transport fee, the same was not reflected in the Income and Expenditure account of the school. It was also contended by the authorized representative of the school that from the year 2010-11, the school did not collect any transport fee and the parents were advised to deposit the same directly with the transporter. The Complainant concurred with this submission of the school. Accordingly, the Committee holds that there was no concealment of transport fee from the audited Income & Expenditure Account of the school.

2. The next issue raised by the Complainant was that the school was not reflecting the collections on various accounts like School almanac, Class photographs, picnics and workshops etc in its financials. The Committee examined the books of accounts from this angle also and observed that there might be some truth in the allegation as the school had transferred the savings out of such activities or collections to its Parent Society. Although the school

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had accounted for the collections on these accounts in its books. It had reduced the expenditure incurred on these activities from the collections and the savings were transferred to the Parent Society, instead of being reflected as income of the school. Accordingly, the school was directed to file a detailed statement of collections under various heads of miscellaneous activity, expenditure incurred against such activities, the net income reflected as income of the school and the amount transferred to the Parent Society out of the surplus generated from such activities.

On the next date of hearing, the authorized representative of the school sought to file a statement showing particulars of miscellaneous income for the years 2006-07 to 2010-11, giving breakup of the income having been accounted for in the books of the school and the income that had been transferred to the Parent Society, after being received by the school. The Committee examined the books of accounts produced by the school and found that the statement which was sought to be filed, did not agree with the entries in the books of accounts. The authorized representative of the school requested for some time to revise the statement, which was allowed by the Committee.

The complainant also filed copies of particulars of vehicles which were downloaded from the website of Transport department of Government of Delhi, which showed that the school purchased a bus in April 2010 and the same was being used for ferrying the students

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[Signature]
 Secretary



from home. Transport fee had been received but not reflected in the books of accounts. The authorized representative of the school was asked to respond to this issue also on the next date of hearing.

The school filed a statement showing the amount transferred to the management out of the collections under various miscellaneous heads.

As per the statement filed, the school had transferred a total sum of Rs. 3,05,315 in the years 2008-09 and 2009-10 to the management. A copy of the statement was given to the Complainant with directions to file its comments within one week. The Audit Officer of the Committee was directed to prepare the Calculation Sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11/02/2009. The Committee was of the view that the aforesaid sum of Rs. 3,05,315 which was transferred to the Parent Society would be included in the total funds available with the school for the purpose of making relevant calculations.

The Audit Officer, under supervision of the Committee, prepared the calculation sheet for examining whether the fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education was justified or not. As per the calculations made, the Committee observed that the school had a total sum of Rs. 24,47,284, as follows:

Queen Mary's School, Model Town, Delhi-09/(B-544)/Order

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For 
Secretary



Current Assets + Investments		
Cash in hand	8,953	
Balance in Bank accounts	1,172,209	
Fixed Deposits with interest accrued	7,436,376	
Advance to Staff	7,000	
Prepaid Insurance	26,092	8,650,630
Less: Current Liabilities		
Students Security Deposits	680,950	
Advance Fee received	4,820,762	
Expenses payable	701,634	6,203,346
Net Current Assets + Investments (Funds available)		2,447,284

After adding the sum of Rs. **3,05,315** which the school transferred to its Parent Society out of its miscellaneous income, the funds available with the school were provisionally determined to be **Rs. 27,52,599** .

The total financial impact of implementing the recommendations of VI Pay Commission on the school was provisionally determined to be **Rs. 2,26,89,252** as per the following details:

Additional Liabilities on implementation of 6th CPC:		
Arrear of Salary as per 6th CPC	8,847,213	
Incremental Salary for 2009-10 (as per calculation given below*)	13,842,039	22,689,252

*Incremental Salary for 2009-10	2008-09	2009-10
Normal/ regular salary	12,501,676	26,343,715
	13,842,039	

Thus, prima facie, the school did not have sufficient funds of its own to implement the recommendations of VI Pay Commission. It

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 J. S. Secretary



needed to hike the fee in terms of order dated 11/02/2009 issued by the Director of Education so as to bridge the gap of **Rs. 1,99,36,653** (2,26,89,252 - 27,52,599) in funds available with it.

