

**WP(C ) 7777/2009**  
**Delhi Abhibhavak Mahasangh & Ors.**

Vs.

**Govt. of NCT of Delhi & Ors.**

**Report of Delhi High Court Committee for Review of School Fee for  
September 2018**


No.DHCC/2018/ 151

Dated: 22/10/18

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**Place: Delhi**

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

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

000901

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

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

**In the matter of:**

**BANASTHALI PUBLIC SCHOOL, (B-255)  
Vikas Puri,  
New Delhi 110018.**

**And in the matter of:**

**Application for review dated  
21<sup>st</sup> March, 2018 seeking  
review of recommendations  
dated 10.11.2016 in the  
matter of school (B-255).**

**ORDER**

04.09.2018

Present : Dr. V.K. Goyal, Chairman, Mrs. Anubha  
Goyal, Vice Principal & Mrs. Seema P.G.T  
of the school

**ORDER ON APPLICATION DATED 21<sup>st</sup> March,  
2018 FOR REVIEW of order/recommendation  
dated 10<sup>th</sup> November, 2016.**

Banasthali Public School (B-255), hereinafter referred as 'The  
School' has sought review of order dated 10<sup>th</sup> November, 2016 by  
present application dated 21<sup>st</sup> March, 2018.



**TRUE COPY** The School' has sought review of order dated 10<sup>th</sup> November,  
2016 passed by the Committee inter-alia on the grounds that there  
Secretary a number of errors in the calculation sheet and the inferences

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drawn by the Committee cannot be sustained and certain clarifications are also required which will help 'The School' in explaining his case before the Committee. Pursuant to the application of the review filed by 'The School' the Committee kept the hearing to 'The School' on 21<sup>st</sup> March, 2018. It is contended that if the recommendations of the committee are not rectified, it will result in a financial situation for 'The School' where its viability will be at stake. It is contended that the calculations made by the Committee are erroneous because it has considered funds spent on creating Fixed Assets for 'The School' as diversion towards repayment of loans. According to 'The School' there is no diversion of funds. Relying on Rule 177. 2 (c) it is contended that it allows unaided recognized school to utilize for expansion of the school building after payment of the staff. It has also been asserted that funds can be transferred from 'The School' to the Society as per above stated rule. Consequently it is asserted that the Committee has wrongly inferred that there is diversion of funds whereas the funds were utilized for creation of assets necessary for the betterment of 'The School'.

- 3.. In the order/recommendation dated 10<sup>th</sup> November, 2016 taking the liabilities of 'The School' towards leave encashment and gratuity as nil has also been challenged. It is submitted by 'The School' that on account of oversight 'The School' not provide to the Committee the Actuarial Statements. Recommendation of the Committee to refund a sum of ₹ 2,704,067, the development fees on account of incremental fee is stated to be erroneous. It is stated that there are no mala fide intentions on the part of 'The School'.

- 4.. In the recommendations/order dated 10<sup>th</sup> November, 2016 the Committee had held as under:

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*H. H. H.*  
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In response to the notice issued by the Committee, the school vide its letter dated 22/05/2015, furnished the required information regarding fee and salary but did not furnish the details of its accrued liabilities of gratuity and leave encashment nor did it furnish the statement of account of the parent society/trust and documents. Instead the school furnished copies of the balance sheets of its parent society.

In order to provide an opportunity of being heard to the school, the Committee issued a notice dated 29/06/2016 for hearing on 15/07/2016. On the date of hearing, the authorized representatives of the school were partly heard by the Committee. The Committee perused copies of the circulars issued by the school regarding hike in fee pursuant to the order dated 11.2.2009 issued by the Director of Education. As per the circular, the school hiked tuition fee w.e.f. 1st Sept. 2008 @ Rs.200/- p.m. for classes 1st to 6th and Rs.300/- p.m. for classes 7th to 12th. Besides, the school also recovered the lump sum arrears to cover the arrear salary for the period 1.1.2006 to 31st Aug. 2008, as provided by the aforesaid order. It was observed that although the school was charging development fee for the year 2008-09, the circular did not mention anything about the increase in development fee. The authorized representatives of the school stated that the development fee was not increased for this period and consequently no arrears of development fee were recovered.

The Committee also perused the statement of fee and salary filed by the school and observed that while the bulk of arrear fee was collected in the year 2008-09 and 2009-10, the school did not pay the arrear salary to the staff in those years. The first installment of arrear salary amounting to Rs. 4,15,000/- was paid only on 31st March 2011. The 2nd installment of arrear salary amounting to Rs.3,80,000/- was paid on 5th March 2012. The representatives of the school submitted that while the arrears were not paid in 2009-10, the school hiked the salary of the staff in accordance with the recommendations of the 6th Pay Commission w.e.f. 1st April 2009. It was also observed that in the statement of salary filed by the school giving the mode of payment, the school vaguely mentioned that it was paid by cash as well as bank transfer. Separate amounts, paid in cash or by bank transfer were not given. The representatives submitted that bulk of the salary was paid by alleged bank transfer only. They produced the ledger account to show this position, which was examined by the Committee. The Committee also perused the audited balance sheets of Anand Prakash Charitable Education Trust (Society), which incorporated the accounts of the school. The representatives of the school submitted that the society had no other activity apart from running the school.

- 5.. Regarding the development fee which has been challenged by 'The School' the Committee had held as under:

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The Committee has considered both the issues raised by the school.



In so far as the expenses against development fee are concerned, the Committee finds that the development fee for the years 2009-10 and 2010-11, which alone was considered as refundable, the same has been treated as a revenue receipt. The expenses incurred on revenue account against the same have already been debited to the Income & Expenditure Account and only thereafter, the funds available with the school for implementation of the recommendations of VI Pay Commission, have been worked out. Allowing the expenses against development fee once again would result in double deduction of the same expenses, once against tuition fee and again against development fee. Hence this contention of the school is not acceptable and is rejected.

The second contention that the school ought to be allowed to retain funds amounting to Rs. 30,11,798 which represent Arrears of VI Pay Commission which are still outstanding, also cannot be accepted as the school, despite collecting the arrear fee in 2008-09 and 2009-10, did not pay the arrears of salary to its existing staff till the end of 2010-11 and 2011-12. The school cannot be allowed to perennially carry forward this liability as the same have not been paid even by 2016. Moreover, the school has not furnished any details of the liability owed to its staff on account of such arrears. If the school has not paid such arrears in nine years, it can be assumed that no such liability exist or the same has been settled or compromised with the staff. “

6.. In these facts and circumstances the Committee had recommended as follows by the order dated 10<sup>th</sup> November, 2016:

(1) The school ought to refund a sum of Rs. 27,04,067 representing the incremental fee on account of fee hike in the year 2009-10 in pursuance of order dated 11/02/2009 issued by Director of Education along with interest @ 9% per annum from the date of collection to the date of refund.

(2) The school ought to refund the development fee amounting to Rs. 28,40,460 charged by the school in 2009-10 and 2010-11 along with interest @ 9% per annum from the date of collection to the date of refund, on account of non fulfillment of the pre conditions laid down by the Hon'ble Supreme Court for charging development fee.

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

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

9.. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the



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

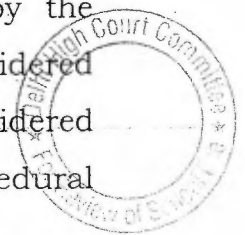
- 10.. Applying these principles it is apparent that where a Court or Quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the Quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or Quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding

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

11.. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 10<sup>th</sup> November, 2016 not on the ground that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly. Apparently the recall or review sought is not a procedural

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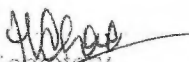
review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.

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

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

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

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

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

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

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

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

The writ petition shall be re-notified on 09.05.2014"

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

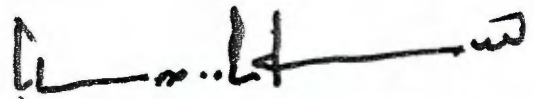
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Public School and consequently the School cannot contend that the Committee has the power to review its order/recommendation.

15. In the circumstances the application of the applicant dated 21<sup>st</sup> March, 2018 is not maintainable and is disposed of as not maintainable. The application for review dated 31<sup>st</sup> October, 2017 is therefore, dismissed.



**Justice Anil Kumar (R)**

(Chairperson)



**J.S. Kochar**

(Member)




**R.K. Sharma**

(Member)

04.09.2018

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

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

**In the matter of:**

**THE FRANK ANTHONY PUBLIC SCHOOL, (B-658)  
Lajpat Nagar IV, New Delhi 110024.**

**And in the matter of:**

**Application for review received on 12,6.2018 seeking  
review of recommendations dated 13.06.2017 in the  
matter of school (B-658).**

**ORDER**

06.09.2018

Present : Ms. Simran Singh, M/s D.Singh &  
Company Chartered Accountant. & Sh.  
Ashok Kumar, Accountant of the school.

**ORDER ON APPLICATION RECEIVED ON 12<sup>TH</sup> JUNE, 2018 seeking  
review of Order/recommendation dated 13<sup>th</sup> June, 2017.**

1. The Frank nthony Public School (B-658), hereinafter referred as  
"The School" has sought review of order dated 13<sup>th</sup> June, 2017 by  
present application for review received on 12<sup>th</sup> June, 2018.

2. 'The School' has sought review of order dated 13<sup>th</sup> June, 2017  
passed by the Committee inter-alia on the grounds that the  
Committee has itself determined that the school incurred a deficit on

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*H. Chawla*  
Secretary



implementation of the recommendations of the VI Pay Commission and has yet has held that the arrears of development fees were not recovered in accordance with law and thus ought to be refunded. According to 'The School' the issue of the recovery of development fee being not in accordance with law was never raised during the course of hearing or any of the communications/notices sent by the Committee and thus 'The School' and thus was never given an opportunity to rebut this observation of the Committee. According to 'The School' the alleged lapse on the part of 'The School' it is a procedural lapse and will come within the domain of Procedural Review. It is contended that the alleged illegality vitiates the proceedings and invalidates the order/recommendations made by the Committee. It is alleged that this has caused serious prejudice as it had raised a question for being allowed an additional hike in tuition fee to the extent of the deficit incurred or at least to regularize the excess development fee in view of the deficit incurred by 'The School'. Reliance has also been placed by 'The School' in case of recommendations made for Ramjas Public School (Day Boarding) Anand Parbat.

3. The plea of 'The School' the question of return of excess development fee is not considered and discussed his contrary to the record and 'The School' the school has made incorrect statement in this regard in order to allege that the recommendation of the Committee suffers from procedural lapse. Before passing the recommendation dated 13<sup>th</sup> June, 2017, on 13<sup>th</sup> May, 2017 it was specifically held as under:

"The 5<sup>th</sup> and 6<sup>th</sup> contention with regard to allow expenditure incurred out of development fee on eligible fixed assets although 'The School' was treating the same as revenue expenditure and with regard to the school not utilizing the existing reserves for making payment of increased salaries on account of implementation of recommendations of VI Commission need a detailed consideration by the Committee, the argument put forth by the authorised representative have been hard.

Recommendations reserved"



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*M. S. Dhillon*  
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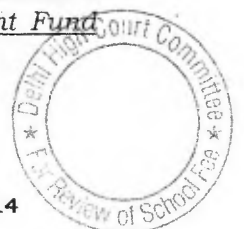
4. Our detailed order/recommendation dated 13<sup>th</sup> June, 2017 was passed thereafter dealing in detail the plea which has been challenged by 'The School' that it was not given reasonable opportunity of being heard as contemplated under the law and in the circumstances the recommendations/order suffers from procedural illegality. In the recommendations/order dated 13<sup>th</sup> June, 2017 the Committee dealt with this aspect in detail which is as under, which was 1<sup>st</sup> to the submissions made by 'The School'. The submissions of 'The School' could not be noted without being made by 'The School'. In the recommendation/order the Committee held:

"The submission made by the school with regard to allowing Rs. 24,03,328 out of the development fee recovered by it amounting to Rs. 2,23,27,330 on account of the same having been incurred for capital assets cannot be countenanced.

Unaided Private Schools in Delhi were not authorized to recover any development fee originally. The Duggal Committee, which was constituted by the Hon'ble Delhi High Court to examine a similar issue of fee hike effected by the schools consequent to the implementation of the V Pay Commission report, after observing that the schools were not competent to incur any capital expenditure out of the fee recovered from the students and the students should not be made to pay for the infrastructure like school buildings constructed by the Societies, made a recommendation that the schools may be allowed to charge a development fee, not exceeding 10% of the annual tuition fee to create a development fund which would be utilised for purchase or upgradation of furniture and fixtures and equipments needed for the school. However, recovery of such development fee was made subject to fulfillment of certain pre conditions by the schools like the development fee will be treated as capital receipt and the school would maintain depreciation reserve fund equivalent to the depreciation charged in its revenue accounts and the income generated on investments made out of this fund would also be utilised for the same purposes for which the development fee was to be utilised. The recommendation made by the Duggal Committee in this regard is reproduced below:

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

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Pursuant to the report of the Duggal Committee, the Government of National Capital Territory of Delhi passed an order dated December 15, 1999 in order to give effect to the recommendations of Ms. Justice Santosh Duggal Committee Report and in order to remove the irregularities and malpractices relating to collection and utilization of funds by the schools as pointed therein. One of the directions (no. 7) given vide the aforesaid order was that Development fee not exceeding 10% of the total annual tuition fee for supplementing the resources for the purpose of purchase, upgradation and replacement of furniture, fixtures and equipment which shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts. The collection under this head along with any income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.

The issue of charging development fee by Pvt. Unaided Schools in Delhi was considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (supra). It admitted, inter alia, the following point for determination

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

In this Context, the Hon'ble Supreme Court considered the aforesaid order dated 15/12/1999 issued by the Government of NCT of Delhi as well as the recommendations of Duggal Committee, on which the aforesaid order was based. After discussing the law, the Hon'ble Supreme Court held as follows:

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

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It would be apparent from the above extract from the judgment of the Hon'ble Supreme Court that the school can charge development fee provided it fulfils the following pre conditions :-

1. Development fee is treated as a capital receipt.
2. It is utilized for purchase, upgradation and replacement of furnitures fixtures and equipments.
3. An earmarked development fund account is maintained to park the unutilized development fee.
4. Depreciation reserve is created equivalent to the amount of annual depreciation charged in the accounts and is kept in an earmarked fund account.
5. The income from the development fund/depreciation reserve fund is also utilized for the purposes of which the development fee can be utilized.

Even in the order dated 11/02/2009 issued by the Director of Education, Govt. of NCT of Delhi, which was the subject matter of WP(C) 7777 of 2009 in which this Committee has been constituted, expressly stated as follows:

*"14. Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

The submission made by the school that the development fee charged by the school to the extent of expenditure actually incurred by the school on capital assets ought not to be directed to be refunded as the school has already gone out of cash, has to be considered on consideration of the recommendations of Duggal Committee, the orders passed by the Govt. of NCT of Delhi, accepting such recommendations and the law laid down by the Hon'ble Supreme Court in the case of Modern School (supra). The Committee is of the view that firstly the school has to be authorized to recover the development fee as per law. The stage of incurring expenditure out of such development fee would come subsequent to that. For the school to be able to recover the development fee, it has to be fulfil the following essential pre conditions:

- (i) The development fee would be treated as capital receipt.
- (ii) The school ought to maintain earmarked depreciation reserve fund in respect of the depreciation charged on the fixed assets acquired out of such development fund.

Admittedly the school was not fulfilling the aforementioned pre conditions for charging the development fee. When the charge of development fee itself is invalid, the same is required to be refunded to the students, No allowance can be made in respect of any expenditure incurred out of development fee. **Therefore, the Committee does not find any merit in the submission made by the school.**

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5. The Committee provided a detailed calculation to 'The School' and also gave a reasonable opportunity to 'The School' to rebut the inferences



drawn by the Committee. After considering all the pleas and contentions of 'The School' the Committee held as under:

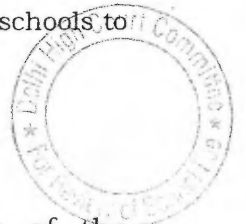
"In view of the above noted determinations, while the Committee is of the view that the school recovered development fee amounting to Rs. 2,23,27,330 in 2009-10 and 2010-11 irregularly and in normal course, we would have recommended its refund, however in view of the deficit incurred by the school in implementing the recommendations of VI Pay Commission to the tune of Rs. 2,88,12,214, we refrain from making any such recommendation.

However, as noticed supra, the school recovered a sum of Rs. 26,77,800 as additional development fee for the period 01/04/2008 to 31/08/2008 totally illegally as the school was not competent to increase any fee after the start of academic session 2008-09, without the express approval of the Director of Education to this effect. Further it recovered a sum of Rs. 11,72,045 as arrears of incremental development fee for the period 01/09/2008 to 31/03/2009. The school which was charging a fixed amount of development fee of Rs. 100 per month resorted to hike the development fee to 15% of tuition fee with retrospective effect which is in total violation of Section 17(3) of the Delhi School Education Act, 1973. What the order dated 11/02/2009 of the Directorate of Education permitted was that the additional development fee on account of increase in tuition fee could be recovered by the school for utilizing the same payment of arrears to the staff. What was envisaged was the recovery of additional development fee on account of increase in tuition fee as development fee is normally charged as a percentage of tuition fee and any increase in tuition fee would necessarily entail an increase in development fee. However, where the school does not charge development fee as a percentage of tuition fee, as in the present case, the increase in tuition fee would not result in any increase in development fee. The aforesaid order dated 11/02/2009 was issued primarily to permit the schools to increase the tuition fee for payment of increased salaries and arrears to the staff consequent to implementation of the recommendations of VI Pay Commission. It could not be availed of by the schools to increase development fee per se."

6. Reliance of 'The School' on the recommendations/order of the Committee in the matter of Ramjas Public School (Day Boarding) Anand Parbat is also misplaced. Apparently the facts and circumstances of that school are quite different with that of the applicant School. In Ramjas School (supra) the Committee while

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making the calculations had not allowed reserve for gratuity, leave encashment and for future contingency and thus it was held that amount was not required to be refunded out of development fee charged.

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

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

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Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases and disposing of a case by blindly placing reliance on a decision is not proper. Even a minor difference in the factual matrix, may render an earlier decision inapplicable in a later case. The Supreme Court, in *Uttarakhand Road Transport Corporation v. Mansaram Nainwal*, AIR 2006 SC 2840) has observed as follows:

“ A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi...A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: *State of Orissa v. Sudhansu Sekhar Misra and Ors.* MANU/SC/0047/1967 : (1970) ILLJ 662 SC and *Union of India and Ors. v. Dhanwanti Devi and Ors.* MANU/SC/1272/1996 : (1996) 6 SCC 4. A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in an Act of Parliament. In *Quinn v. Leathern* (1901) AC 495 (H.L.) Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.”

8. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is **seeking review on merits and not a procedural review**. In *Dr. (Smt.) Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya, Sitapur (U.P.) and Ors.* MANU/SC/0104/1987 and *Patel Narshi Thakershi and Ors. v. Pradyumansinghji Arjunsingji* MANU/SC/0433/1970 MANU/SC/0433/1970: AIR 1970 SC 1273 the



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Hon'ble Supreme Court had held that the power of review is not an inherent power and must be conferred by law either expressly or by necessary implication.

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

10.

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



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

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



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12. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 10<sup>th</sup> November, 2016 not on the ground that in passing the order the committee has committed any procedural illegality or mistake of the nature which vitiated the proceeding itself and consequently the order/recommendation of the committee is liable to be recalled. Rather grounds taken by the applicant are that some matters which ought to have been considered by the committee were not duly considered or apparently considered incorrectly. Apparently the recall or review sought is not a procedural review, but a review on merits. Such a review is not permissible in the absence of any specific provision or the orders of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.



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

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

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

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14. Some other schools namely N.K.Bagrodia Public school, Dwarka, New Delhi; Faith Academy, John L.Dorsey Road, Prasad Nagar and Rukmani Devi Public School, Pitam Pura had filed similar applications for review of orders/recommendations given in their cases. In case of Rukmani Devi, the Committee had also noticed error apparent on the face of record in the Committee's recommendation

and therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendations. The Committee had made the following prayers before the Hon'ble Court in its communication dated 12th February, 2014:

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

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

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

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

The writ petition shall be re-notified on 09.05.2014”

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

16. In the circumstances the application of the applicant received on 12<sup>th</sup> June, 2018 seeking review is not maintainable and is disposed



of as not maintainable and the said application for review dated 13<sup>th</sup> June, 2017, 2017 is therefore, dismissed.

**Justice Anil Kumar (R)**

(Chairperson)

**J.S. Kochar**

(Member)

06.09.2018

**R.K. Sharma**

(Member)

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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:**

**Arunodaya Public School, Karkardooma, Delhi-110092 (B-686)**

**Order of the Committee**

Present : Ms. Sangeeta Nagar, Principal and Sh. Bhagsar Singh,  
Accountant of the school.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. However, the school did not respond to the questionnaire issued by the Committee, despite a reminder dated 27/03/2012.

The school had earlier furnished copies of its audited balance sheets for the years 2006-07 to 2010-11 to the Education Officer, Zone-1 of the Directorate of Education, some of which were forwarded to this Committee. Noticing that neither the school nor the concerned Dy. Director of Education had submitted copies of complete annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973, nor had the school submitted its reply to the questionnaire issued by the Committee. By its letter dated 25/05/2012, the Committee

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required the school to furnish the same and also directed the school to produce its books of accounts. After a couple of reminders, the school produced its books of accounts before the audit officer of the Committee on 06/11/2012. The school also filed its reply to the questionnaire dated 27/02/2012 issued by the Committee. In its reply, the school stated as follows:

- (a) It had implemented the recommendations of VI Pay Commission w.e.f. June 2009.
- (b) It had paid arrears to the staff amounting to Rs. 15,23,747 (9,32,787+5,90,960).
- (c) It had increased the fee of the students by Rs. 200 per month w.e.f. 01/09/2008.

The school was, however, silent about the recovery of arrear fee for the period 01/01/2006 to 31/08/2008, nor did it mention the amount of arrear of incremental fee for the period 01/09/2008 to 31/03/2009.

The records produced by the school were verified by the audit officer of the Committee and he observed that while the fee hike effected by the school was Rs. 200 per month for classes LKG to X but the hike was Rs. 300 per month for classes XI & XII, although the school had not stated so in its reply to the questionnaire. The audit officer, however, recorded that the hike of Rs. 300 per month was in accordance with the order dated 11/02/2009 issued by the Director of Education. He also

recorded that the implementation of the recommendations of VI Pay Commission w.e.f. 01/06/2009, resulted in an additional expenditure of Rs. 3,41,827 per month by way of salary hike. He also recorded that the fee hike effected by the school would result in additional revenue of Rs. 2,33,000 per month. However, the audit officer of the Committee did not examine the aspect of recovery of arrear fee with regard to which the school was silent in its reply to the questionnaire.

The relevant calculations to examine the justifiability of fee hike were made in the first instance by the Chartered Accountants deputed by the Directorate of Education (CAs), to assist this Committee. They calculated the arrear fee on the basis of the number of students and arrived at a certain figure. However, the Committee observed that the figures taken by the CAs in the calculation sheet did not tally with the audited financials of the school and therefore, did not rely on the calculations made by them.

A notice dated 26/05/2015 was issued to the school requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of

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the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission.

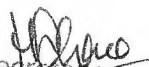
The school furnished its reply vide letter dated 08/06/2015, which contained the information sought by the Committee in the structured format. The school also filed a copy of the resolution passed by the Managing Committee of the school as per which it was decided to increase the monthly fee for classes Nursery to X @ Rs. 200 per month and for classes XI & XII @ Rs. 300 per month w.e.f. 01/09/2008. The resolution also stated that a sum of Rs. 3,000 would be recovered for the period 01/01/2006 to 31/08/2008, with rebates for students enrolled in 2007-08 and 2008-09 as provided in the order dated 11/02/2009 of the Director of Education.

A notice of hearing was issued to the school on 30/12/2016 requiring it to appear before the Committee on 31/01/2017 along with its books of accounts and other related records. The hearing fixed for 31/01/2017 was cancelled as in the meantime, the term of the Committee had expired. A fresh notice was issued on 28/02/2017 for hearing on 15/03/2017 after the term of the Committee was extended by the Hon'ble High Court vide its order dated 17/02/2017.

On the date of hearing, Ms. Sangeeta Nagar, Principal, Ms. Rupita Tandon, Vice Principal and Sh. Bhagsar Rawat, Accountant of the school appeared and were partly heard.

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The Committee observed that the reply dated 08/06/2015 filed by the school to its notice dated 26/05/2015 was not in consonance with what was required. The authorized representatives who appeared for the school sought some time to file an accurate reply in terms of notice dated 26/05/2015. The matter was directed to be relisted on 18/04/2017.

On the next date, Ms. Raj Abrol, Director of the school appeared with Sh. Bhagsar Rawat, Accountant.

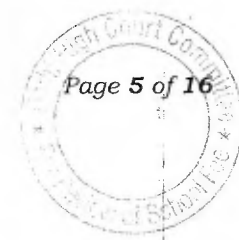
The school filed a revised reply to the notice dated 26/05/2015 issued by the Committee, the information contained in which was stated to be in conformity with the audited financials of the school. Although the letter filed by the school mentioned that the statement of account of the parent society as appearing in the books of the school from 01/04/2006 to 31/03/2011 was enclosed, it was not found to have been enclosed.

The school has furnished details of its accrued liabilities of gratuity as on 31/03/2008 and as on 31/03/2010. The Committee observed that the column relating to the liability for leave encashment had been left blank in the detail filed, indicating that no such liability was outstanding as on 31/03/2010.

The Committee perused the circular dated 06/03/2009 issued by the school to the Parents alongwith copy of the resolution passed by the Managing Committee of the school, with regard to fee hike in pursuance

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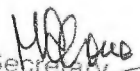


of order dated 11/02/2009 issued by the Directorate of Education as per which the school effected a hike of Rs. 200 per month for classes Nursery to X and Rs. 300 per month for classes XI & XII. However, Mrs. Raj Abrol Director of the school stated that the hike was uniform for all the classes and the school had not recovered the arrears of incremental fee for the full 7 months i.e. 01/09/2008 to 31/03/2009 but only for 6 months. Likewise, in respect of the lump sum arrears of Rs. 3,000 per student as per the resolution of the Managing Committee, Ms. Abrol stated that the school recovered the same @ 2000 per student.

In view of the conflict between the resolution passed by the Managing Committee and the submission made by the Director of school, The Audit Officer of the Committee was directed to verify the facts by examining the fee records & books of accounts of the school. Accordingly, the school was directed to produce these records before her.

During the course of hearing, the Director of the school also submitted that a sum of Rs.20,000 per student was recovered at the time of admission of the students and the same went to the Parent Society. She submitted that the Society utilized this amount for construction of building, payment of house tax and lease rent. Accordingly, the school was directed to file the audited balance sheets of the Parent Society from 2006-07 to 2010-11.

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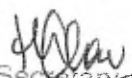
  
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On 25/04/2017, the accountant of the school appeared before the audit officer of the Committee and produced the books of accounts and fee records for examination by her. After examination of the records produced by the school, the audit officer recorded that the submission made by the Director before the Committee on the last date of hearing was incorrect as the school recovered the arrears of incremental fee for the full seven months i.e. 01/09/2008 to 31/03/2009. She also recorded that the submission made by the Director with regard to recovery of lump sum arrear fee was also not correct. The school charged the full amount of Rs. 3,000 towards lump sum arrear fee for the period 01/01/2006 to 31/08/2008 and not Rs. 2000 as submitted by the Director. She also recorded that the school had furnished a detail of collection of lump sum arrear fee as well as the arrears of incremental fee recovered by the school and the statement showing different components of fee and salary, as reconciled with the audited financials was also filed by the school, which was checked by the audited officer with reference to the books of accounts produced by the school. As per this statement, the school recovered a total sum of Rs. 8,65,750 towards lump sum arrear fee and Rs. 10,80,000 towards arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009. Further, the school paid arrear salary for the period 01/01/2006 to 31/08/2008 which amounted to Rs. 13,13,000 upto 31/03/2011. However, no amount was paid

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towards the arrears of incremental salary for the period 01/09/2008 to 31/03/2009.

The audit officer of the Committee also noted that the details of accrued liabilities of gratuity and leave encashment as filed by the school were not correct and the school was advised to file the correct details. The school also furnished copies of balance sheets of the Parent Society as was directed by the Committee.

The matter was heard on 24/05/2017. However, this time the Director of school did not appear and the school was represented by Ms. Rupika Tandan, Vice Principal & Sh. Bhagsar Rawat, Accountant. They did not contest the observations made by the audit officer of the Committee.

The Committee noticed that the school, in its reply to the questionnaire regarding development fee, stated that the school did not charge any development fee for any of the 5 years( 2006-07 to 2010-11) for which the information was sought. However, the Committee on perusal of the Balance Sheets of the parent society i.e. Arunodaya Educational Society observed that the school was charging development fee in all the years for which the information was sought. However, the same was being collected directly by the Society and not by the school. Rule 172 of the Delhi School Education Rules, 1973 specifically states that no fee contribution or other charge shall be collected from any

student by the trust or society running any recognized school, whether aided or not, and further that every fee contribution or other charge collected from any student by a recognized school shall be collected in its own name and proper receipt would be granted by the school for every collection made by it.

The Committee also perused the fee schedules filed by the school under Section 17(3) of the Delhi School Education Act, 1973 and observed that the school had never reported to the Director of Education that it was charging development fee from the students. Further, on perusal of the information filed by the school vide its letter dated 18/04/2017, the Committee observed that the charging of development fee was not reported to this Committee also.

It was noticed that in the year 2006-07 the school collected development fee aggregating Rs.9,24,480, in 2007-08 it collected Rs. 13,71,410, in 2008-09 it collected Rs.13,72,550, in 2009-10 it collected Rs. 20,82,000 & in 2010-11 it collected Rs. 24,90,750.

Keeping in view all these inconsistencies in the submissions made by the school, the Committee felt that it was necessary to examine the information furnished by the school in detail. Accordingly, it directed its audit officer to make a detailed verification of the records of the school as well as the Parent Society for the years 2008-09 to 2010-11. The school was also directed to file the audited balance sheets of 2011-12

and 2012-13 to ascertain the recovery of arrear fee and payment of arrear salary in those years.

The audit officer of the Committee after examining the records of the Society and the school observed that in so far as the balance sheet of the Society is concerned, it reflected no source of income other than the development fee received from the students. With regard to transfer of funds to the Parent Society by the school, she observed that the funds were transferred for construction of the school building. Further, the development fee charged from the students was treated as a capital receipt in the accounts of the society but no earmarked accounts were made in respect of the depreciation charged to the revenue.

With regard to arrear fee and arrear salary, she reported that the school collected a total sum of Rs. 19,45,750 towards arrear fee but did not pay even the full amount of arrear fee collected to the staff. It paid only a sum of Rs. 15,08,800 out of that towards arrear salary. The balance of Rs. 4,36,950 was still lying with the school.

On 08/03/2018, when the matter was heard again, a request was made by the school to grant some time for making the payment of the balance amount of Rs. 4,36,950 out of the arrear fee collection as the school still had a liability towards payment of arrear salary which was more than the aforesaid amount. The school was granted time upto 13/04/2018 on which date the school was also directed to file a complete

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list of the arrears of salary which were due to be paid to the staff for the period 01/01/2006 to 31/03/2009 mentioning there the dates and the amounts paid and the balance still to be paid. The school was also directed to produce evidence of such payments.

On 13/04/2018, the school filed the details of arrears which were not paid earlier out of the arrear fee collected from the students, along with evidence of its payment made on 06/04/2018, after deduction of TDS. After this, the Committee prepared a calculation sheet to examine the justifiability of fee hike and recovery of arrear fee made by the school pursuant to order dated 11/02/2009 issued by the Director of Education having regard to the funds available with the school before effecting the fee hike. For the purpose of making the relevant calculations, the Committee deemed it appropriate to base its calculation on the combined financials of the school as well as its Parent Society as part of the fee went to the coffers of the Parent Society and there were also transactions between the school and the Parent Society.

As per the calculations made by the Committee, the school and society had available with it a sum of **Rs. 71,51,803** at the threshold as on 31/03/2008 before the decision to hike the fee was taken. The detail of the working of the aforesaid sum is as follows:

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| Particulars                               | Society          | School           | Total            |
|---|------------------|------------------|------------------|
| <u>Current Assets + Investments</u>       |                  |                  |                  |
| Cash in Hand                              | 29,829           | 4,180            | 34,009           |
| Bank Balances                             | 1,214,738        | 1,441,057        | 2,655,795        |
| Prepaid Insurance                         | -                | 1,912            | 1,912            |
| Staff Advance                             | 50               | 27,450           | 27,500           |
| Investments in FDRs with accrued interest | 2,776,234        | 3,124,835        | 5,901,069        |
| <b>Total</b>                              | <b>4,020,851</b> | <b>4,599,434</b> | <b>8,620,285</b> |
| <u>Current Liabilities</u>                |                  |                  |                  |
| Refundable Security                       | 486,650          | 251,400          | 738,050          |
| Expenses Payable                          | 49,972           | 508,588          | 558,560          |
| Sundry Creditors                          | 2,570            | 169,302          | 171,872          |
| <b>Total</b>                              | <b>539,192</b>   | <b>929,290</b>   | <b>1,468,482</b> |
| <b>Net Current Assets + Investments</b>   |                  |                  | <b>7,151,803</b> |

The school had accrued liabilities of gratuity amounting to Rs. 16,38,981 and leave encashment amounting to Rs. 10,11,220 as on 31/03/2010. After factoring these liabilities, the school had available with it a sum of **Rs. 45,01,602** (71,51,803-16,38,981-10,11,220).

The additional liability that the school discharged on implementation of the recommendations of VI Pay Commission towards payment of arrear salary and incremental salary was to the tune of **Rs. 61,39,704**, as per the following details:

| <b>Additional Liabilities on implementation of 6th CPC:</b>      |                  |
|--|------------------|
| Arrear of Salary as per 6th CPC 1.1.2006 to 31.3.2009            | 1,945,750        |
| Incremental Salary for 2009-10 (as per calculation given below)* | 4,193,954        |
| <b>Total</b>   | <b>6,139,704</b> |

\*

| <b>Incremental salary in 2009-10</b> | <b>2008-09</b>   | <b>2009-10</b> |
|--------------------------------------|------------------|----------------|
| Normal/ regular salary               | 6,537,289        | 10,731,243     |
| <b>Increase in 2009-10</b>           | <b>4,193,954</b> |                |

Thus apparently, the school had a shortfall to the tune of **Rs. 16,38,102** (61,39,704 – 45,01,602), which the school was required to bridge by recovering arrear fee and /or increasing the fee as per order dated 11/02/2009 issued by the Director of Education. The additional revenue generated by the school by recovering arrear fee and increasing the regular fee amounted to **Rs. 50,69,350** as per the following details:

| <b>Additional Recovery for 6th CPC:</b>                       |                  |
|---|------------------|
| Arrear of tuition fee w.e.f 01.01.06 to 31.08.08              | 865,750          |
| Arrear of tuition fee w.e.f 01.09.08 to 31.03.09              | 1,080,000        |
| Incremental fee for 2009-10 (as per calculation given below)* | 3,123,600        |
| <b>Total</b>  | <b>5,069,350</b> |

\*

| <b>Incremental tuition fee in 2009-10</b> | <b>2008-09</b>   | <b>2009-10</b> |
|---|------------------|----------------|
| Normal/ Regular Tuition fee               | 9,016,425        | 12,140,025     |
| <b>Increase in 2009-10</b>                | <b>3,123,600</b> |                |

Thus apparently, the school recovered a sum of **Rs. 34,31,248** (50,69,350-16,38,102).