The arrear fee recovered by the school and the fee hike effected by it in terms of order dated 11/02/2009, resulted in an additional revenue of **Rs. 2,32,10,169**, as per the calculations given below:

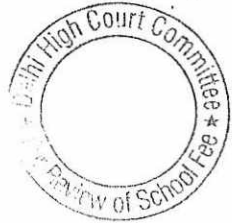
Additional Recovery for 6th CPC:		
Arrear fee w.e.f 01.01.06 to 31.03.09	5,830,147	
Incremental fee for 2009-10 (as per calculation given below*)	17,380,022	23,210,169

*Incremental tuition fee in 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	21,114,659	38,494,681
	17,380,022	

Apparently the fee hike effected by the school resulted in the school generating an additional sum of **Rs. 32,73,516** (2,32,10,169 - 1,99,36,653). However, we must add here that upto this stage, the Committee did not take into consideration the requirement of the school to keep funds in reserve equivalent to four months salary, which the Committee has allowed in case of all the schools. The requirement of reserve to be maintained for future contingencies was assessed by the Committee to be **Rs. 87,81,238** and after providing this reserve, the preliminary conclusion was that the fee hike effected by the school as well as the arrear fee recovered by it pursuant to order dated 11/02/2009 was in order and did not need any interference by the Committee. In fact, after taking into account the

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received
1.07.25.097
reserve for future contingencies, the Committee determined that the school incurred a notional deficit of Rs. 55,07,722.

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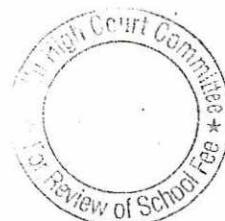
With regard to development fee, the Committee observed that prima facie, the school did not appear to be fulfilling the pre conditions of charging development fee as it was treating it as a revenue receipt and not as a capital receipt. Accordingly, in the preliminary calculations prepared by the Committee, it considered the development fee recovered by the school in the year 2009-10 and 2010-11 to be refundable. The total amount of development fee recovered by the school for these two years amounted to Rs. 1,07,25,097. After setting off the notional deficiency on implementation of the recommendations of VI Pay Commission, the Committee arrived at a prima facie conclusion that the school would be required to refund a sum of Rs. 3,70,990.

Copies of the calculation sheet prepared by the Committee were provided to the authorized representative of the school as well as to the Complainant, with directions to file rebuttal, if any, within 3 weeks.

Sh.Pradeep Kumar Verma, a UDC of the school who was duly authorized by the Manager/Principal of the school appeared on 16/03/2018 and submitted that the school had no objection to the refund that had been determined by the Committee in its preliminary calculation sheet, a copy of which was supplied to the school.

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for Secretary



Sh. Rohit Handa, who appeared along with Sh. Brijesh Goswami, Ms. Anu Dewan, Sh. Praveen Kapoor and Ms. Harleen Kaurm, Parents of students of the school, submitted that they had filed written submissions dated 9th March 2018, wherein he had, inter alia, pointed out that there was an apparent arithmetical mistake in the calculation sheet prepared by the Committee. In the written submissions filed by the Complainant, he also raised the following issues:

(a) The development fee for the year 2008-09 amounting to Rs. 31,75,441 ought also to be included in the refund amount as the school was not following the pre conditions for charging development fee.

(b) The reserve for future contingencies ought to be allowed to the tune of Rs. 24,47,284 only as that was the amount of funds available with the school as on 31/03/2008.

(c) Since the school was recognised in the year 2008-09, there was no requirement to pay the arrears of salary as per VI Pay Commission.

(d) The school had short reported the collection on account of picnics in the year 2008-09, almanac in the year 2009-10, photograph in the year 2009-10 and Olympiad test in the years 2008-09 and 2009-10.

The Committee reviewed the preliminary calculation sheet prepared by it and observed that there was indeed a calculation

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Secretary



mistakes in arriving at the amount refundable by the school to the students. Instead of Rs. 3,70,990 which the Committee provisionally calculated the amount of refund, the figure ought to have been prima facie Rs.52,17,375 (1,07,25,097 - 55,07,722).

Accordingly, the Committee revised its preliminary calculations and copies of revised calculation sheet were provided to the authorized representative of the school as well as to the Complainant.

The school was given another opportunity to respond to the revised calculation sheet.

Sh.Sandeep Masih, Admn. & Accounts Officer of the school appeared on 02/05/2018 along with Sh.Pradeep Kumar Verma, UDC. He filed rebuttal to the calculation sheet prepared by the Committee vide written submissions dated 02/05/2018. A copy of the same was furnished by him to the Complainant.

In the written submissions filed by the school, it was submitted that though the initial entry of development fee was reflected as income of the school, the school utilized a part of the development fee for purchase of furniture and fixtures and equipments in both the years 2009-10 & 2010-11. The amounts corresponding to the purchase of these items were transferred from the Income and Expenditure account to a reserve which was given the nomenclature of 'Fixed assets funds'. It was submitted that the difference was only in the nomenclature given by the school and effectively it was a development fund. He accordingly submitted that the refund of

submission

issues

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development fee, if at all to be recommended by the Committee, ought to be for the amount of development fee, which had not been utilized for purchase of fixed assets.