Further since the school was not fulfilling the pre conditions for charging development fee as laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583, prima facie, the school was also found to have recovered development fee amounting to **Rs. 20,82,000** in 2009-10 and **Rs. 24,90,750** in 2010-11 irregularly which in the opinion of the Committee was refundable to the students.

Thus the total amount apparently found to be refundable was **Rs. 80,03,998** (34,31,248+20,82,000+24,90,750). However, upto this stage, the Committee has not taken the requirement of the school to maintain a reasonable reserve equivalent to expenditure on four months salary for the year 2009-10. The same amounts to **Rs. 35,77,081**. Thus in view of the Committee, the school was required to refund the balance amount of **Rs. 44,26,917** ( 80,03,998 – 35,77,081).

A copy of the above calculation sheet was furnished to the school on 01/06/2018 for rebuttal, if any. The matter was listed for further hearing on 05/07/2018. The school sought an adjournment on this date and the matter was posted for 23/08/2018. On this date, the school filed written submissions in response to the calculation sheet. The school disputed the figure of investments in FDRs with accrued interest thereon, which the Committee had provisionally taken to be Rs.59,01,069 on the basis of the financials of the school as well as the Society. The school submitted that out of these FDRs, FDRs amounting

to Rs. 8 lacs approximately were in the joint names of the school, Director of Education/Secretary CBSE and as such were not available for the purpose of payment of increased salaries/arrears on account of implementation of the recommendations of the 6<sup>th</sup> pay commission. It was submitted that if this amount of Rs. 8 lacs was excluded, the school would be required to refund of Rs.36,26,917, as per the determinations of the Committee. It was further submitted that the school still had a liability to pay arrears of salary to the staff which became due to them on account of implementation of the recommendation of 6<sup>th</sup> pay commission and the school intended to utilize the aforesaid sum of Rs.36,26,917 for the purpose of payment of such arrears to the staff on a proportionate basis as the total outstanding liability is Rs.39,30,414.

The Committee considered the submission made by the school and did not see any justifiable reason for withholding the remaining amount of Rs.3,03,497, particularly when it had taken into consideration that the school ought to keep funds in reserve for future contingencies to the tune of Rs.35,77,081. The school sought further time to consider this matter and accordingly the matter was adjourned to today.

Today, the school has filed evidence in the shape of bank statements showing that the full amount of outstanding arrears of Rs. 39,30,414, had been paid to staff on 06/09/2018. The school has also filed a list of the staff members to whom payment has been made. The

*Arunodaya Public School, Karkardooma, Delhi-92/Order/B-686*

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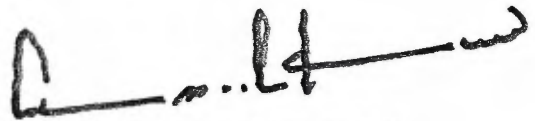


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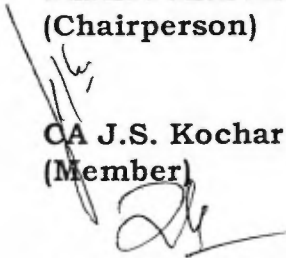
Committee accepts the contention of the school that the sum of Rs. 8.00 lacs of FDRs held in the joint names of school and the Directorate of Education/CBSE cannot be considered as available for payment of increased salaries on account of implementation of VI Pay Commission.

**Factoring the aforesaid fact and also the payment of arrear salaries amounting to Rs.39,30,414 which has been made during the course of hearing, the Committee is of the view that no interference is required to be made with regard to recovery of arrear fee or development fee in the years 2009-10 and 2010-11 as also with regard to increase in tuition fee w.e.f. 01/09/2008.**


**Ordered accordingly.**



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



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



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

Dated: 07/09/2018

**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:**

**Mount Abu Public School, Sector-18, Rohini, Delhi-110089 (B-294)**

**Order of the Committee**

Present : Sh. Puneet Batra, Advocate with Sh. Manish Arora, Manager of the school.

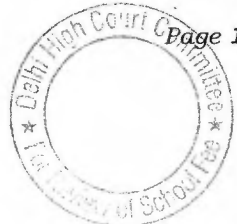
The school had submitted copies of annual returns filed under Rule 180 of the Delhi School Education Rules 1973, statement of fees for the years 2006-07 to 2010-11, a statement showing the monthly expenditure on salary before implementation of the recommendations of the 6<sup>th</sup> pay commission (amounting to Rs.4,79,279) and that paid after its implementation (amounting to Rs.8,43,946). The statement also showed that the school had paid arrear salary to the staff which amounted to Rs. 12,46,517 (this statement was signed by the Principal of the school).

The school also filed a copy of the circular dated 07/03/2009, vide which the parents were required to pay back arrears amounting to Rs.2,500 for students of classes KG to V and Rs.3,000 for students of classes 6<sup>th</sup> to 12<sup>th</sup>. The circular also required the parents to pay a sum of Rs.1400 being arrears of incremental fee for 7 months (1.9.2008 to 31.3.2009) for students of classes KG to 5<sup>th</sup> and Rs.2100 for students of classes 6<sup>th</sup> to 12<sup>th</sup> (the incremental fee being Rs.200 per month and Rs.300 per month respectively). All these documents were submitted to

Mount Abu Public School, Sector-18, Rohini, Delhi-89/ Order/B-294

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the Dy. Director of Education District North West Shalimar Bagh, Delhi under cover of letter dated 28/01/2012. These documents were forwarded to this Committee by the Dy. Director of Education.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. However, the school did not respond to the questionnaire issued by the Committee, despite a reminder dated 27/03/2012.

The Committee issued a fresh questionnaire on 05/08/2013, requiring the school to furnish information with regard to the collection and utilization of development fee, maintenance of earmarked development fund and depreciation reserve fund accounts, besides the information sought vide questionnaire dated 27/02/2012. This communication was also not responded to by the school despite a reminder dated 05/09/2013. A fresh communication was issued on 30/09/2013, requiring the school to do the needful.

The school submitted its reply vide its letter dated 05/10/2013, stating that it had implemented the recommendations of the 6<sup>th</sup> Pay Commission w.e.f. 01/09/2009. It also enclosed a statement showing

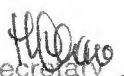
salary paid to the staff, which amounted to Rs.4,60,779 before implementation of the recommendations of the 6<sup>th</sup> pay commission, and another statement showing the salary paid to the staff, which amounted to Rs.8,43,956 after its implementation. Another statement was enclosed showing payment of arrear salary for the period 1.1.2006 to 31.08.2008 to nine teachers, which aggregated to Rs.12,46,417. Specific amounts were mentioned to have been paid to those teachers as follows :

| S.No. | Name             | Amount (Rs.)     |
|-------|------------------|------------------|
| 1.    | Sindhu Sadhu     | 2,11,746         |
| 2.    | Archana Arora    | 1,40,587         |
| 3.    | Meera Awasthi    | 1,53,470         |
| 4.    | Parmanand Thakur | 1,47,807         |
| 5.    | Ritu Sharma      | 1,40,044         |
| 6.    | Suman Arora      | 1,38,681         |
| 7.    | Ruby Chacko      | 85,910           |
| 8.    | Soma Gautam      | 1,47,896         |
| 9.    | Rajni Singh      | 80,276           |
|       | <b>Total</b>     | <b>12,46,417</b> |

With regard to fee, the school stated that it had increased the fee w.e.f. 01/04/2009, in pursuance of order dated 11/02/2009 issued by the Director of Education. A statement showing class-wise pre hike monthly fee and post hike monthly fee was also enclosed. As per the information furnished, the aggregate amount of pre hike monthly fee amounted to Rs.6,98,840 while the post hike monthly fee amounted to Rs.8,60,240. The school also enclosed another statement showing class-wise recovery of back arrear fee which aggregated Rs.15,19,500. The detail of back arrears charged from the students, as submitted by the school was as follows:

Mount Abu Public School, Sector-18, Rohini, Delhi-89/Order/B-294

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| S.No. | Class | Total        | Back Arrears (Rs.) |
|-------|-------|--------------|--------------------|
| 1.    | I     | 20           | 50,000             |
| 2.    | II    | 24           | 60,000             |
| 3.    | III   | 24           | 60,000             |
| 4.    | IV    | 20           | 50,000             |
| 5.    | V     | 23           | 57,500             |
| 6.    | VI    | 27           | 81,000             |
| 7.    | VII   | 20           | 60,000             |
| 8.    | VIII  | 18           | 54,000             |
| 9.    | IX    | 106          | 3,18,000           |
| 10.   | X     | 124          | 3,72,000           |
| 11.   | XI    | 23           | 69,000             |
| 12.   | XII   | 96           | 2,88,000           |
|       |       | <b>Total</b> | <b>15,19,500</b>   |

A notice of hearing dated 28/10/2014 was issued to the school requiring the school to appear before the Committee on 19/11/2014, and to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission.

**Submissions and Discussion:**

On the date of hearing, a request was made on behalf of the school for adjournment on the ground of non availability of its accountant. A fresh notice was issued on 11/12/2014, requiring the school to appear  
*Mount Abu Public School, Sector-18, Rohini, Delhi-89/Order/B-294*

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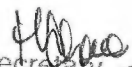
on 30/12/2014. On this date Sh. Ashok Sharma, accountant of the school appeared and again sought adjournment, this time on account of non availability of fee and salary records and books of account of the school. The school was given a last opportunity to produce the following records on 21/01/2015:

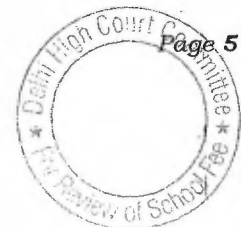
- a. Fee receipts and registers
- b. Salary register
- c. Complete bank statements
- d. Cash book and ledger

The school was also directed to file a complete reply to the notice dated 28/10/2014 issued by the Committee. On 21/01/2015, Sh. Puneet Batra, Advocate appeared with Ms. Archana Arora Vice Principal of the school. However, they again did not produce the fee registers, fee receipts, salary registers, bank statements, cash book and ledgers despite specific direction to this effect given by the Committee on 30/12/2014. The school also did not furnish the complete information as required in the notice dated 28/10/2014. The school gave only partial information.

On perusal of the partial information furnished by the school vide submissions dated 21/01/2015, the Committee observed that although as per the claim of the school, the hike in tuition fee was just about 30% in 2009-10, the aggregate tuition fee in the year 2009-10 rose from Rs.37.73 lacs to Rs.135.87 lacs (a rise of about 260%). Further, the

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Committee observed that an aggregate fee of Rs.55.75 lacs had been recovered under the head Teachers Training. The Counsel who appeared for the school submitted that the school also ran a Teachers training programme under the aegis of this school.

The Committee also observed that as per the fee schedule for the year 2009-10 which was filed, the fee was reflected from class 1. The Counsel for the school submitted that the pre primary classes were run under the aegis of an unrecognized school by the name of Mount Abu International School. The matter was again adjourned to 06/02/2015, with the directions to the school to produce its books of accounts and other related records. However on this date also a request for grant of more time was made which was reluctantly granted by the Committee and the matter was adjourned to 23/02/2015.

On the next date the school produced its books of accounts only for the year 2008-09 and requested for another 10 days time to produce the record for 2009-10 and 2010-11.

On 12/03/2015, the school produced its fee records which were examined by the Audit Officer of the Committee and she recorded that the fee receipts issued by the school showed only consolidated amount of fee charged and therefore, it was not possible to segregate the amount of fee recovered by the school under different heads and check the break up of fee filed by the school. She also recorded that the school was

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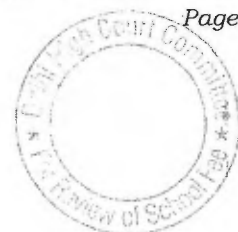
having a practice of holding high cash balances in 2009-10 and 2010-11.

**For the first time on this date, the Counsel for the school stated that the school neither received any arrear fee from the students for implementation of the 6<sup>th</sup> pay commission nor paid any arrear salary to the staff.**

This was contrary to the position that was being consistently taken by the school from 2012 when the information was furnished by the school to the Dy. Director of Education. Again the school maintained that position while submitting reply to the questionnaire to this Committee vide letter dated 05/10/2013. In fact, the school had given specific names of the staff members and mentioned the amounts that had been paid to them as arrears. The school had also furnished details of the arrear fee recovered from the students and even given the class wise break up of such recoveries. All these communications were signed by the Principal of the school who would be in the know of actual state of affairs. Further, the hearings had started on 19.11.2014 and the school persistently defaulted in producing its fee records and books of accounts for the years 2009-10 and 2010-11 till 12/03/2015 and sought adjournments on one ground or another. During the course of hearings although the Vice Principal was appearing personally, she never ever took the position that the school ultimately took on 12/03/2015. The Audit Officer of this Committee also recorded the submission made by the Counsel of the school who had produced the records on *Mount Abu Public School, Sector-18, Rohini, Delhi-89/Order/B-294*

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12/03/2015, that the actual payment of arrears had not been made but the school had only made a provision for arrears in the books (which position was also subsequently retracted by him during the course of hearing on 06/09/2018). It is noteworthy that the school did not produce its books of accounts, fee and salary records for the years 2009-10 and 2010-11 on 19/11/2014, 30/12/2014, 21/01/2015, 06/02/2015 and 25/02/2015, despite specific directions of the Committee to produce the same, although the school maintains its books of accounts in a software and there should have been no impediment in producing the same in a laptop in normal course. The production of books of accounts, fee and salary records for the years 2009-10 and 2010-11, coincided with the about turn made by the school with regard to recovery of arrear fee and payment of arrear salary. It appears that since the school was not able to show payment of arrear salary from its books of accounts or bank statements, it rewrote the books of accounts for 2009-10 and 2010-11 in the software to show that it had not recovered the arrear fee also, although as stated supra, the school had given class wise break up of recovery of arrear fee amounting to Rs. 15,19,500. However, since the amount had been collected and some of which might also have been received by cheques and deposited in the bank account, the school obliterated the break up of fee in its books of accounts and showed the entire fee under one omnibus head i.e. "Gross Fee".

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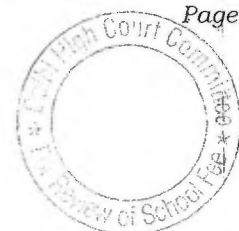


The school was directed to furnish a statement, giving month wise break up of salary paid in cash, through bearer cheques and through account payee cheques/direct bank transfers in the years 2008-09 and 2009-10. The school furnished the break up on 16/03/2015 alongwith copies of bank statement. The same was examined by the Audit Officer of the Committee and she recorded that the salary paid in September 2009 for the month of August 2009 i.e. for the period prior to implementation of 6<sup>th</sup> pay commission, by the school amounted to Rs.4,88,548 out of which only a sum of Rs.1,24,953 was paid by bank transfers i.e. about 25% only. The rest 75% was paid either in cash or through bearer cheques. For the month of September 2009 which was paid in October 2009 i.e. after the purported implementation of the recommendations of the 6<sup>th</sup> pay commission, out of a total amount of Rs.8,51,932, only a sum of Rs.2,59,940 was paid through bank transfer which is about 30%. The rest 70% was allegedly paid either in cash or through bearer cheques.

During the course of hearing on 06/09/2018, the Committee examined the books of accounts which were produced by the school in a laptop and observed some more unusual features. The Committee observed that after September, 2009 when the school purportedly implemented the recommendations of the 6<sup>th</sup> pay commission, the trend was more towards payment of salary in cash or through bearer cheques than it was before September 2009. To some teachers to whom salary had been paid by cheques in the past, after September 2009, the salary

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was paid in cash, even though after the purported implementation of 6<sup>th</sup> pay commission the amount of salary paid to individual teachers had gone up phenomenally. The Committee also verified for itself the observation of the Audit Officer that in 2009-10 the school held heavy cash balance which ranged from Rs.6 lacs to Rs.15 lacs on a daily basis. In 2008-09 however, this phenomenon was not observed and the school held reasonable amount of cash in hand. The incidence of heavy cash holdings, coincided with the hike in fee effected by the school w.e.f. 1.4.2009. Further, the school, of its own showing, did not implement the recommendations of 6<sup>th</sup> pay commission w.e.f 01/04/2009 but implemented it from 01/09/2009, although it had hiked the tuition fee w.e.f. 01/04/2009.

During the course of hearing on 06/09/2018, the learned Counsel appearing for the school, submitted that the circular regarding collection of arrear fee was issued while the school was functioning from Shalimar Bagh. The school shifted to Rohini w.e.f. 1.4.2009 and a majority of the students who were studying in the school in Shalimar Bagh withdrew from the school. The students who shifted to the school at Rohini did not pay the arrear fee. This appears to be an afterthought as the school was not able to show that it had paid arrear salaries to the staff, although it claimed to have paid the same firstly in a communication to the Dy. Director of Education and again while submitting reply to the questionnaire of this Committee.