The Committee examined the audited financials of the year 2009-10 and 2010-11 and observed that in the year 2009-10 the school collected a total amount of Rs.48,46,385 as development fee, which was credited to Income and Expenditure account but an amount of Rs.37,55,958 out of that was transferred to the 'Fixed assets fund' which was reflected in the balance sheet. Similarly in 2010-11, the school collected a total sum of Rs.58,78,712 towards development fee which was credited to the Income and Expenditure account but a sum of Rs.54,26,175 was transferred to the 'Fixed assets fund' which was carried to the balance sheet. The amounts which had been transferred to fixed assets fund matched with the amount utilized by the school on purchase of furniture and fixture and equipments.

The school also submitted in its written submissions that the school was maintaining an earmarked depreciation reserve fund in Indian Overseas Bank, Model Town branch. However, a copy of this account was not produced by the school before the Committee. The authorised representative sought some time to produce the same, which was allowed by the Committee.

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Secretary



On the next date, the authorized representative of the school filed a copy of the depreciation reserve fund account maintained by the school with Indian Overseas Bank, which showed the account opening date as 30/04/2009. However, the transactions which were covered by the statement filed were in respect of the period 08/01/2016 to 02/05/2018. He was directed to file the transaction statement for the years 2009-10 and 2010-11.

The Complainant also filed written submission dated 07/06/2018, vide which he reproduced the excerpts of the Duggal Committee report to contend that the school was required to fulfill all the pre conditions laid down by the Duggal Committee in order to be able to charge development fee from the students. He further submitted that he had no more submissions to make. Accordingly, he was finally heard in the matter. The authorized representative of the school was directed to file the transaction statement as mentioned supra.

The authorized representative of the school filed a copy of the statement of its bank account of depreciation reserve fund. The statement showed that the account was opened on 7th Sept. 2010 with a transfer of Rs.20,45,496 from the school fund. However, a sum of Rs.20,45,000 out of that was transferred back to the school fund on 16.12.2010, leaving a nominal balance of Rs.496 in the account. There were no further transactions in the account till 7th August 2012 except for the credit of interest. He submitted that the sum of

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For Secretary




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Rs.20,45,000 was transferred back to the school fund as the school
Duggal Com
faced shortage of fund for payment of salaries.

Discussion:

The authorized representative of the school further submitted that the depreciation on fixed assets was debited to the 'Fixed assets fund' and not charged to the Income and Expenditure account. Further, the school held certain fixed deposits as investments which ought to be considered as held against 'Fixed Assets fund'.

He further contended that in view of the factual position as emanating from the audited financials of the school, the school ought to be considered to have fulfilled the pre conditions laid down by the Duggal Committee for charging a development fee.

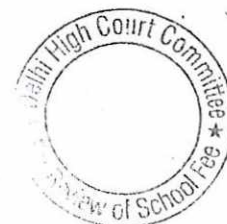
Discussion:

The Committee has examined the audited financials of the school and also its books of accounts and the information furnished by the school from time to time.

It would be in order to first deal with the contentions of the parents who complained against the fee hike effected by the school. The Committee which had committed an inadvertent error and provisionally determined that the amount which was prima facie refundable by the school was Rs. 3,70,990, corrected its mistake on being pointed out by parents and revised the figure of provisional refund to Rs. 52,17,375.

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Secretary



As regards the contention of the parents that development fee recovered by the school in the year 2008-09 ought also be considered as refundable since the school did not fulfill the pre conditions for charging development fee in that year also, the Committee is not in agreement with the contention raised by the parents for the simple reason that the mandate of the Committee is to examine the fee charged by the school pursuant to order dated 11/02/2009 issued by the Director of Education and the development fee for the year 2008-09 was not charged pursuant to the said order. The issue whether the school was fulfilling the pre conditions for charging development fee in the year 2008-09 has not been examined by us.

As regards the contention of the parents that the reserve for future contingencies ought to be allowed only to the extent of Rs. 24,47,284 as against Rs. 87,81,238 as the school had only that much of funds as on 31/03/2008, the Committee is fundamentally in agreement with the contention of the parents. However, in a case where the school may be required to make a refund of development fee, the Committee cannot overlook the fact that in all the cases, the Committee has allowed the schools to set aside a reserve equivalent to four months of salary, which in this case works out to Rs. 87,81,238. There would be an incongruous situation where on one hand the school has to make a refund of development fee and on the other hand it is found to be not having sufficient funds for maintaining a reasonable reserve for future contingencies, which the Committee has

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ought to be

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Secretary



allowed to all the schools. Hence for the purpose of calculating the amount of development fee that the school is required to make, the Committee in all fairness to the school has to consider the shortfall in the amount available with the school for maintaining a reasonable reserve for future contingencies. Accordingly, this submission of the parents does not find favour with the Committee.