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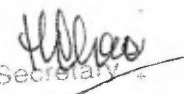
Further, with regard to increase in fee in 2009-10, which the Committee has observed to be of the order of 260%, the learned Counsel submitted that the two figures i.e. the fee of 2008-09 and that for 2009-10 were not comparable as the figures for 2009-10 represented the consolidated fee from the students of Shalimar Bagh school (which was shifted to Rohini) as well as from the students of the unrecognized school that was already functioning at Rohini. However, figures for 2008-09 which have been submitted by the school on 20/01/2015 were the figures of only the recognized school that was functioning from Shalimar Bagh. It was submitted that if the figures of the unrecognized school which was functioning from Rohini are included in the total fee for 2008-09 the aggregate fee for that year would amount to Rs. 1,65,16,514 as against the aggregate tuition fee for the year 2009-10 Rs.1,35,87,120. Accordingly he submitted that in actual fact there was a decrease in aggregate tuition fee in the year 2009-10.

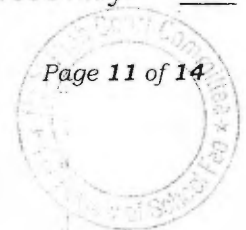
**Conclusion:-**

**In view of the above submissions and discussion, the Committee is of the view that:**

- (i) The school recovered arrear fee from the students to the tune of Rs. 15,19,500, as per the details submitted by it in Annexure 4 to its letter dated 05/10/2013 which was filed in reply to the questionnaire issued by the Committee, as the school even gave class wise details of such recovery. The

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letter was signed by the Principal of the school which stated **“the total amount as well as details of arrear fee charged from the students consequent to implementation of VI Pay Commission attached-Annexure 4”**. It is also clear from the Circular dated 07/03/2009 issued by the school to the parents vide which the back arrears (for the period 01/01/2006 to 31/08/2008) and arrears of incremental fee for seven months (for the period 01/09/2008 to 31/03/2009), were demanded. In order to camouflage the recovery of such arrears in its books of accounts, the school accounted for the total fee recovery under one single head i.e. “Gross Fee”.

- (ii) The school did not pay the arrears of salary amounting to Rs. 12,46,517, which it initially claimed to have paid but when asked to show its payments from its books of accounts and bank statements, it retracted its position and conceded that it had not paid the arrear salary as claimed by it in its communication dated 28/01/2012 to the Dy. Director of Education, which was signed by the Principal as also in its letter dated 05/10/2013 to this Committee which again was signed by the Principal of the school.
- (iii) The school admittedly hiked the tuition fee @ Rs. 200 per month for students of classes KG to V and @ Rs. 300 per month for students of classes VI to XII, w.e.f. 01/04/2009.

- (iv) Of its own showing, the school did not implement the recommendations of VI Pay Commission, even prospectively, w.e.f. 01/04/2009 from which date the fee was hiked for the purpose of payment of increased salaries arising on implementation of the recommendations of VI Pay Commission. Although it maintains that it implemented the recommendations of VI Pay Commission w.e.f. 01/09/2009, the Committee is not convinced of even this, as the school admittedly paid almost 70% of its total salary bill after the purported implementation of the recommendations of VI Pay Commission in cash or by bearer cheques. In many of the cases, the employees who were paid by a/c payee cheques prior to the purported implementation of the recommendations of VI Pay Commission, were paid in cash after the purported implementation.
- (v) The school was carrying out commercial activities from the premises of the school by illegally running a Teachers training programme and generating huge revenues from the same (the revenue generated on this activity amounted to Rs. 55,75,000 in 2009-10 and Rs. 52,50,000 in 2010-11). The school was not maintaining separate books of accounts for this activity.
- (vi) The school did not come with clean hands before this Committee and resorted to mis-statements and falsehoods

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and when it appeared that it would be exposed, it retracted multiple number of times the statements made by it.

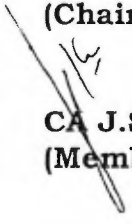
**Recommendations:**

In view of the above discussion and particularly in view of the finding of the Committee that the school did not pay any arrears of salary arising on implementation of the recommendations of VI Pay Commission nor it implemented the same w.e.f. 01/09/2009 as claimed by it, the school ought to refund the following sums to the students along with interest @ 9% per annum from the date of collection to the date of refund:

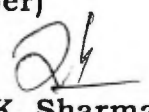
- (a) Arrear fee amounting to Rs. 15,19,500 collected by it.
- (b) Incremental tuition fee @ Rs. 200/300 per month collected by it w.e.f. 01/04/2009.



Justice Anil Kumar (R)  
(Chairperson)



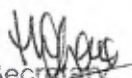
CA J.S. Kochar  
(Member)



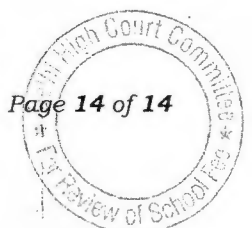
Dr. R.K. Sharma  
(Member)

Dated: 14/09/2018

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

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

**In the matter of:**

**Mother Divine Public School, Sector-3, Rohini, Delhi-110089 (B-46)**

**Order of the Committee**

Present : Sh. Puneet Batra, Advocate with Sh. Manan Budhiraja,  
Administration Officer of the school.

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

The school submitted its reply vide its letter dated 01/03/2012, stating that it had implemented the recommendations of the 6<sup>th</sup> Pay Commission w.e.f. 01/04/2009. It also enclosed a statement showing salary paid to each individual staff member before as well as implementation of the recommendations of VI Pay Commission. It also stated that it had paid a sum of Rs. 31,99,668 as arrears of salary on implementation of the recommendations of VI Pay Commission.

With regard to hike in fee, the school stated that it had hiked the fee w.e.f. 01/04/2009 in pursuance of order dated 11/02/2009 issued

*Mother Divine Public School, Sector-3, Rohini, Delhi-89/Order/B-46*

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*Manan*  
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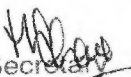


by the Director of Education and also enclosed a comparative statement showing the pre hike as well as the post hike in fee for different classes. As per this statement, the fee hike effected by the school amounted to Rs. 200 per month for classes pre-school to VIII and Rs. 300 per month for classes IX to XII. It also enclosed a statement showing recovery of arrear fee @ Rs. 1400 per student of classes pre-school to VIII and @ Rs. 2100 for students of classes IX to XII for the period 01/09/2008 to 31/03/2009. No information was submitted with regard to lump sum arrear fee for the period 01/01/2006 to 31/08/2008.

In the first instance, the relevant calculations to examine the justifiability of fee hike effected by the school were made by the Chartered Accountants (CAs) deputed by the Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess to the tune of Rs. 30,83,786. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reasons that the CAs had based their calculations on the basis of the balance sheet as on 31/03/2009 which was not appropriate as the school had already increased the fee w.e.f. 01/09/2008 and recovered arrears of seven months upto 31/03/2009. Secondly, the CAs had accounted for recovery of lump sum arrear fee to the tune of Rs. 31,77,928, which was not reflected from any document filed by the school.



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The Committee issued a notice dated 08/08/2015 to the school requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission. A supplementary questionnaire was issued to the school to elicit the information with regard to charging and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund.

The school furnished the required information under cover of its letter dated 07/07/2015. As per the information furnished, the school recovered a nominal amount of arrear fee for the period 01/01/2006 to 31/08/2008, amounting to Rs. 19,068. The school also stated that it had not paid any arrear salary for the aforesaid period. The school also furnished copies of its bank statements in evidence of the payments having been made through direct bank transfers or account payee cheques. It also furnished reports of actuary showing that as on 31/03/2010, the accrued liability of the school in respect of gratuity was

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Rs. 49,43,969. A statement showing the accrued liability on account of leave encashment amounting to Rs. 47,03,093 was also furnished.

With regard to development fee, the school submitted that it started charging development fee in 2008-09. The amount that was charged as development fee in 2009-10 amounted to Rs. 24,90,700 while that in 2010-11, it was Rs. 26,86,700. The school also stated that from 2009-10, it was treating development fee as a capital receipt and maintaining depreciation reserve fund and development fund.

The Committee issued a notice dated 23/06/2016 requiring the school to appear before it on 07/07/2016 along with its relevant financial records. The date of hearing was postponed to 22/07/2016 on which date Sh. Puneet Batra, Advocate appeared on behalf of the school and sought adjournment. The matter was adjourned to 06/09/2016. On this date, Sh. Puneet Batra, appeared along with Sh. Manan Budhiraja, Administrative Officer and Sh. Ashish Accountant of the school.

The Committee perused the circular dated 16/02/2009 issued by the school to the parents of the students in pursuance of order dated 11/0/2009 issued by the Director of education. It observed that the school hiked the tuition fee of classes LKG to VIII @ Rs. 200 per month and classes IX to XII @ Rs. 300 per month w.e.f. 01/04/2009 and also recovered the arrears for the period 01/09/2008 to 31/03/2009 in three installments. The Committee noticed that the circular also provided for

*Mother Divine Public School, Sector-3, Rohini, Delhi-89/Order/B-46*

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recovery of lump sum arrear fee for the period 01/01/2006 to 31/08/2008 @ Rs. 2,500/3,500 per student which was to be recovered in installment @ Rs. 100 per month. The Counsel for the school contended that though initially some amount of arrear fee for the period 01/01/2006 to 31/08/2008 was collected, the same was refunded to the students on account of some representations received from the parents regarding roll back of fee hike. Ultimately only sum of Rs. 19,068 was the net recovery on this account.

The Committee noticed that in the statement filed by the school, it was mentioned that for the period 01/09/2008 to 31/03/2009, the school recovered a sum of Rs. 29,39,895.

With regard to payment of arrear salary, the Counsel for the school contended that a total sum of Rs. 33,31,325 was paid towards 1<sup>st</sup> instalment of arrears of salary payable for the period 01/01/2006 to 31/08/2008 which was 40% of total arrear liability. He contended that remaining 60% of the arrears for the above period as well as the arrears for the period 01/09/2008 to 31/03/2009 had not been paid by the school on account of paucity of funds as the school had to provide for the accrued liability of gratuity and leave encashment.

The Committee also perused the summarized statement of the school's transactions with its Parent Society and observed that the net result of such transactions was that the contribution of the Society to

school had increased from Rs. 16,80,915 as on 31/03/2007 to Rs. 37,05,144 as on 31/03/2011. Therefore, there was no transfer of funds by the school to Society but the Society had contributed some funds to the school.

With regard to development fee, the Committee examined the contention of the school that it started charging development fee from 2008-09 in which it was treated as revenue receipt but in the year 2009-10 and 2010-11, it was treated as capital receipt and utilized for purchase of furniture, fixture and equipments. It also examined the contention of the school that the unutilized balance of development fee was kept in an earmarked account. The Committee also perused a certificate issued by Vijaya Bank, which was produced by the school, to the effect that the account was earmarked for this purpose.

The Committee prepared its own calculation sheet to examine the justifiability of recovery of arrear fee and hike in tuition fee w.e.f. 01/09/2008. While preparing the calculation sheet, the Committee observed that the school had during the period 2006-07 to 2009-10 utilised a sum of Rs. 33,61,250 out of its fee revenues towards repayment of loans taken by the school for purchase of its fixed assets and payment of interest thereon. As the Hon'ble Supreme Court has held in the case of Modern School vs. Union of India that the capital expenditure cannot be part of the fee structure of the school, the Committee deemed it appropriate to consider this sum of Rs. 33,61,250

as part of funds available which could have been utilised for implementing the recommendations of VI Pay Commission.

As per the calculations prepared by the Committee, the net current assets + investments (funds available) of the school as on 31/03/2008, amounted to Rs. 21,81,306 as per the following details:

|   |           |                  |
|---|-----------|------------------|
| <u>Current Assets + Investments</u>     |           |                  |
| Cash in Hand                            | 64,100    |                  |
| Bank Balances                           | 841,269   |                  |
| FDR Vijaya Bank                         | 2,000,000 |                  |
| Fixed Deposit Receipts                  | 756,316   |                  |
| Accrued Interest                        | 207,250   |                  |
| Advances to Staff                       | 15,000    |                  |
| TDS                                     | 52,655    | 3,936,590        |
| <u>Less : Current Liabilities</u>       |           |                  |
| Security                                | 104,735   |                  |
| Sundry Creditors                        | 364,208   |                  |
| Bank of Madura Ltd.                     | 54,851    |                  |
| PF Contribution payable                 | 48,326    |                  |
| Salary payable                          | 946,700   |                  |
| Expenses payable                        | 6,248     |                  |
| TDS payable                             | 230,216   | 1,755,284        |
| <b>Net Current Assets + Investments</b> |           | <b>2,181,306</b> |

As per the above discussion, the funds available with the school after considering the capital expenditure of Rs. 33,61,250, the funds deemed to be available with the school amounted to **Rs. 55,42,556**.

The total financial impact of implementation of the recommendations of VI Pay Commission, as worked out by the Committee was **Rs. 1,10,41,121** as per the following details:

| <b>Additional Liabilities after implementation of 6th Pay Commission:</b> |                   |
|---|-------------------|
| Arrear of Salary as per 6th CPC   | 3,331,325         |
| Incremental Salary for 2009-10 (as per calculation given below)*          | 7,709,796         |
| <b>Total</b>  | <b>11,041,121</b> |

\*

| <b>Incremental salary in 2009-10</b> | <b>2008-09</b>   | <b>2009-10</b> |
|--------------------------------------|------------------|----------------|
| Salary                               | 14,760,355       | 22,470,151     |
| <b>Increase in 2009-10</b>           | <b>7,709,796</b> |                |

Thus there was an apparent gap of **Rs. 54,98,565** ( 1,10,41,121 – 55,42,556), which was required to be bridged by way of recovery of arrear fee and increase in tuition fee as per order dated 11/02/2009 issued by the Director of Education.

The recovery of arrear fee and increase in tuition fee in the year 2009-10 resulted in an additional revenue of **Rs. 92,27,488**

| <b>Total Recovery for implementation of 6th Pay Commission:</b>       |                  |
|---|------------------|
| Arrear of tuition fee   | 2,958,963        |
| Arrear of development fee   | -                |
| Incremental tuition fee for 2009-10 (as per calculation given below)* | 6,268,525        |
| <b>Total</b>  | <b>9,227,488</b> |

\*

| <b>Incremental tuition fee in 2009-10</b> | <b>2008-09</b>   | <b>2009-10</b> |
|---|------------------|----------------|
| Normal/ Regular Tuition fee               | 20,015,130       | 26,283,655     |
| <b>Increase in 2009-10</b>                | <b>6,268,525</b> |                |

Mother Divine Public School, Sector-3, Rohini, Delhi-89/Order/B-46

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Secretary



At first sight, it appears that the school recovered more fee than was required to offset its additional expenditure on account of implementation of the recommendations of VI Pay Commission, to the tune of **Rs.37,28,923** (92,27,488 – 54,98,565). However, upto this stage, the Committee has not factored in the requirement of the school to keep funds in reserve for future contingencies and for meeting its accrued liabilities of gratuity and leave encashment. The reserves required to be kept by the school for these purposes amount to **Rs. 1,71,37,112**, as per the following details:

|   |                   |
|---|-------------------|
| <b>Reserves required to be maintained:</b>                      |                   |
| for future contingencies (equivalent to 4 months salary)        | 7,490,050         |
| for accrued liability towards Leave Encashment as on 31.03.2010 | 4,703,093         |
| for accrued liability towards Gratuity as on 31.03.2010         | 4,943,969         |
| <b>Total</b>  | <b>17,137,112</b> |

In view of the foregoing determinations, the Committee is of the view that the fee hike effected by the school and the arrear fee recovered by it, to the extent it was recovered was justified.

**Development Fee:**

As noticed supra, the total development fee charged by the school in 2009-10 and 2010-11 pursuant to order dated 11/02/2009 amounted to Rs. 51,77,400. The Committee is not inclined to undertake an academic exercise to examine whether the pre conditions prescribed by the Hon'ble Supreme Court in the case of Modern School (supra) were



fulfilled by the school or not in view of the requirement of the school to keep funds in reserve for meeting its accrued liabilities for gratuity, leave encashment and reserve for future contingencies.

In view of the foregoing discussion, the Committee is of the view the fee hike effected by the school as well as the arrear fee recovered by it for implementation of the recommendations of VI Pay Commission were justified and no intervention is called for in this regard. Further, the Committee is of the view that no intervention is called for in the matter of development fee charged by the school for the years 2009-10 and 2010-11 also.

Ordered accordingly.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 17 /09/2018

**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:**

**Ryan International School, Vasant Kunj, New Delhi-110070 (B-156)**

**Order of the Committee**

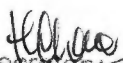
Present : Sh.Mukesh Gupta, Sr. Accounts Officer of the school.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. However, the school did not submit any reply to the questionnaire. A reminder was issued on 27/03/2012 but the same also was not responded to by the school. The matter was reported to the Director of Education and it appears that the school was instructed to submit the reply by the Office of the Directorate of Education. The school then submitted its reply vide letter dated 08/10/2012.

As per the reply submitted by the school, it implemented the recommendations of the 6<sup>th</sup> Pay Commission w.e.f. 01/09/2008. The school also enclosed a statement showing salary paid to each individual staff member before as well as from implementation of the

*Ryan International School, Vasant Kunj, New Delhi-70/Order/B-156*

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recommendations of VI Pay Commission. As per the statement, the differential salary on implementation of the recommendations of VI Pay Commission was of the order of Rs. 15,88,204 per month. It also enclosed a statement showing that a sum of Rs. 52,13,066 had been paid to the staff as arrears of salary for the period 01/01/2006 to 31/08/2008.

With regard to fee, it was stated that the school increased the fee w.e.f. 01/09/2008 and also recovered the arrear of lump sum fee for the period 01/01/2006 to 31/08/2008. A statement showing the effect of hike in fee was enclosed by the school along with the reply as per which the differential fee w.e.f. 01/09/2008 after the fee hike amounted to Rs. 11,83,600 per month. The total collection on account of arrear fee was however, not mentioned.