There is no merit in the contention raised by the school that since the school was recognised only in the year 2008-09, it was not required to pay arrears of differential salary on account of implementation of recommendations of VI Pay Commission. The Committee has considered the funds available with the school as on 31/03/2008 for the purpose of examining the justifiability of fee hike effected by the school for implementing the recommendations of VI Pay Commission. Obviously the funds available as on 31/03/2008 represent the accumulated reserves for the period when the school was not recognised. When such is the position, it does not lie in the mouth of the parents to contend that the salary arrears which pertained to the period when the school was unrecognized ought not to be considered. It is note worthy that the recommendations of VI Pay Commission, although announced in the year 2008, were applicable w.e.f. 01/01/2006.

As for the short reporting of collections under the different miscellaneous heads by the school, the contentions of the parents are rejected at the outset as they have resorted to a guess work in making

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For
Secretary



With regard to this contention. No evidence was provided by them in respect of collection under miscellaneous heads, which were not accounted for by the school. The Committee has examined the books of accounts of the school and observes that the school has recorded the receipts under all the heads in different years. The same cannot be ignored merely on the basis of conjectures made by the parents on the basis of the amounts collected in one year being more and in another being less.

We now come to the contentions raised on behalf of the school with regard to fulfillment of pre conditions regarding development fee. It would be profitable to reproduce the extract from the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583, vide which it affirmed the recommendation of the Duggal Committee with regard to charging of development fee. One of the questions considered by the Hon'ble Supreme Court in this case was

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

It was held by the Hon'ble Supreme Court as follows:

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

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

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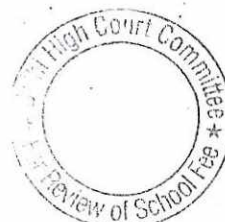
pursuant to the recommendation of Duggal Committee, development fees could be levied at the rate not exceeding 10% to 15% of total annual tuition fee. Direction no.7 further states that development fees not exceeding 10% to 15% of total annual tuition fee shall be charged for supplementing the resources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

The Direction No. 7 referred to in the judgment is the clause 7 of the order dated 15/12/1999 issued by the Director of Education after accepting the recommendations of the Duggal Committee. The same is reproduced below:

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

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Thus the school is entitled to charge development fee to set up a development fund subject to the school fulfilling the following pre conditions:

(i) Development fee is treated as a capital receipt and is utilised for purchase, upgradation and replacement of furniture, fixtures and equipments.

(ii) The school maintains a depreciation reserve fund equivalent to depreciation charged by it.

(iii) The collection under the head development fee along with and income generated from the investment made out of this fund, is kept in a separately maintained development Fund Account.

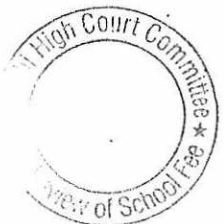
It is obvious that if the school is not fulfilling all the aforesaid pre conditions cumulatively, it would not be entitled to set up a development fund by charging development fee.

The contentions of the school with regard to fulfillment of pre conditions for charging development fee have to be examined on the touchstone of the law laid down by the Hon'ble Supreme Court as above.

Whether the school treated development fee as a capital receipt or not is the first point for examination. In reply to the questionnaire issued by the Committee, the school submitted that the development fee was treated as a revenue receipt by it in its books accounts.

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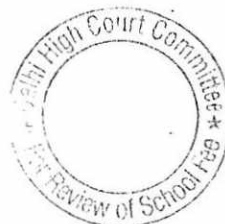
Secretary



that effect
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development
However, subsequently, during the course of hearings, the school submitted that the entries made in the books of accounts were two fold. Firstly when the development fee was collected, it was credited as a revenue receipt to its Income & Expenditure Account. However, the same was utilised, though partly, to purchase furniture fixtures and equipments and to the extent the development fee was so utilised during the year, the same was transferred to a 'Fixed assets fund' account which was carried to the balance sheet. It was contended that effectively this account was a development fund account which was given another nomenclature by the school and to the extent the development fee was utilised for purchase of the permitted assets, it was treated as a capital receipt.

account
The Committee is not in agreement with the aforesaid contention raised by the school. Firstly, the balance in the development fund which is carried to the balance sheet on its treatment as a capital receipt ought to represent the accumulated amount of unutilised development fee. On the contrary, the fixed assets fund account which the school carries to its balance sheet, represents the amounts which have already been utilised for purchase of fixed assets. As such the balance in the fixed assets fund account as reflected in the balance sheet cannot be considered as the development fund account. It actually forms part of the general fund account.

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The next contention with regard to maintenance of depreciation reserve fund is equally untenable. Though the school opened a depreciation reserve fund account with Indian Overseas Bank, Model Town Branch, it did not transfer the requisite amount of funds to this account. As noticed supra, the school initially transferred a sum of Rs. 20,45,496 from the school fund account to this account on 07/09/2010, it transferred back Rs. 20,45,000 out of the same to the school fund account, leaving a nominal balance of Rs. 496 in the account. As on 31/03/2011, the accumulated depreciation as per the balance sheet of the school was Rs.1,22,29,471. Merely opening an earmarked account without transferring the requisite funds in the same does not meet with the requirement of maintaining an earmarked depreciation reserve account. The further contention of the school that the general FDRs held by it may be treated as held against depreciation reserve fund is also equally untenable in view of the law laid down by the Hon'ble Supreme Court, which held the direction no. 7 to be appropriate. At the cost of being repetitive, it is stated that direction no. 7 unequivocally stated that *"the collection under the head development fee along with and income generated from the investment made out of this fund, is kept in a separately maintained development Fund Account"*.

Accordingly, the Committee holds that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court for setting up development fund by charging development fee and the

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Secretary



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school was not entitled to charge any development fee. However, since the mandate of the Committee is to examine the issue of fee charged by the school pursuant to order dated 11/02/2009, we restrict over recommendations to the development fee charged by the school in the years 2009-10 and 2010-11.

As noted supra, the school charged a total sum of Rs. 1,07,25,097 as development fee in 2009-10 and 2010-11. The school has not disputed the determination of the Committee with regard to the notional deficit incurred by it on implementing the recommendations of VI Pay Commission, which was determined to be Rs. 55,07,722. After setting of this notional deficit, a balance of Rs. 52,17,375 remains.

In view of the Committee, the school ought to refund the aforesaid sum of Rs. 52,17,375 out of its development fee charged for the year 2009-10 and 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)
(Chairperson)

CA J.S. Kochar
(Member)

Dr. R.K. Sharma
(Member)

Dated: 24/01/2020

Queen Mary's School, Model Town, Delhi-09/(B-544)/Order

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Secretary



S. No.	Cat. No.
1	B-236

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

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CAUSE LIST FOR JANUARY 2020

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Cause List for Thursday, 16th January 2020

S. No.	Cat. No.
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S. No.	Cat. No.	School Name & Address
1	B-187	Balwant Ray Mehta Vidya Bhawan, GK-II
2	B-231	Vivekanand Public School, B-Block, Anand Vihar

Cause List for Friday, 17th January 2020

S. No.	Cat. No.
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S. No.	Cat. No.	School Name & Address
1	B-564	Columbia Foundation School, Vikas Puri
2	B-309	N K Bagrodia Public School, Sect.9, Rohini

Cause List for Monday, 20th January 2020

S. No.	Cat. No.
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S. No.	Cat. No.	School Name & Address
1	B-596	Vikas Bharti Public School, Rohini
2	B-151	G D Goenka Public School, Vasant Kunj
3	B-286	Mount Abu Public School, Sect.5, Rohini

Cause List for Thursday, 23rd January 2020

S. No.	Cat. No.
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S. No.	Cat. No.	School Name & Address
1	B-202	St. Gregorios School, Dwarka
2	B-146	Vishwa Bharti Public School, Dwarka

Cause List for Friday, 24th January 2020

S. No.	Cat. No.
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S. No.	Cat. No.	School Name & Address
1	B-137	St. Mary's School, Safdarjung Enclave
2	B-544	Queen Mary's School, Model Town-III

Cause List for Monday, 27th January 2020

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

Cause List for Tuesday, 28th January 2020

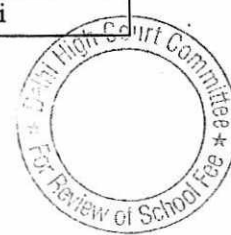
S. No.	Cat. No.	School Name & Address
1	B-640	The Srijan School, North Model Town
2		

Cause List for Thursday, 30th January 2020

S. No.	Cat. No.	School Name & Address
1	B-424	Pragati Public School, Dwarka
2	B-492	G.D. Goenka Public School, Sector-22, Rohini

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B-187

Balwant Ray Mehta Vidya Bhawan, Greater Kailash, New Delhi

Present: GP Capt. S.C. Bahri, Director along with Ms. Geeta Mallick, Admn. Officer, Sh. Piyush Tyagi, Office Supervisor, Ms. Alka Sharma, Accounts Officer of the school.