In the first instance, the relevant calculations to examine the justifiability of fee hike effected by the school were made by the Chartered Accountants (CAs) deputed by the Director of Education with this Committee, to assist it. They determined that prima facie the school had recovered excess amount to the tune of Rs. 1,57,03,067. The calculations prepared by the CAs were reviewed by the Committee and were not accepted for the reason that the CAs had not considered the accrued liabilities of gratuity and leave encashment while making the aforesaid calculations of excess fee.

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The Committee issued a notice dated 13/05/2015 to the school requiring the school to furnish the information sought in the questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission. The school was also required to furnish audited financials of the pre primary school if the same were not incorporated in the main balance sheet of the school. A supplementary questionnaire was issued to the school to elicit the information with regard to charging and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund.

The school furnished the required information under cover of its letter dated 28/05/2015. As per the information furnished, the school revised the figures it had given in its reply to the questionnaire and now stated that the total arrear fee recovered by the school was Rs. 1,76,41,134 and the total arrear salary paid by the school was Rs. 3,09,82,803. The revision of figure was on account of the fact that after submitting its reply to the questionnaire, the school made substantial

*Ryan International School, Vasant Kunj, New Delhi-70/Order/B-156*

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payments towards arrears salary in the year 2013-14 and 2014-15. The difference in arrear fee was on account of the fact that earlier the school had considered only the lump sum fee for the period 01/01/2006 to 31/08/2008 but now the school also considered the arrear fee collected for the period 01/09/2008 to 31/03/2009. The school also furnished copies of its bank statements in evidence of the payments having been made through direct bank transfers or account payee cheques.

With regard to development fee, the school submitted that it was charging development fee in all the five years for which information was sought. In 2009-10, it collected a total sum of Rs. 1,26,35,659 on this account while in 2010-11, it collected Rs. 1,22,32,838. Only part of it was utilised for purchase of eligible fixed assets. More importantly it was treated as a revenue receipt. However, the school submitted that it was maintaining depreciation reserve fund and unutilised development fund in earmarked bank accounts/FDRs.

The Committee issued a notice dated 22/06/2016 requiring the school to appear before it on 27/06/2016, along with its relevant financial records. Sh. Louis R., Office Incharge and Sh. Mukesh Gupta, Sr. Accounts Officer of the School appeared before the Committee. They filed submissions dated 27/06/2016 stating that separate books of accounts for pre primary section and primary section were maintained w.e.f. financial year 2010-11. Prior to that, the main balance sheet of the school itself contained the financials of pre-primary and primary

*Ryan International School, Vasant Kunj, New Delhi-70/Order/B-156*

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sections. They also filed details of mode of payment of salary in 2008-09 and 2009-10 and submitted that bulk of the payment of salaries was made by bank transfer and only adhoc staff was paid salary in cash.

The Committee perused the information filed by the school under cover of its letter dated 28/05/2015, particularly copy of circular issued to the parents, regarding fee hike in pursuance of circular dated 11/02/2009 issued by the Director of Education and observed that the tuition fee for all the classes was hiked by Rs. 400 per month and development fee was also hiked by Rs. 153 per month w.e.f. 01/09/08.

With regard to the development fee, it was submitted that the same was treated as a revenue receipt. As per the detail filed by the school, the Committee observed that the utilization of development fee was mainly for the purpose of repair and maintenance of school building.

When the matter was heard next, the school furnished the fee schedules for the years 2008-09 & 2009-10 and also the calculation with regard to the hike in development fee @ Rs.153 per month as against hike in tuition fee @ Rs.400 per month. The school clarified that it recovered the differential amount of development fee @15% of tuition fee for the period 01/09/2008 to 31/03/2009, but the development fee on the pre hiked development fee was being charged @ 10% of tuition fee. The school also furnished the detail of the arrears of salary for the period 01/01/2006 to 31/08/2008 paid in the year 2013-14 & 2014-15.

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The authorized representatives who appeared for the school submitted that initially the school had not paid full amount of arrear salary but had restricted the same to the amount of arrear fee collected from the students. However, subsequently, the aggrieved teachers filed a writ petition in the Delhi High Court which was disposed off by order dated 12<sup>th</sup> August 2013, directing the school to pay the remaining amount of arrears to the teachers alongwith the interest @ 6% per annum. They further submitted that in compliance with the order of the Hon'ble High court, the school paid a total sum of Rs.1,54,74,291 as the balance amount of arrears in the year 2013-14. This included interest amounting to Rs.7,35,98. A further payment of Rs. 11,11,818 was made in the year 2014-15. The authorized representatives of the school were unable to provide the breakup of the arrears of salary and interest paid in compliance of the order of the Hon'ble Delhi High Court. They undertook to provide the same within one week. The Committee also took note of the fact that in compliance to notice dated 13/05/2015, the school had given details of its accrued liabilities of gratuity and leave encashment as on 31/03/2011 instead of 31/03/2010. The school was directed to furnish the details as on 31<sup>st</sup> March 2010. The school furnished such details on 26/08/2016, as per which the accrued liabilities on account of gratuity was Rs. 2,12,68,042 as on 31/03/2010 and that leave encashment, it was Rs. 68,62,293.

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Taking into consideration the financials of the school and the information provided by it during the course of hearings and through its various communications, the Committee prepared a calculation sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. While preparing the calculation sheet, the Committee observed that the net current assets of the school as on 31/03/2008 were in the negative zone to the tune of **Rs. 35,60,494**. These were as follows:

|  |           |                      |
|--|-----------|----------------------|
| <b><u>Current Assets + Investments</u></b> |           |                      |
| Cash in Hand (including Petty cash)        | 82,962    |                      |
| Cash at Bank in Current Account            | 5,999     |                      |
| Fixed Deposits                             | 1,985,448 |                      |
| Amount recoverable from Parties            | 6,752     |                      |
| Advance to Parties                         | 365,918   |                      |
| Emp. Share to PF                           | 764       |                      |
| Advance to Employees                       | 1,794,039 | 4,241,882            |
| <b><u>Less: Current Liabilities</u></b>    |           |                      |
| Caution Money                              | 7,674,500 |                      |
| Sundry Credit balances                     | 127,876   | 7,802,376            |
| <b>Net Current Assets + Investments</b>    |           | <b>(-) 35,60,494</b> |

This was indicative of the fact that either the school was transferring its funds to some other entities or it was using its fee revenues for incurring capital expenditure, since the school was not incurring any cash losses which might have resulted in negative working capital.

On further examinations of the financials of the school, the Committee observed that between 2006-07 and 2009-10, the school

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diverted its fee revenue towards repayment of secured/unsecured loans for purchase of fixed assets, mainly buses. Such diversion aggregated **Rs. 2,06,95,767** during the aforesaid period. Since the Hon'ble Supreme Court in the case of Modern School vs Union of India (2004) 5 SCC 583 has held that capital expenditure cannot form part of the fee structure of the school, the Committee considered such diversion as not permissible. Accordingly while calculating the funds available with the school for the purpose of implementation of the recommendations of VI Pay Commission, the Committee considered this amount as deemed to be available with the school. Thus, the Committee considered that the school was deemed to have available with it a sum of **Rs. 1,71,35,273** (2,06,95,767 – 35,60,494) as on 31/03/2008.

The total financial impact of the implementation of the recommendations of VI Pay Commission on the school, after considering the payment of arrear salary pursuant to the directions of the Hon'ble Delhi High Court was to the tune of **Rs. 4,63,84,737** as per the following details:

|  |                   |
|--|-------------------|
| <b>Additional Liabilities after implementation of VIth Pay Commission:</b> |                   |
| Arrear of Salary as per 6th CPC  | 30,982,803        |
| Incremental Salary for 2009-10 (as per calculation given below)*           | 15,401,934        |
| <b>Total financial impact</b>  | <b>46,384,737</b> |

\*

| <b>Incremental salary in 2009-10</b>    | <b>2008-09</b>    | <b>2009-10</b> |
|---|-------------------|----------------|
| Normal/ regular salary as per I & E A/c | 33,114,790        | 48,516,724     |
| <b>Increase in 2009-10</b>              | <b>15,401,934</b> |                |

Thus the school had a gap of **Rs. 2,92,49,464** ( 4,63,84,737-1,71,35,273), which was required to be bridged by recovering arrear fee and incremental fee as per order dated 11/02/2009 issued by the Director of Education.

The school generated additional resources to the tune of **Rs. 3,23,96,828** by recovering arrear fee and incremental fee w.e.f. 01/09/2008, as per the following details:

| <b>Total Recovery for implementation of 6th Pay Commission:</b>       |                   |
|---|-------------------|
| Arrear of tuition fee   | 17,641,134        |
| Arrear of Development fee   | 3,284,757         |
| Incremental tuition fee for 2009-10 (as per calculation given below)* | 11,470,937        |
| <b>Total</b>  | <b>32,396,828</b> |

\*

| <b>Incremental tuition fee in 2009-10</b>    | <b>2008-09</b>    | <b>2009-10</b> |
|--|-------------------|----------------|
| Normal/ Regular Tuition fee as per I & E A/c | 66,707,072        | 78,178,009     |
| <b>Increase in 2009-10</b>                   | <b>11,470,937</b> |                |

Thus, prima facie, the school recovered more fee than was required to meet its additional expenditure on account of implementation of the recommendations of VI Pay Commission to the tune of **Rs. 31,47,364** (3,23,96,828- 2,92,49,464). However, it is noteworthy that upto this

stage, the Committee has not taken into account the accrued liabilities of the school on account of gratuity ( Rs. 2,12,68,042) and leave encashment ( Rs. 68,62,293). When these are factored in the result would be that the school was in deficit to the tune of **Rs. 2,49,82,971.**

Thus the Committee is of the view that no interference is required in the matter of recovery of arrear fee and incremental fee w.e.f. 01/09/2008. The Committee has taken into consideration the full amount of arrears of development fee recovered by the school amounting to Rs. 32,84,757, which the Committee is of the view that the school was ~~not entitled to recover to the extent it exceeded 10% of the arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009.~~ However, since despite considering the full amount, the net result is that the school was in deficit after implementing the recommendations of VI Pay Commission, be regularized the recovery of such excessive development fee.

So far as regular development fee for the years 2009-10 and 2010-11 is concerned, the Committee notes that the aggregate amount of recovery is **Rs. 2,48,68,497.** Since the Committee has determined the school incurred a deficit of Rs. 2,49,82,971 on implementation of the recommendations of VI Pay Commission, the Committee is not undertaking an academic exercise of examining whether the recovery of such development fee was in accordance with the guidelines laid down by the Duggal Committee and the Hon'ble Supreme Court in the case of



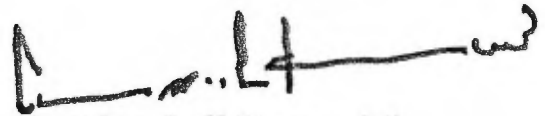
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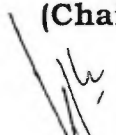
Modern School (supra). Therefore, the Committee is of the view that no intervention is called for in the matter of recovery of development fee also for these two years.

**Resultantly, the Committee is of the view that no intervention is required in the matter of recovery of arrears of lump sum tuition fee for the period 01/01/2006 to 31/08/2008 and incremental tuition fee for the period 01/09/2008 to 31/03/2010 and regular development fee for the years 2009-10 and 2010-11. Further, the Committee regularizes the excessive arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009.**

**Ordered accordingly.**



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



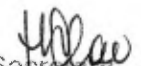
**CA J.S. Kochar  
(Member)**



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

Dated:18/09/2018

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

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

**In the matter of:**

**Ryan International School, Rohini, Delhi-110085 (B-583)**

**Order of the Committee**

Present : Sh. Louis Rodrigues, Office Incharge and Sh. Mukesh Gupta,  
Sr. Accounts Officer of the school.

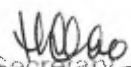
The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. The school submitted its reply vide letter dated 26/07/2012.

As per the reply submitted by the school, it implemented the recommendations of the 6<sup>th</sup> Pay Commission and started paying the increased salary to the staff w.e.f. 01/01/2006 (sic). The school also enclosed a statement showing salary paid to each individual staff member before as well as from implementation of the recommendations of VI Pay Commission. As per the statement, the differential salary on implementation of the recommendations of VI Pay Commission was of the order of Rs. 13,12,330 per month. It also enclosed a statement

*Ryan International School, Rohini, Delhi-85/Order/B-583*

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showing that a sum of Rs. 1,41,75,678 had been paid to the staff as arrears of salary.

With regard to fee, it was stated that the school increased the fee w.e.f. 01/10/2008 and also recovered the arrear of lump sum fee for the period 01/01/2006 to 31/08/2008. The total collection on account of arrear fee was mentioned as Rs. 69,36,929.

On 06/05/2013, a complaint was received from one Sh. Adesh Jain, a parent of one of the student of the school, raising certain contentions with regard to excess fee charged by the school in the years 2012 and 2013. Since the period to which the complaint related was not within the purview of this Committee, no cognizance thereof was taken by the Committee.

In response to certain queries raised by the Committee with reference to the reply submitted by the school to the questionnaire issued by the Committee, the school clarified that it had implemented the recommendations of VI Pay Commission w.e.f. 01/09/2008 and not 01/01/2006. Further, it submitted the detail of payment of arrear salary for the period 01/01/2006 to 31/08/2008 and the amount mentioned this time was Rs. 1,72,25,167 instead of Rs. 1,41,75,678 as mentioned earlier.

The Committee issued a notice dated 25/05/2015 to the school requiring the school to furnish the information sought in the

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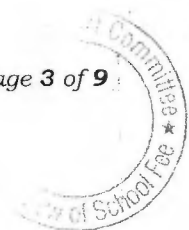


questionnaire issued by the Committee in a structured format, which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the Trust /Society running the school, as appearing in the books of accounts of the school, details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission. The school was also required to furnish audited financials of the pre primary school if the same were not incorporated in the main balance sheet of the school. A supplementary questionnaire was issued to the school to elicit the information with regard to charging and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund.

The school did not respond to the notice dated 25/05/2015. Consequently, the Committee issued another notice dated 23/09/2015, requiring the school to appear before it on 16/10/2015, besides furnishing the information as per notice dated 25/05/2015. On the date of hearing, Sh. Louis Rodrigues, Office Incharge appeared with Sh. Mukesh Gupta, Accounts Officer of the school. They submitted the information sought by the Committee vide notices dated 25/05/2015 and 23/09/2015. They further contended that initially the school had made only partial payment of arrears to the staff. The aggrieved staff

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filed a writ petition in the Delhi High Court and consequent to the order of the Court, the balance arrears were paid in the year 2013-14 along with interest @ 6% per annum.

As per the information furnished by the school, it revised the figures it had given in its reply to the questionnaire and now stated that the total arrear fee recovered by the school was Rs. 1,35,65,084 and the total arrear salary paid by the school was Rs. 1,69,20,001 upto 2009-10. The school however, did not submit any details of its accrued liabilities of gratuity and leave encashment on the ground that it was maintaining its accounts on cash basis and thus did not take into account its accrued liabilities in its books.

In its reply to the supplementary questionnaire regarding development fee, the school stated that it had recovered development fee in all the five years for which the information was sought by the Committee. The same was utilised mainly for repair and maintenance of building and was treated as a revenue receipt in the books. It was conceded that no earmarked bank accounts or FDRs or investments were maintained against unutilised development fund and depreciation reserve fund. In particular, the development fee recovered by the school in the years 2009-10 and 2010-11 with which this Committee is concerned was stated to be Rs. 1,15,46,042 and Rs. 1,27,44,540.

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The school furnished copies of its bank statements in evidence of the payments having been made through direct bank transfers or account payee cheques.

The Committee noticed that the arrears of development fee recovered for the period 01/09/2008 to 31/03/2009 were @ Rs. 150 per month per student while the arrears of tuition fee were recovered @ Rs. 400 per month. Thus the arrears of development fee amounted to 37.5% of the arrears of tuition fee which was impermissible as there is a cap of 15%. It was conceded by the authorized representatives that this was on account of the fact that the earlier the school was charging development fee at a rate lesser than 15% of the tuition fee but w.e.f. 01/09/2008, the school increased development fee @ 15% and recovered the differential amount.

The school subsequently filed a letter dated 16/11/2015 along with 6 Annexures. Vide this letter, the school clarified the various issues raised by the Committee on the previous date of hearing and also filed copy of the judgment of the Hon'ble Delhi High Court in the writ petition filed by the employees directing the school to make payment of the balance arrears of salary.