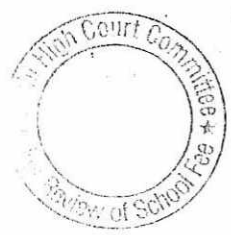
The representatives appearing on behalf of the school have been heard in the matter. They contend that a sum of Rs.1,14,25,211 ought not to be considered as part of funds available with the school as on 31/03/2008 as this sum represents grant receivable from Ministry of HRD, G.O.I which has not been received and the amount was ultimately written off in the accounts in the year 2016-17. A ledger account showing the grant receivable from 01.04.2008 to 31/03/2017 has been filed by the school. However, perusal of the ledger account shows that as against the outstanding balance of Rs.1,09,73,269 as on 31/03/2008, the school received Rs. 14,75,000 on 04/04/2008, Rs. 31,64,120 on 29/12/2008, Rs. 31,63,170 also on 29/12/2008. Again, the school received a sum of Rs. 31,61,202 on 21/12/2009. Thus, out of 1,09,73,269 which was receivable as on 31/03/2008, a sum of Rs. 1,09,63,492 had been received by the school by 21/12/2009. Only a small amount of Rs. 9,777 was short received by the school. This had been written off partly on 31/03/2009 and partly on 04/03/2011. Thus, there is no truth in the assertion that the school did not receive the grant which was receivable on 31/03/2008. At best, the sum of Rs. 9,777 can be excluded from the figure taken by the Committee in its Calculation Sheet.

The authorized representative further contends that the committee has not considered a sum of Rs. 6,66,272 which was unclaimed Caution Money as on 31/03/2008. It is contended that students do come after years to claim the Caution Money and as such this ought to be considered as the liability of the school while making the relevant calculations. The Committee accepts the contention raised by the school and accordingly necessary adjustments will be made while determining the final amount of fee refundable by the school.

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[Signature]
Secretary



16/01/2020

Dr. R.K. SHARMA
MEMBER

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The authorized representative contends that though initially development fund was treated as a revenue receipt in the years 2009-10 and 2010-11, subsequently the school started treating it as a capital receipt and as such the same ought not to be ordered to be refunded. On a specific query raised by the Committee as to whether the subsequent treatment as capital receipt w.e.f. 2015-16 was in respect of the development fee received from 2015-16 onwards or the development fee received in the earlier years was also capitalized, the authorized representative submits that it was done only in respect of the development fee received from 2015-16 onwards.

Hearing is concluded order reserved.



Dr. R.K. SHARMA
MEMBER



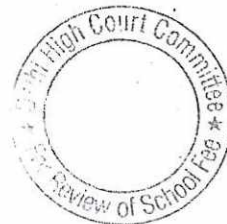
J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



17/01/2020

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Dr. R.E.S
MEMBER

B-564

Colambia Foundation School, Vikas Puri New Delhi

Present: Shri Pradeep Singh Nayak Head Clerk of the school.

At the request of the school the matter is adjourned to 14th February 2020.



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



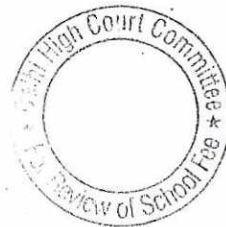
**J.S.KOCHAR
MEMBER**



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

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Secretary



20/01/2020

B-596

Vikas Bharti Public School, Rohini Delhi

Present: Shri Naresh Pahwa, CA. Shri Anoop Solanki, Manager, Ms. Rachna, Accountant and Shri Kamal Gupta, Advocate of the School.

The learned counsel appearing for the school has filed a calculation sheet with regard to savings as per rule 177 of Delhi School Education Rules 1973. As per the statement filed the gross income of the school, which mainly comprises of the fee, amounted to Rs. 24.27 crores during the three years period of financial years 2007-08 to 2009-10. The statement further shows that the school earned a net surplus of Rs. 3.94 crores during the aforesaid period after charging depreciation amounting to Rs. 4.25 crores and interest on loans taken for creating fixed assets amounting to Rs. 2.41 crores. It is submitted that although the school did not made a provision for gratuity and leave encashment in its account, the same has to be considered while calculating the savings as per sub-rule 2 of rule 177. An amount of accrued liability of gratuity and leave encashment that have been reduced from the surplus Rs. 52,03,496 and Rs. 49,39,737 respectively. The surplus calculated by the school before depreciation and interest is Rs. 9.60 crores after excluding the development fee amounting to Rs. 1.65 crores and transport surplus amounting to Rs. 1.55 crores, the school has calculated that the savings available for capital expenditure were Rs. 5.51 crores which ought to be taken into consideration for calculating the amount of excess fee calculated by the committee as refundable.

The learned counsel appearing for the school submits that he will file written submission in the above matter covering all these aspects. Let the same be filed within one week. The matter will be taken for further hearing on 18th February 2020 at 11.00 am.



Dr. R.K. SHARMA
MEMBER




J.S. KOCHHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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For 
Secretary



20/01/2020

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Dr. R.K.S
MEMBER

B-151

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

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

At the request of the learned counsel appearing for the school, the matter is adjourned to 18th February 2020. He submits that he will file written submission in the matter within one week.


Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



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21/1/20
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20/01/2020

B-286


Mount Abu Public School, Sec-5 Rohini, Delhi

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

The learned counsel appearing for the school has filed a statement showing calculation of savings as per rule 177 of Delhi School Education Rules 1973 for the years 2006-07 to 2009-10. As per the said statement the total income of the school, which is stated to mainly comprise of fee, amounting to Rs. 13.05 crores and after providing for total expenditure (except depreciation and interest) and provision for gratuity and leave encashment amounting to Rs. 25.27 lacs, the balance of Rs. 2.29 crores was available for capital expenditure as per rule 177. It is submitted that the same ought to be taken into consideration while considering the fund applied for incurring capital expenditure as taken in the calculation sheet.

He has also submitted a detail showing the yearwise collection and utilization of development fee starting from 2009-10 and upto 2018-19. It is submitted that initially the school had not been maintaining earmarked accounts for development fund and depreciation reserve fund. However, the school opened earmarked accounts in the year 2014. The school has filed copies of FDRs statement of saving accounts showing balance as on 17th January 2020. It is submitted that the balance with earmarked accounts of development fund were Rs. 3.73 crores and that depreciation reserve fund account were Rs. 3.13 crores. Thus total Rs. 6.86 crores. The total amount required to be kept in earmarked account as on 31st March 2019 was Rs. 6.85 crores. It is submitted that since the school has now complied with all the pre-conditions for collecting development fee right since its inception, the development fee for the year 2009-10 and 2010-11 which was considered as refundable by the Committee on account of non-fulfillment of the conditions ought not to be ordered to be refunded. Shri Bharat Arora, Treasurer of the parent society who is present gives an undertaking that aforesaid earmarked funds will be utilized only for the purposes for which they are collected in terms of the judgment of Hon'ble Supreme Court in the case of Modern school.


Arguments heard. Recommendations reserved.

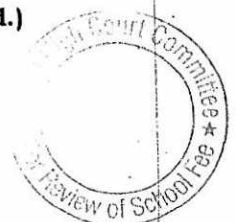

Dr. R.K. SHARMA
MEMBER


J.S. KOCHAR
MEMBER


JUSTICE ANIL KUMAR (Retd.)
CHAIRPERSON

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Secretary



23/01/2020

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B-202

St. Gregorios School, Dwarka, Delhi

Present: Shri K.B.Kutty, Member Managing Committee and Shri K.C. Abraham, Representative of the School.

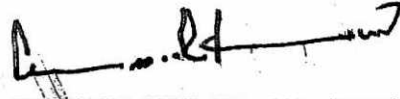
The authorized representative appearing for the school request for adjournment as the counsel who is supposed to appear in the matter is not available today. As requested the matter is adjourned to 17th February 2020 at 11.00 am.



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



**J.S. KOCHAR
MEMBER**



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

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Secretary



24/01/2020

000100

B-137

St. Mary's School, Safdarjung Enclave

Present: Shri George Koshi, CA, Shri Nikhil Philip, Manager and Shri Sivichen, Accounts Supdt. of the School.

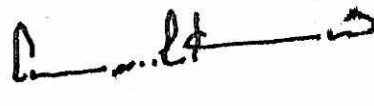
The authorized representative appearing for the school request for an adjournment to a date in the end of February 2020. As requested the matter is adjourned to 28th February 2020 at 11.00 am.



Dr. R.K. SHARMA
MEMBER




J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
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27/01/2020

000101

B-389

BGS International Public School, Dwarka

Present: Shri N.K. Mahajan CA, Shri Anuj Mahajan Financial Consultant and Shri Rajesh Kanojia Admn Officer of the School.

Arguments heard. Order reserved.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



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28/01/2020

B-640

The Srijan School, North Model Town

Present: Shri Dewashish Tewary, AO, Ms.Sweta Bansal, Accountant and Shri Amit Kukreja, Accountant of the School.