Taking into consideration the financials of the school and the information provided by it during the course of hearings and through its various communications, the Committee prepared a calculation sheet to

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examine the justifiability of fee hike effected by the school in pursuance of order dated 11/02/2009 issued by the Director of Education. The same is as follows:

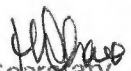
| <b>Statement showing Fund available as on 31.03.2008 and the effect of hike in fee as per order dated 11.02.2009 and effect of increase in salary on implementation of 6th Pay Commission Report</b> |   |                     |                     |
|--|---|---------------------|---------------------|
|  | <b>Particulars</b>  | <b>Amount (Rs.)</b> | <b>Amount (Rs.)</b> |
|  | <u>Current Assets + Investments</u>   |                     |                     |
|  | Cash in Hand  | 59,360              |                     |
|  | Bank Balance  | 310,556             |                     |
|  | Fixed Deposits  | 2,990,374           |                     |
|  | Advances excluding Security Deposits  | 11,849,644          | 15,209,934          |
| <b>Less</b>  | <u>Current Liabilities</u>  |                     |                     |
|  | Caution Money   | 6,002,470           |                     |
|  | St. Lawrence Educational Society  | 8,965,023           |                     |
|  | Ryan Shalom Montessori  | 263,419             |                     |
|  | Employees share to PF account   | 500                 | 15,231,412          |
|  | <b>Net Current Assets + Investments (Funds Available)</b>                                   |                     | <b>(21,478)</b>     |
|  | Funds diverted by way of repayment of loans and payment of interest from 2006-07 to 2009-10 |                     | 32,944,281          |
|  | <b>Total Funds deemed to be available for implementation of 6th CPC</b>                     |                     | <b>32,922,803</b>   |
| <b>Less</b>  | <b>Additional Liabilities after implementation of Vith Pay Commission:</b>                  |                     |                     |
|  | Arrear of Salary as per Vith Pay Commission   | 25,714,135          |                     |
|  | Incremental Salary for 2009-10 (as per calculation given below)                             | 19,486,172          | 45,200,307          |
|  | <b>Excess / (Short) Fund Before Fee Hike</b>  |                     | <b>(12,277,504)</b> |
| <b>Add</b>   | <b>Total Recovery for implementation of 6th Pay Commission</b>                              |                     |                     |
|  | Arrear of tuition fee for the period 1.1.2006 to 31.3.2009                                  | 11,913,434          |                     |
|  | Arrear of Development fee for the period 1.9.2008 to 31.3.2009                              | 1,651,650           |                     |
|  | Incremental tuition fee for 2009-10 (as per calculation given below)                        | 11,140,943          | 24,706,027          |
|  | <b>Excess / (Short) Fund After Fee Hike</b>   |                     | <b>12,428,523</b>   |
| <b>Less</b>  | <b>Reserves required to be maintained:</b>  |                     |                     |
|  | for future contingencies (equivalent to 4 months salary)                                    | 15,769,296          |                     |
|  | for accrued liability towards Gratuity as on 31.03.2010                                     | -                   | 15,769,296          |
|  | <b>Excess (short) Fund</b>  |                     | <b>(3,340,773)</b>  |

**Development fee refundable being treated as revenue receipt:**

|                                |                   |
|--------------------------------|-------------------|
| For the year 2009-10           | 11,546,042        |
| For the year 2010-11           | 12,744,540        |
| Total                          | 24,290,582        |
| Less: Shortfall in Tuition Fee | (3,340,773)       |
| <b>Net amount Refundable</b>   | <b>20,949,809</b> |

Ryan International School, Rohini, Delhi-85/Order/B-583

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**Working Notes:**

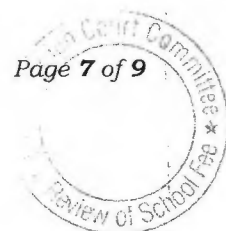
|   | 2008-09           | 2009-10    |
|---|-------------------|------------|
| Normal/ regular salary                    | 27,821,715        | 47,307,887 |
| <b>Incremental salary in 2009-10</b>      | <b>19,486,172</b> |            |
|   | 2008-09           | 2009-10    |
| Normal/ Regular Tuition fee               | 63,537,393        | 74,678,336 |
| <b>Incremental tuition fee in 2009-10</b> | <b>11,140,943</b> |            |

As would be noticed from the above calculation sheet, the Committee determined that though the school apparently recovered more fee than was required to offset the additional expenditure on salary as a result of implementation of the recommendations of VI Pay Commission, to the tune of Rs. 1,24,28,523, after factoring in the requirement of the school to keep funds in reserve to the tune of Rs. 1,57,69,296 for future contingencies which is equivalent to four months salary, which the Committee as a norm is allowing to all the schools, the fee hike effected by the school was not excessive and required any intervention despite the excess recovery on account of arrears of development fee for the period 01/09/2008 to 31/03/2009 as while working out the aforesaid figure, the Committee has taken the full amount of arrears of development fee as actually recovered by the school.

However, since the school was admittedly not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 for charging development fee, the amount of development fee collected by the school for the years 2009-10 and 2010-11 aggregating Rs. 2,42,90,582 ought to be refunded after setting of the notional deficit of Rs. 33,40,773 on implementation of the

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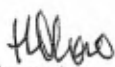


recommendations of VI Pay Commission. In other words, the school ought to refund a sum of Rs. 2,09,49,809 out of the development fee for the years 2009-10 and 2010-11.

A copy of the above calculation sheet was forwarded to the school vide letter dated 27/11/2015 and the school was given a further hearing to rebut the calculation sheet. In response, the school stated that the above calculation sheet did not take into account the accrued liabilities of the school on account of gratuity and leave encashment, although it admitted that it had itself not provided the information to the Committee in this regard when the Committee specifically asked for the same. Along with the rebuttal, the school filed details of its accrued liability on account of gratuity which amounted to Rs. 1,66,85,766 and that for leave encashment amounting to Rs. 52,31,762. It was contended that these two liabilities aggregated Rs. 2,19,17,528, which was more than the amount of refund provisionally determined by the Committee i.e. Rs. 2,09,49,809. It was contended that the school did not properly comprehend the requirement of the Committee regarding furnishing of details of accrued liability of gratuity and leave encashment. It mistakenly understood that the Committee was asking the school to furnish the details of provisions made for these liabilities in the balance sheet.

The Committee has considered the submissions made by the school and is of the view that the liability for gratuity and leave encashment accrues by efflux of time and not by making entries in the books of accounts or by creating provisions in the balance sheet. The school should not be

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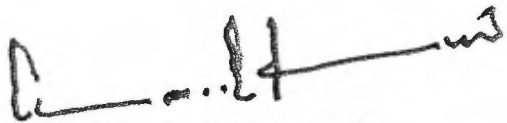



penalized for its omission to give the required information when asked for. The Committee has gone through the details of accrued liabilities of gratuity and leave encashment as submitted by the school and finds that the same is in order.

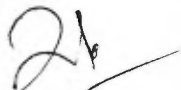
In view of the foregoing discussion, the Committee is satisfied with that no recommendation for refund of fee on any account is required to be made in this case.

**Resultantly, the Committee is of the view that no intervention is required in the matter of recovery of arrears of lump sum tuition fee for the period 01/01/2006 to 31/08/2008 and incremental tuition fee for the period 01/09/2008 to 31/03/2010 and regular development fee for the years 2009-10 and 2010-11. Further, the Committee regularizes the excessive arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009.**

Ordered accordingly.

  
Justice Anil Kumar (R)  
(Chairperson)


  
CA J.S. Kochar  
(Member)

  
Dr. R.K. Sharma  
(Member)

Dated:18/09/2018

Ryan International School, Rohini, Delhi-85/Order/B-583

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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:**

**Ryan International School, Mayur Vihar, Delhi-110096 (B-345)**

**Order of the Committee**

Present : : Sh. Mukesh Gupta, Sr. Accounts Officer of the school.

The school had submitted copies of its annual returns filed under Rule 180 of the Delhi School Education Rules, 1973 for the year 2006-07 to 2010-11 to the Dy. Director of Education of the concerned zone along with the details of payment of arrear salary consequent to implementation of recommendations of VI Pay Commission. As also copy of the circular issued to the parents with regard to fee hike effected by it in pursuance of the order dated 11/02/2009 issued by the Director of Education. These documents were transmitted to the office of the Committee by the Dy. Director of Education.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. The school did not submit any reply to the questionnaire issued by the Committee. However, as it appeared that the preliminary calculations to examine the

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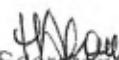


justifiability of hike the fee could be made from the documents already on record, the Chartered Accountants deputed by the Directorate of Education (CAs) to assist this Committee were directed to make the relevant preliminary calculations. As per the calculations made by the CAs, it prima facie appeared that the school had recovered more fee than what was required to offset the additional expenditure incurred by the school on implementation of recommendations of VI Pay Commission. The excess amount worked out by the CAs was Rs. 17,56,744.

The calculations were reviewed by the Committee and it was observed that the calculations made by the CAs did not take into consideration the requirement of the school to keep funds in reserve for its accrued liabilities of gratuity and leave encashment. Therefore, the Committee did not rely upon the calculations made by the CAs.

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

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pay commission. The school was also required to furnish audited financials of the pre primary school if the same were not incorporated in the main balance sheet of the school. A revised questionnaire was also issued to the school to elicit the information with regard to charging and utilisation of development fee and maintenance of earmarked development fund and depreciation reserve fund, besides the information sought vide the earlier questionnaire dated 27/02/2012.

The school submitted the information sought by the Committee under cover of its letter dated 27/05/2015.

As per the information submitted by the school, it implemented the recommendations of VI Pay Commission and started paying the increased salaries to the staff w.e.f. 01/04/2009. It enclosed a statement showing the expenditure on monthly salaries as Rs. 23,60,393 before implementation of the recommendations but the same shot up to Rs. 38,30,252 after its implementation. Another annexure was enclosed showing that a sum of Rs. 1,50,56,766 was paid as arrears to the staff in the financial year 2009-10.

With regard to fee hike, it was mentioned that the school increased the fee w.e.f. 01/04/2009 and also recovered the arrear fee from students pursuant to order dated 11/02/2009 issued by the Director of Education. A copy of circular issued to the parents with regard to hike in fee was also enclosed showing that the tuition fee was increased by



Rs. 300 per month while the development fee was increased by Rs. 274 per month w.e.f. 01/09/2008. Besides, the lump sum arrears of fee to the tune of Rs. 3,000 per student was also recovered. The arrears of tuition fee amounting to Rs. 2100 and development fee amounting to Rs. 1918 for the period 01/09/2008 to 31/03/2009 were recovered while the regular fee was enhanced w.e.f. 01/04/2009.

With regard to regular development fee, the school stated that it was charging development fee in all the five years for which the information was sought by the Committee i.e. 2006-07 to 2010-11. The same was treated as a revenue receipt. However, the school claimed that it was maintaining a depreciation reserve fund and by 2010-11, it had earmarked FDRs to the tune of Rs. 75.00 lacs against depreciation reserve fund. The school enclosed copies of such FDRs.

In the information with regard to the aggregate fee recovered and salary paid, the school stated that besides the arrear salary paid in the financial year 2009-10, the school also paid the remaining amount of arrears amounting to Rs. 1,53,63,067 in 2013-14 and Rs. 44,352 in 2014-15. Copies of bank statements for the relevant period were also furnished to show that the payments were made through direct bank transfers to the accounts of the staff.

A notice dated 22/06/2016 was issued to the school requiring it to appear before the Committee and produce its fee and salary records and books of accounts for examination by the Committee on 27/06/2016. Sh.

*Ryan International School, Mayur Vihar, Delhi-96/Order/B-345*

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Mukesh Gupta, Accounts Officer and Louis Rodrigues, Office Incharge of the school appeared and sought adjournment. The matter was adjourned to 15/07/2016 and again to 11/08/2016 and further to 15/09/2016 at the request of the school. In the mean time, the school filed written submissions dated 22/08/2016 vide which it claimed that while working out the funds available with the school, the Committee ought to account for the following liabilities/contingency reserves as on 31/03/2010:

- |                         |                 |
|-------------------------|-----------------|
| (1) Gratuity            | Rs. 2,49,86,288 |
| (2) E.L. Encashment     | Rs. 64,74,504   |
| (3) Contingency Reserve | Rs. 1,64,58,524 |

The school furnished employee wise details of the accrued liability of gratuity and leave encashment.

The details furnished by the school were checked by the Committee with reference to its audited financials and were observed to be in order except the liabilities/reserves which were not reflected in the financials.

While preparing the calculation sheet, the Committee observed that the school had apparently diverted its receipts from fee towards repayment of loans and interest thereon taken to fund its capital expenditure. The total amount so diverted between 2006-07 to 2009-10 was to the tune of Rs. 1,22,37,878. As the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 held that the capital expenditure cannot part form of the fee structure, the Committee considered that for the purpose of making the relevant calculations with regard to availability of

funds with the school for implementation of recommendations of VI Pay Commission, the aforesaid sum of Rs. 1,22,37,878 ought to be deemed to be available with the school. Accordingly, the Committee calculated that the school had available with it a sum of **Rs. 2,44,33,884** for the purpose of implementation of the recommendations of VI Pay Commission, as follows:

|   |            |                   |
|---|------------|-------------------|
| <u>Current Assets + Investments</u>   |            |                   |
| Cash in Hand  | 66,692     |                   |
| Cash at Bank in current account   | 209,876    |                   |
| Fixed Deposits  | 1,876,559  |                   |
| Advance to Ryan International School - Patiala  | 2,426,230  |                   |
| Salary Advance  | 4,000      |                   |
| Sundry Assets   | 15,001,017 |                   |
| Amount recoverable from parties   | 528        | 19,584,902        |
| <u>Current Liabilities</u>  |            |                   |
| Students Caution Money  | 7,247,000  |                   |
| Bank Overdraft  | 141,896    | 7,388,896         |
| <b>Net Current Assets + Investments</b>   |            | <b>12,196,006</b> |
| Funds applied for repayment of loans and payment of interest from 2005-06 to 2009-10 for acquiring Fixed Assets |            | 12,237,878        |
| <b>Total funds deemed to be available</b>   |            | <b>24,433,884</b> |

The total financial impact of implementing the recommendations of VI Pay Commission was determined to be **Rs. 4,81,64,892** as follows:

|   |  |                   |
|---|--|-------------------|
| <b>Additional Liabilities after implementation of 6th Pay Commission:</b> |  |                   |
| Arrear of Salary as per 6th CPC   |  | 30,464,185        |
| Incremental Salary for 2009-10 (as per calculation given below)*          |  | 17,700,707        |
| <b>Total impact of implementation of VI Pay Commission</b>                |  | <b>48,164,892</b> |

\*

| <b>Incremental Salary for 2009-10</b> | <b>2008-09</b>    | <b>2009-10</b> |
|---------------------------------------|-------------------|----------------|
| Normal/ regular salary                | 29,739,965        | 47,440,672     |
| <b>Increase</b>                       | <b>17,700,707</b> |                |

Thus there was gap of **Rs. 2,37,31,008** ( 4,81,64,892 – 2,44,33,884 ), which the school was required to bridge by recovering arrear fee/hiking regular fee.

The Committee noticed that the school had increased more development fee than what was permitted to it as per clause 15 of the order dated 11/02/2009 issued by the Director of Education, as per which the school could increase only the consequential amount of development fee which resulted on account of increase in tuition fee. The Committee noticed that the school was charging development fee @ 10% of tuition fee in the year 2008-09 but while recovering the arrears of incremental fee for the period 10/09/2008 to 31/03/2009, the school recovered the arrears of incremental tuition fee @ Rs. 2100 per student while the arrears of incremental development fee were recovered @ Rs. 1918 per student which was 91.33% of the tuition fee. The school could at best have recovered arrears of development fee @ Rs. 210 per student i.e. 10% of the tuition fee. Accordingly, prima facie, the school had recovered arrears of incremental development fee in excess of what was permitted to it by Rs. 1708 per student. In aggregate terms, the Committee was of the prima facie view that the school recovered Rs. 34,63,628 in excess i.e. Rs. 38,76,278 (actual recovery) minus Rs. 4,12,650 (permitted recovery) and accordingly, included only the permitted recovery in its calculations of additional revenue generated by the school by way of fee hike, which was determined to be **Rs. 2,15,20,602** as follows:

|  |                   |
|--|-------------------|
| <b>Total Recovery for implementation of VI th Pay Commission</b>     |                   |
| Arrear of tuition fee for 1.1.06 to 31.8.08                          | 6,916,283         |
| Arrear of tuition fee for 1.9.08 to 31.3.09                          | 4,126,500         |
| Arrear of permitted Development fee                                  | 412,650           |
| Incremental tuition fee for 2009-10 (as per calculation given below) | 10,065,169        |
| <b>Total</b>   | <b>21,520,602</b> |

As the permitted hike in fee did not yield sufficient revenue to the school for implementation of the recommendations of VI Pay Commission, the Committee is of the view that no interference is called for to the extent of the permitted hike in fee which the school recovered pursuant to order dated 11/02/2009. However, the amount of **Rs. 34,63,228** which the school unauthorisedly recovered in violation of the stipulation of para 15 of the order dated 11/02/2009, the matter remains to be considered.

So far as the development fee is concerned, the Committee notes that the school recovered a sum of Rs. 52,58,000 in 2009-10 and 59,10,400 in 2010-11, thus aggregating Rs. 1,11,68,400 in these two years with which we are concerned. This issue would be discussed in later paras.

The school was show caused as to why the unauthorized recovery of arrears of incremental development fee to the tune of Rs. 34,63,228 be not ordered to be refunded with interest.. In response, the school contended that while calculating the deficit incurred on implementation of the recommendations of VI Pay Commission, the Committee had not factored in its calculations, the requirement of the school to keep funds in reserve for its accrued liabilities of gratuity and leave encashment and maintenance of reasonable reserve for future contingencies. It was contended that if the

same are factored in, the conclusion would be that even the excess recovery of Rs. 34,63,228 was not sufficient to fully offset the deficit incurred by the school. It was contended that the Committee had in appropriate cases allowed the schools to recover additional fee and the order dated 11/02/2009 of the Director of Education was not sacrosanct as per the judgement of the Hon'ble Delhi High Court in WP (C) 7777 of 2009. It, therefore, requested the Committee that the excess fee collected by the school ought to be regularized.

The Committee has considered the aforesaid contention of the school. In order to appreciate the position, it would be useful to work out the exact amount of deficit, even if the regular development fee charged by the school in 2009-10 and 2010-11 is considered irregular on account of the school not fulfilling the basic pre condition of treating it as a capital receipt (the school of its own admission stated that the same was treated as a revenue receipt).