The authorized representative appearing for the school has orally rebutted the revised calculation sheet on the following grounds:-

1. The Committee has not considered the amount of Rs. 6,69,681 which was paid to the ex-employees on account of arrears of 6th Pay Commission for the year 2010-11. It is submitted that the total arrears paid to the staff amounted to Rs. 94,44,028. But the Committee has taken the same to be Rs.88,13,243. The school has filed a summarized sheet showing its liability for arrears salaries which has actually been discharged.
2. The incremental salary for the year 2009-10 which has been taken by the Committee at Rs. 22,02,292, actually amounts to Rs. 1,19,33,729 as the Committee has based its calculations on the total salary paid in 2008-09, which also included the arrear salary. It is further submitted that after excluding the arrear salary the total regular salary for the year 2008-09 amounted to Rs, 1,27,98,845 which rose to Rs. 2,47,32,565 in the year 2009-10. In response to query raised by the Committee as to how much of the total salary for the year 2009-10 related to the new staff employed by the school in 2009-10, the authorized representative has filed a sheet showing that a sum of Rs. 24,05,359 was paid to 11 new staff members in the year 2009-10. She fairly submits that if likewise the incremental fee from the new students admitted in 2009-10 is also reduced from the incremental fee calculated by the Committee based on the total fee for the year 2009-10, the aforesaid sum of Rs. 24,05,359 can be deducted while calculating the incremental salary for the year 2009-10. Since the Committee is inclined to accept the contention with regard to incremental fee attributable to new students admitted in 2009-10, the incremental salary as submitted by the school would amount to Rs. 95,28,361.

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Secretary



3. It is submitted that the incremental tuition fee for the year 2009-10 taken by the Committee to be Rs, 1,20,00,491 based on the total tuition fee of 2008-09 and 2009-10 would need to be moderated by Rs. 46,82,700 as the same is attributable to the new students admitted in 2009-10. The Committee accepts this contention. It is submitted that the reserve for future contingencies which has been calculated by the Committee to be equivalent to 4 months salary for the year 2009-10 would have to be increased by Rs. 4,80,446 on account of leave encashment payable to eligible employees of the school. This submission is not tenable. However, the authorized representative further submits that the accrued liability of leave encashment as on 31st March 2010 was Rs. 11,26,462, which has not been considered by the Committee. Although it appear in the balance sheet of the School. She has filed an employee wise detail of such accrued liability. The Committee has not considered this liability earlier as the school has not provided the detail. However, the school has now provided the same, this contention is accepted.

The Committee observes that in the Calculation sheet with regard to capital expenditure incurred out of the fee revenues of the school, the Committee has taken the development fee for 2009-10 as Rs. 1,16,33,450 which actually pertains to the year 2010-11. For 2009-10, the development fee that should have been taken must be Rs. 68,05,000 as submitted by the school in its reply to the questionnaire.

The Committee also observes that even after accepting all the contention raised by the school and correcting the mistakes in the Calculation Sheet, the end result would be a reduction of refund by Rs. 46,82,700 representing the fee recovered from the new students admitted in 2009-10 as the rest of the contentions would only result in reduction of the surplus amount which was calculated by the Committee to be Rs. 5,12,98,322. This would not materially affect the determination of the refund amount which the Committee calculated to be Rs. 3,74,01,516 including development fee. However, as per the above discussion, the total refund amount which the school would be required to make, after reducing the fee from the new students would stand reduced to Rs. 3,27,18,816 which would further be reduced by Rs. 68,05,000 representing development fee for the year 2009-10 as the same has already been considered while calculating the capital expenditure incurred out of fee revenues. Resultantly, the net refund would be Rs. 2,59,13,816.

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Secretary



Dr. R.K.
28/01/2020

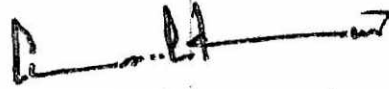
The authorized representative request for some time to be given to take instructions from the competent authority whether the school would be willing to refund the aforesaid amount on its own during the course of hearing itself. Accordingly, the matter is adjourned to 14th February 2020. It would be preferable if the Competent authority of the school is present at the time of next hearing or the authorized representative may submit an undertaking in writing duly signed by the competent authority.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



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30/01/2020

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MS

B-424

Pragati Public School, Dwarka

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

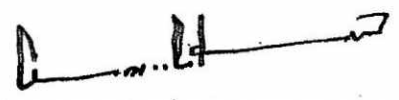
The school had filed a letter dated 2nd January 2020 seeking a fresh hearing in the matter. The authorized representative appearing for the school has been partly heard in the matter. He requests for some more time to be given. As requested the matter is posted for hearing on 14th February 2020 at 11.00 am.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
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30/01/2020

B-492

G.D. Goenka Public School, Sec-22 Rohini, Delhi

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

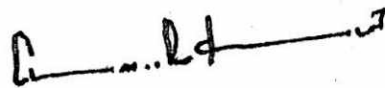
The authorized representative appearing for the school request for some more time to be given. As requested the matter is adjourned to 14th February 2020 at 11.00 am.



Dr. R.K. SHARMA
MEMBER



J.S. KOCHAR
MEMBER



JUSTICE ANIL KUMAR (Retd.)
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B-492

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