As determined supra, the school had a requirement of funds to the tune of **Rs. 2,37,31,008** for implementation of the recommendations of VI Pay Commission after considering the funds already available and deemed to be available with it. The additional revenue generated by the school through permitted fee hike was **Rs. 2,15,20,602**. The school had accrued liabilities of Rs. 2,49,86,288 on account of gratuity and Rs. 64,74,504 on account of leave encashment. If these liabilities are considered, the deficit incurred by the school would be to the tune of **Rs. 3,36,71,198** (2,15,20,602 - 2,37,31,008 - 2,49,86,288 - 64,74,504).


The regular development fee recovered by the school in 2009-10 and 2010-11 was **Rs. 1,11,68,400**. Even after adjusting this against the deficit, there still remained a shortfall of **Rs. 2,25,02,798**. Therefore, the Committee does not consider this to be a fit case where the school may be asked to refund the excess arrears of incremental development fee recovered by it which amount to Rs. 34,63,228. Accordingly, the Committee accepts the request of the school that the excess development fee recovered to the tune of Rs. 34,63,228 be regularized.

**Resultantly, the Committee is of the view that no intervention is required in the matter of recovery of arrears of lump sum tuition fee for the period 01/01/2006 to 31/08/2008 and incremental tuition fee for the period 01/09/2008 to 31/03/2010 and regular development fee for the years 2009-10 and 2010-11. Further, the Committee regularizes the excessive arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009.**


Ordered accordingly.



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



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



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

Dated: 18/09/2018

**CAUSE LIST FOR SEPTEMBER 2018**

**Cause List for Tuesday, 4th September 2018**

| S. No. | Cat. No. | School Name & Address                                |
|--------|----------|--|
| 1      | B-665    | Review - Kalka Public School, Alaknanda              |
| 2      | B-378    | Review - Dev Samaj Modern School No.2, Sukhdev Vihar |
| 3      | B-633    | Review - Dev Samaj Modern School, Nehru Nagar        |
| 4      | B-237    | S.D. Public School, Kirti Nagar                      |
| 5      | B-631    | CRPF Public School, Rohini                           |

**Cause List for Thursday, 6th September 2018**

| S. No. | Cat. No. | School Name & Address                      |
|--------|----------|--|
| 1      | B-286    | Mount Abu Public School, Sect.5, Rohini    |
| 2      | B-294    | Mount Abu Sr. Sec. School, Sect.18, Rohini |
| 3      | B-632    | St. Colombo Public School, Pitampura       |

**Cause List for Friday, 7th September 2018**

| S. No. | Cat. No. | School Name & Address                |
|--------|----------|--------------------------------------|
| 1      | B-686    | Arunodaya Public School, Karkardooma |
| 2      | B-285    | Mann Public School, Holambi Kalan    |
| 3      | B-469    | St. Peter's Convent, Vikas Puri      |

**Cause List for Wednesday, 12th September 2018**

| S. No. | Cat. No. | School Name & Address                                     |
|--------|----------|---|
| 1      | B-508    | Review- St. Giri Sr. Sec. School, Rohini                  |
| 2      | B-348    | Review- Ahlcon International School, Mayur Vihar, Phase-I |
| 3      | B-300    | Review - Aadharshila Vidyapeeth, Pitampura                |
| 4      | B-679    | Review - Saraswati Model School, Dwarka                   |
| 5      | B-390    | Review - Shanti Gyan Niketan, Goyla Village               |
| 6      | B-541    | Review - Sant Nirankari Public School, Nirankari colony   |
| 7      | B-564    | Columbia Foundation School, Vikas Puri                    |

**Cause List for Thursday, 13th September 2018**

| S. No. | Cat. No. | School Name & Address                                |
|--------|----------|--|
| 1      | B-665    | Review - Kalka Public School, Alaknanda              |
| 2      | B-378    | Review - Dev Samaj Modern School No.2, Sukhdev Vihar |
| 3      | B-633    | Review - Dev Samaj Modern School, Nehru Nagar        |
| 4      | B-301    | Review - Bharti Public School, Kondli, Mayur Vihar   |
| 5      | B-414    | Jindal Public School, Dashrathpuri                   |

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*H. M. Singh*  
Secretary





**Cause List for Friday, 14th September 2018**

| S. No. | Cat. No. | School Name & Address                            |
|--------|----------|--|
| 1      | B-439    | National Public School, Kalindi Colony           |
| 2      | B-583    | Ryan International School, Sect. 25, Rohini      |
| 3      | B-445    | Air Force Golden Jubilee Institute, Delhi Cantt. |
| 4      | B-650    | St. Columba's School, Ashok Place                |
| 5      | B-597    | St. Margaret's Sr. Sec. School, Prashant Vihar   |
| 6      | B-469    | St. Peter's Convent, Vikas Puri                  |

**Cause List for Monday, 17th September 2018**

| S. No. | Cat. No. | School Name & Address                     |
|--------|----------|---|
| 1      | B-46     | Mother Divine Public School, Rohini       |
| 2      | B-290    | Kasturi Ram International School, Narela  |
| 3      | B-296    | M.M. Public School, Pitampura             |
| 4      | B-151    | G D Goenka Public School, Vasant Kunj     |
| 5      | B-172    | Ganga International School, Saavda Ghevra |
| 6      | B-677    | Ganga International School, Hiran Kudna   |

**Cause List for Tuesday, 18th September 2018**

| S. No. | Cat. No. | School Name & Address                            |
|--------|----------|--|
| 1      | B-156    | Ryan International School, Vasant Kunj           |
| 2      | B-176    | Vivekanand School, D-Block, Vivek Vihar          |
| 3      | B-345    | Ryan International School, Gharauli, Mayur Vihar |
| 4      | B-120    | The Heritage School, Vasant Kunj                 |
| 5      | B-60     | The Heritage School, Sector-23, Rohini           |
| 6      | B-335    | Bhai Parmanand Vidya Mandir, Surya Niketan       |

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**Kalka Public School, Alaknanda, Delhi**

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

An oral request has been made on behalf of the school for adjournment on account of non availability of the counsel of the school. After checking up the counsel, the authorized representative appearing for the school request that the matter be adjourned to 13<sup>th</sup> Sept. 2018 at 11.00 A.M. As requested the matter is adjourned to 13 September. 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

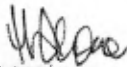


**J.S.KOCHAR  
MEMBER**



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

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Secretary

**Dev Samaj Modern School No.2, Sukhdev Vihar, Delhi**

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

An oral request has been made on behalf of the school for adjournment on account of non availability of the counsel of the school. After checking up the counsel, the authorized representative appearing for the school request that the matter be adjourned to 13<sup>th</sup> Sept. 2018 at 11.00 A.M. As requested the matter is adjourned to 13 September. 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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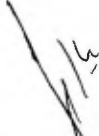
**Dev Samaj Modern School, Nehru Nagar, Delhi**

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

An oral request has been made on behalf of the school for adjournment on account of non availability of the counsel of the school. After checking up the counsel, the authorized representative appearing for the school request that the matter be adjourned to 13<sup>th</sup> Sept. 2018 at 11.00 A.M. As requested the matter is adjourned to 13<sup>th</sup> September. 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**

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

Secretary  




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

Present: Sh.Subhash Saini, Head Clerk of the school.

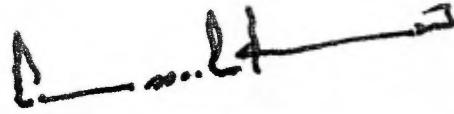
The school has furnished the copies of the salary register for the years 2008-09 and 2009-10 as also copies of bank statements for these two years to show that the school was paying regular salary to the staff by account payee cheques in 2008-09 as well as 2009-10. The same has been perused by the Committee. Calculation sheet to be prepared. Matter will come up for further hearing on 3<sup>rd</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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CRPF Public School, Rohini, Delhi

Present: Ms. Anu Anand, Asstt. Programmer & Sh.Sanjeev Kapoor,  
UDC of the school.

The school has filed copy of the Receipt and Payment account for the year 2006-07 and calculation sheet showing the accrued liability of the school towards leave encashment of the employees as on 31.3.2010 amounting to Rs. 32,13,099. Calculation sheet to be prepared Matter will come up for further hearing on 3<sup>rd</sup> October 2018 at 11.00.A.M.

*Sh*

**R.K. SHARMA  
MEMBER**

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**J.S.KOCHAR  
MEMBER**

*[Signature]*

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

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Secretary



**Mount Abu S.S.Public School, Sector-05,Rohini, Delhi**

Present : Sh.Puneet Batra, Advocate of the school.

The learned counsel appearing for the school submits that while some of the cheques of outstanding arrears have been handed over to the employees of the school, the rest are in the pipe line. He requests for the short date in the matter. Accordingly a last opportunity is given to the school to clear the outstanding arrears before the next date of hearing if it wants the Committee to take such liability into consideration. Matter will come up for hearing on 3<sup>rd</sup> October 2018 at 11.000 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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B-294**Mount Abu Public School, Sector-18, Rohini, Delhi**

Present : Sh.Puneet Batra, Advocate & Sh.Manish Arora, Manager of the school.

The school had submitted copies of annual returns filed under rule 180 of the Delhi School Education Rules 1973, statement of fees for the years 2006-07 to 2010-11 a statement showing the monthly expenditure on salary before implementation of the recommendations of the 6<sup>th</sup> pay commission which amounted to Rs.4,79,279 and that paid after its implementation which amounted to Rs.8,43,946. The statement also showed that the school had paid arrear salary to the staff which amounted to Rs. 12,46,517( this statement is signed by the manager of the school). The school also filed a copy of the circular dated 7.3.2009 vide which the parents were required to pay back arrears amounting to Rs.2,500 for students of classes KG to V and Rs.3000 for students of classes 6<sup>th</sup> to 12<sup>th</sup>. This circular also required the parents to pay sum of Rs.1400 being arrears of incremental fee for 7 months (1.9.2008 to 31.3.2009) for students of classes KG to 5<sup>th</sup> and Rs.2100 for students of classes 6<sup>th</sup> to 12<sup>th</sup> (the incremental fee being Rs.200 per month and Rs.300 per month respectively). All these documents were submitted to the Dy. Director of Education District North West Shalimar Bagh, Delhi under cover of letter dated 28.1.2012. These documents were forwarded to this Committee by the Dy. Director of Education.

The Committee issued a questionnaire to all the schools on 27.02.2012 eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11.2.2.009 issued by the Director of Education. The schools were also required to furnish information with regard to the arrear salary paid and the incremental salary paid to the staff pursuant to the implementation of the recommendations of the 6<sup>th</sup> pay commission. However, the school did not respond to the questionnaire issued by the Committee despite a reminder dated 27.3.2012.

The Committee issued a fresh questionnaire on 5.8.2013 requiring the school to furnish information with regard to the collection and utilization of development fee, maintenance of earmarked development fund and depreciation reserve fund accounts, besides the information sought vide questionnaire dated 27.2.2012. This communication was also not responded by the school despite a reminder dated 5.09.2013. A fresh communication was issued on 30.09.2013 requiring the school to do the needful.

The school submitted its reply vide letter dated 5.10.2013 stating that it had implemented the recommendations of the 6<sup>th</sup> pay commission w.e.f. 1.09.2013. It also enclosed a statement showing salary paid to the staff which amounted to Rs.4,60,779 before implementation of the recommendations of the 6<sup>th</sup> pay commission

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*Manish Arora*  
Secretary





and another statement showing the salary paid to the staff which amounted to Rs.8,43,956 after its implementation. Another statement was enclosed showing payment of arrear salary for the period 1.1.2006 to 31.08.2008 to nine teachers, which aggregated to Rs.12,46,417. Specific amounts were mentioned to have been paid to those teachers as follows :

| S.No. | Name             | Amount    |
|-------|------------------|-----------|
| 1.    | Sindhu Sadhu     | 2,11,746  |
| 2.    | Archana Arora    | 1,40,587  |
| 3.    | Meera Awasthi    | 1,53,470  |
| 4.    | Parmanand Thakur | 1,47,807  |
| 5.    | Ritu Sharma      | 1,40,044  |
| 6.    | Suman Arora      | 1,38,681  |
| 7.    | Ruby Chacko      | 85,910    |
| 8.    | Soma Gautam      | 1,47,896  |
| 9.    | Rajni Singh      | 80,276    |
|       | Total            | 12,46,417 |

With regard to fee, the school stated that it had increased the fee w.e.f. 1.4.2009 in pursuance of order dated 11.2.2009 issued by the Director of Education. A statement showing class wise pre hike monthly fee and post hike monthly fee was also enclosed. As per the information, the total pre hike monthly fee amounted to Rs.6,98,840 and the post hike monthly fee amounted to Rs.8,60,240. The school also enclosed another statement showing class wise recovery of back arrear fee which aggregated Rs.15,19,500. The detail of back arrears charged from the students, as submitted by the school is as follow:

| S.No. | Class | Total | Back Arrears |
|-------|-------|-------|--------------|
| 1.    | I     | 20    | 50,000       |
| 2.    | II    | 24    | 60,000       |
| 3.    | III   | 24    | 60,000       |
| 4.    | IV    | 20    | 50,000       |
| 5.    | V     | 23    | 57,500       |
| 6.    | VI    | 27    | 81,000       |
| 7.    | VII   | 20    | 60,000       |
| 8.    | VIII  | 18    | 54,000       |
| 9.    | IX    | 106   | 3,18,000     |
| 10.   | X     | 124   | 3,72,000     |
| 11.   | XI    | 23    | 69,000       |
| 12.   | XII   | 96    | 2,88,000     |
|       | Total |       | 15,19,500    |

A notice of hearing dated 28.10.2014 was issued to the school requiring the school to appear before the Committee on 19.11.2014 and to furnish the information sought in the questionnaire issued by the Committee in a structured format which was devised by the Committee to facilitate the relevant calculations. The school was also directed to furnish copies of bank statements highlighting payments made towards arrear salary, a statement of account of the trust /society running the school as appearing in the books of accounts,



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details of accrued liability of gratuity and leave encashment and copy of the circular issued to the parents regarding fee hike for implementation of the recommendations of the 6<sup>th</sup> pay commission.

On the date of hearing a request was made on behalf of the school for adjournment on the ground of non availability of its accountant. A fresh notice was issued on 11.12.2014 requiring the school to appear on 30.12.2014. On this date Sh.Ashok Sharma accountant of the school appeared and again sought adjournment, this time on account of non availability of fee and salary records and books of account of the school. The school was given a last opportunity to produce the following records on 21.1.2015 :

- a. Fee receipts and registers
- b. Salary register
- c. Complete bank statements
- d. Cash book and ledger

The school was also directed to file a complete reply to the notice dated 28.10.2014 issued by the Committee. The matter was adjourned to 21.1.2015. On this date Sh.Puneet Batra, Advocate appeared with Ms. Archana Arora Vice Principal of the school. However, they again did not produce the fee registers, fee receipts, salary registers, bank statements, cash book and ledgers despite specific direction of 30.12.2014. The school also did not furnish the complete reply of the revised questionnaire issued by the Committee. On perusal of the partial information filed by the school vide submission dated 21.1.2015, the Committee observed that although as per the claim of the school, hike in tuition fee was just about 30% in 2009-10, the aggregate tuition fee in the year 2009-10 rose from Rs.37.73 lacs to Rs.135.87 lacs (a rise of about 260%). Further on perusal of the information filed by the school the Committee observed that an aggregate fee of Rs.55.75 lacs had been recovered under the head Teachers Training. The counsel of the school submitted that the school also ran a teachers training programme under the aegis of this school. The Committee also observed that in the fee schedule for the year 2009-10 which was filed, the fee was reflected from class 1. The counsel for the school submitted that the pre primary classes were run under the aegis of an unrecognized school by the name of Mount Abu International School. The matter was again adjourned to 6.2.2015 with the directions to the school to produce its books of accounts and other related records. However on this date also a request for grant of more time was made which was reluctantly granted by the committee and the matter was adjourned to 23.2.2015.

On the next date the school produced its books of accounts only for the year 2008-09 and requested for another 10 days time to produce the record for 2009-10 and 2010-11.

On 12.3.2015 the school produced its fee record which were examined by the Audit Officer of the Committee and she recorded that the fee receipts issued by the school showed only consolidated amount of fee charged and therefore it was not possible to segregate the amount of fee recovered by the school under different heads and check the break up of fee filed by the school. She also recorded that

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the school was having a practice of holding high cash balances in 2009-10 and 2010-11. For the first time on this date, the counsel of the school stated that the school neither received any arrear fee from the students for implementation of the 6<sup>th</sup> pay commission nor paid any arrear salary to the staff. This was contrary to the position that was being consistently taken by the school from 2012 when the information was furnished by the school to the Dy. Director of Education. Again the school maintained that position while submitting reply to the questionnaire to this Committee vide letter dated 5.10.2013. All these communications were signed by the Manager of the school who would be in the know of actual staff of affairs. Further, the hearings had started on 19.11.2014 and the school persistently defaulted in producing its fee records and books of accounts for the years 2009-10 till 12.3.2015 and sought adjournments on one ground or another. During the course of hearings although the Vice Principal was appearing personally, she never apprised the Committee of this position. The Audit Officer of this Committee also recorded the submission made by the counsel of the school who had produced the records on 12.3.2015 that the actual payment of arrears had not been made but the school had only made a provision for arrear in the books (a fact which has been retracted by him during the course of hearing today. The school was directed to furnish a statement giving month wise break up of salary paid in cash, through bearer cheques and through account payee cheques/direct bank transfers. The school furnished the break up on 16.3.2015 alongwith copies of bank statement. The same was examined by the Audit Officer of the Committee and she recorded that the salary paid in September 2009 for the month of August 2009 i.e. for the period prior to implementation of 6<sup>th</sup> pay commission, by the school amounted to Rs.4,88,548 out of which only a sum of Rs.1,24,953 was paid by bank transfers i.e. about 25% only. The rest 75% was paid either in cash or through bearer cheques. For the month of September 2009 which was paid in October 2009 i.e. after the purported implementation of the recommendations of the 6<sup>th</sup> pay commission, out of a total amount of Rs.8,51,932, only a sum of Rs.2,59,940 was paid through bank transfer which is about 30%. The rest 70% was paid either in cash or through bearer cheques.

During the course of hearing today the Committee has examined the books of accounts which have been produced by the school in a laptop and has observed some more unusual features. The Committee has observed that after September 2009 when the school purportedly implemented the recommendations of the 6<sup>th</sup> pay commission the trend was more towards payment of salary in cash or through bearer cheques than it was before September 2009. To some teachers to whom salary had been paid by cheques in the past, after September 2009 the salary was paid in cash even though after the purported implementation of 6<sup>th</sup> pay commission the amount of salary paid to individual teachers had gone up phenomenally. The Committee also verified for itself the observation of the Audit Officer that in 2009-10 the school held heavy cash balance which ranged from Rs.6 lacs to Rs.15 lacs on a daily basis. In 2008-09 however this phenomenon was not observed and the school held reasonable



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amount of cash in hand. This coincides with the hike in fee effected by the school w.e.f. 1.4.2009. The school of its own showing did not implement the recommendations of 6<sup>th</sup> pay commission w.e.f 1.4.2009 but implemented it from 1.09.2009.

During the course of hearing the learned counsel appearing for the school submits that the circular regarding collection of arrear fee was issued while the school was functioning from Shalimar Bagh. The school shifted to Rohini w.e.f. 1.4.2009 and a majority of the students who were studying in the school in Shalimar Bagh withdrew from the school. The students who shifted to the school at Rohini did not pay the arrear fee.

Further with regard to increase in fee in 2009-10 which the Committee has observed to be of the order of 260%, the learned counsel submits that the two figures are not comparable as the figures for 2009-10 represent the consolidated fee from the students of Shalimar Bagh school ( which was shifted to Rohini) as well as from the students of the unrecognized school that was already functioning at Rohini. However, figures for 2008-09 which have been submitted by the school on 20.1.2015 are the figures of only the recognized school that was functioning from Shalimar Bagh. If the figures of the unrecognized school which was functioning from Rohini are included in the total fee for 2008-09 the aggregate fee for that year would amount to Rs. 1,65,16,514 as against the aggregate tuition fee for the year 2009-10 Rs.1,35,87,120. Accordingly he submits that in actual fact there was a decrease in aggregate tuition fee in the year 2009-10.

The school has today filed copies of the split balance sheet of the Society as well the consolidated balance sheet. The learned counsel appearing for the school request for one more opportunity to be given to the school to furnish details of accrued liability of gratuity and leave encashment. It is noteworthy that these details were required to be filed by the school on 19.11.2014 and the school has put an appearance and produced documents thereafter on innumerable occasion. At this stage the request of the counsel cannot be granted.

Matter heard. Recommendations reserved.



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Secretary

*[Signature]*  
**R.K. SHARMA**  
MEMBER

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**J.S.KOCHAR**  
MEMBER

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

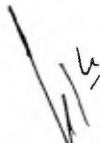
St. Columbo Public School, Pitampura, Delhi

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


The school has filed an application seeking adjournment on account of the principal of the school being unwell. As requested the matter will now come up for hearing on 12.10.2018



R.K. SHARMA  
MEMBER



J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



Arunodaya Public School, Karkardooma, Delhi

Present : Ms. Sangeeta Nagar, Principal and Sh. Bhagsar Singh, Accountant of the school.

The school has filed evidence in the shape of bank statements showing that a sum of Rs. 39,30,414 which was the outstanding liability of the school towards payments of arrears to the staff has been paid to staff on 06/09/2018. The school has also filed a list of the staff members to whom payment has been made. On the last date of hearing, the school had contended that FDRs amounting to Rs. 8.00 lacs, which had been taken by the Committee as part of funds available, were not available to the school as the same were held in the joint names of the school and the Director of Education/CBSE. The Committee accepts this contention of the school. Taking into account the aforesaid submission of the school regarding exclusion of Rs.8 lacs from the funds available and also the payment of arrear salaries amounting to Rs.39,30,414 which has been made during the course of hearing the school need not make any refund of fee.

Detailed order to be passed separately.



**R.K. SHARMA  
MEMBER**



**J.S. KOCHAR  
MEMBER**



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

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Secretary



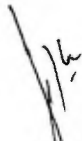
Mann Public School, Holambi Kalan, Delhi

Present : Brijesh Kumar Sharma, Accountant of the school.

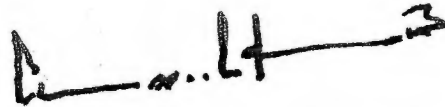
An application has been filed by the school seeking adjournment on the ground that the time available with it was too short to prepare the rebuttal to the calculation sheet, a copy of which was received by the school on 27/08/2018. In view of the request made, matter is adjourned to 04/10/2018 at 11.00 a.m.



**R.K. SHARMA**  
MEMBER



**J.S. KOCHAR**  
MEMBER



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

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Secretary


St. Peter Convent, Vikas Puri, Delhi

Present : Sh. Manmohan Sharma, C.A., Sh. Sanjeev Kumar, Accountant & Sh. Jitendra Kumar Sharma, Accountant of the school.

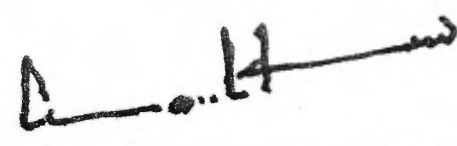
The school has filed written submissions dated 7.09.2018 vide which it has pointed out an error in the calculation sheet, in as much as the development fee considered by the Committee in the statement of diversion of funds has been taken to be Rs.4,01,190 which the school claims is the development fee received from the students of the junior school. The development fee received from the students of senior school amounting to Rs.16,23,310 has been omitted from the calculations. It is submitted that if the above mistake is corrected the amount apparently refundable as per the calculation sheet would be Rs.5,10,664.

It is further submitted that the school has made further payment of Rs.1,56,550 towards payment of arrears to the staff and that ought to be accounted for by the Committee. It is also submitted that the school has a further liability of Rs.1,54,189 to some other employees who have left the school and intimation has been sent to them to contact the school and collect the arrears.

The Committee does not view the approach of the school with favor as it is the school's liability to pay the arrears to the ex employees and in case the school desires to pay the same, it should send the cheques or demand drafts by registered post instead of asking them to contact the school to collect the arrears. The authorised representative appearing for the school requests for some more time to be given for this purpose. A last opportunity is granted to the school to clear off the arrears in case it desires, the Committee should take into account such liability for the purpose of determining the fee refundable to the students. The matter is adjourned to 14<sup>th</sup> Sept. 2018 at 11.00 A.M.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary





12/09/2018

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

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

**In the matter of**

**St.Giri Sr.Sec. School**

**Rohini,Delhi (B-508)**

**And in the matter of**

**Application dated 13.06.2018 for**

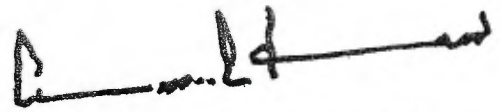
**reconsideration / review of**

**recommendations dated 14.10.2017**

**in the matter of school.**

Present: Sh.K.P.Sunder Rao, Advocate & Sh.N.K. Mahajan, C.A. of the school.


Arguments heard. Order reserved.



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



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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Secretary



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

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

**In the matter of**

**Ahlcon International School**

**Ph-I, Mayur Vihar, Delhi (B-348)**

**And in the matter of**

**Application dated 5.5.2018 for**

**reconsideration / review of**

**recommendations dated 22.03.2017**

**in the matter of school.**

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


Request is made for adjournment on the ground that the school is engaging a counsel to argue the matter before the Committee. The request is allowed. Matter is adjourned to 3rd October 2018 at 11.00 A.M.



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



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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

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

**In the matter of**

**Aadharshila Vidyapeeth,**

**Pitampura, Delhi (B-300)**

**And in the matter of**

**Application dated 14.03.2018 for  
reconsideration / review of  
recommendations dated 13.06.2017  
in the matter of school.**

Present: None.

However no adverse view has been taken. Matter is adjourned to 15<sup>th</sup> October 2018 .Fresh notice be issued to the school.



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



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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

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

**In the matter of**

**Saraswati Model School**

**Dwarka, Delhi (B-679)**

**And in the matter of**

**Application dated 20.04.2018 for  
reconsideration / review of  
recommendations dated 14.03.2017  
in the matter of school.**

Present: Sh.K.P.Sunder Rao, Advocate & Sh.N.K. Mahajan, C.A. of the school.

Arguments heard. Order reserved.



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

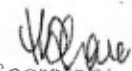


**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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

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

**In the matter of**

**Shanti Gyan Niketan**

**Goyla Village, Delhi (B-390)**

**And in the matter of**

**Application dated 24.04.2018 for  
reconsideration / review of  
recommendations dated 31.08.2017  
in the matter of school.**

Present: Sh.K.P.Sunder Rao, Advocate & Sh.N.K. Mahajan, C.A. of the school.

Arguments heard. Order reserved.

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

**J.S. KOCHAR  
MEMBER**

**R.K. SHARMA  
MEMBER**

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

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

**In the matter of**

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

**And in the matter of**

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

Present: Sh. Vijay Batra, Member CMC, Ms.Madhu Manocha, UDC  
and Ms. Sonia, LDC of the school.


After some arguments the authorized representative appearing  
for the school seeks adjournment. As requested the matter is  
adjourned to 4<sup>th</sup> Oct. 2018 at 11.00 A.M.



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

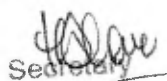


**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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12/09/2018

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B-564

Columbia Foundation School, Vikaspuri, Delhi

Present : Sh.K.P.Sunder Rao, Advocate & Sh.N.K. Mahajan, C.A. of the school.

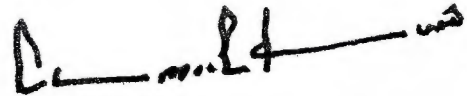
Arguments partly heard. Matter to come up for further hearing on 22<sup>nd</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

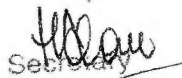


**J.S. KOCHAR  
MEMBER**



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

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

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

**In the matter of**

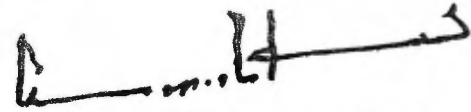
**Kalka Public School,  
Alaknanda, Delhi (B-665)**

**And in the matter of**

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

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

Arguments partly heard. Matter to come up for further hearing  
on 16<sup>th</sup> October 2018 at 11.00 A.M.



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



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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

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

**In the matter of**

**Dev Samaj Modern School No.2,**

**Sukhdev Vihar, Delhi (B-378)**

**And in the matter of**

**Application dated 13.07.2018 for**

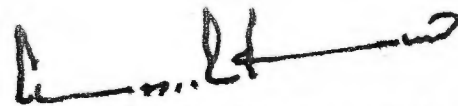
**reconsideration / review of**

**recommendations dated 31.01.2018**

**in the matter of school.**

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


Arguments partly heard. Matter to come up for further hearing  
on 16<sup>th</sup> October 2018 at 11.00 A.M.



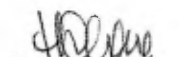
**JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON**



**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**



Secretary



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

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

**In the matter of**

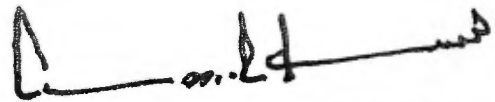
**Dev Samaj Modern School,  
Nehru Nagar, Delhi (B-633)**

**And in the matter of**

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

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

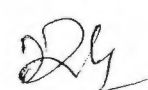
Arguments partly heard. Matter to come up for further hearing  
on 16<sup>th</sup> October 2018 at 11.00 A.M.



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

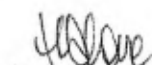


**J.S. KOCHAR  
MEMBER**

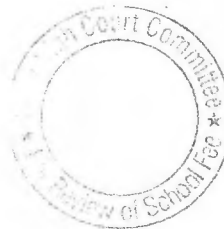


**R.K. SHARMA  
MEMBER**

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Secretary



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

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

**In the matter of**

**Bharti Public School,**

**Kondli, Mayur Vihar, Delhi (B-301)**

**And in the matter of**

**Application dated 27.08.2018 for**

**reconsideration / review of**

**recommendations dated 20.03.2018**

**in the matter of school.**

Present: Sh.Puneet Batra, Advocate, Sh. H.C. Batra, Chairman & Sh. Mridul ,Admn. Officer of the school.


After some arguments the hearing adjourned to 16<sup>th</sup> October 2018 at 11.00 A.M.



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

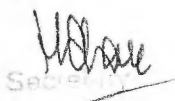


**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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Secretary



**Jindal Public School, Dashrathpuri, Delhi**

Present: Sh.Uttam Singh, Principal, Sh.Manava Prem, C.A.,  
Sh.Banne Singh, UD C & Sansar Chand, Accountat of the school.

The learned authorized representative appearing for the school submits that certain liabilities have befallen on the school on account of some orders of the Tribunal set up under Delhi School Education Act 1973 in respect of payment of back salaries to some staff members who had been dismissed from the service as they have been reinstated by the Tribunal. However no copies of the order of Tribunal have been filed . He requests that a short date be given for this purpose. As requested the matter is adjourned to 3<sup>rd</sup> October 2018 at 11.00 A.M.



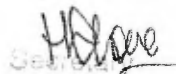
**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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



14.09.2018

000124

B-439

National Public School, Kalindi Colony, Delhi

Present : Sh. Ravi Prakash Goel, Head Clerk of the school.

The matter was relisted for seeking certain clarifications with regard to the contentions made by the school in its rebuttal of Calculation Sheet. The authorized representative appearing for the school has provided the necessary clarifications.

Matter is heard. Order reserved.

*R.K.*

**R.K. SHARMA  
MEMBER**

*J.S.*

**J.S. KOCHAR  
MEMBER**

*Anil Kumar*

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

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*[Signature]*



Ryan International School, Sec.25,Rohini, Delhi

Present: Sh. Louis Rodrigues, Office Incharge & Sh. Mukesh Gupta,  
Accounts Officer of the school.

The matter was relisted to seek certain clarifications with regard to the Calculation Sheet filed by the school in rebuttal to the preliminary calculations prepared by the Committee. The authorized representative appearing for the school submit that the calculation sheet prepared by the Committee did not incorporate the accrued liabilities of gratuity and leave encashment as the school had inadvertently not furnished these figures initially. The school furnished detailed statements of accrued liabilities of gratuity and leave encashment at a later stage and if the same are accounted for, the result would be that the school would not be required to make any refund as provisionally determined by the Committee.

Arguments heard. Order reserved.



**R.K. SHARMA**  
MEMBER

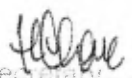


**J.S. KOCHAR**  
MEMBER



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

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Secretary



**Air Force Golden Jubilee Institute, Delhi Cantt., Delhi**

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

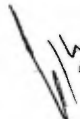
The matter was relisted for seeking certain clarifications of the school. The authorized representatives appearing for the school have clarified as follows :

1. The parents of the students in AFO & AFA categories get reimbursement of tuition fee from the government .
2. The school has two wings i.e. general wing and special wing. The special wing caters to differently abled students. The school maintains consolidated books of accounts for both the wings although separate figures in respect of fee and salary for both the wings are available and have been provided to the Committee.
3. The Committee has taken the combined figures of both the wings in its calculation sheet prepared by it. The total accrued liability of gratuity was Rs.2,07,22,362 for the general wing and Rs.20,52,084 for the special wing as on 31.3.2010. There was a further liability of Rs.9,96,984 in respect of the employees who have left the school of both the wings. However while giving the information with regard to accrued liability of gratuity the school inadvertently omitted the liabilities in respect of the special wing from the summary sheet. It is further submitted that the Committee had erroneously taken the liability of Rs. 69,38,673 in the Calculation Sheet prepared by it which amount was actually a short fall in the investment against gratuity viz. a viz. its liability .

In view of the aforesaid clarifications the Calculation Sheet requires to be revised and if necessary a further hearing may be fixed in the matter.



**R.K. SHARMA**  
MEMBER



**J.S.KOCHAR**  
MEMBER



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

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Secretary



St. Columba's School, Ashok Place, Delhi.

Present: Mrs. Renu Rana, PA to Principal, Sh. Samuel George, Accountant & Sh. Joselyn Martins C.A. of the school.

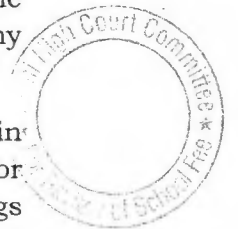
The school has filed written submissions dated 14.09.2018 disputing the preliminary calculation sheet prepared by this Committee. As per the calculations prepared by the Committee it was prima facie found that the school had sufficient funds of its own and did not need to recover funds either by way of arrear fee or by increasing the tuition fee w.e.f. 1.09.2008, so as to meet its additional expenditure on implementation of the recommendations of the 6<sup>th</sup> pay commission. The school in its rebuttal has informed that the entire amount of investments are in the shape of fixed deposits with banks, deposits with companies and units of mutual funds. It is the contention of the learned authorized representative that the fixed deposits/investments held against the development fund and depreciation reserve fund as on 31.3.2008 ought to have been excluded and these two funds as on that date aggregated to Rs.35,72,321.

It is further contended that the school is required to maintain a reserve fund which is not less than 10% of savings as provided in Rule 177 (2) (e) of the Delhi School Education Rules 1973 and since the school is more than 70 years old, this would amount to a substantial figure.

The next contention is that the Committee has not considered the expenses which are related to salary by gratuity paid, bonus paid to staff, brothers allowance while taking the figures of salary for the year 2008-09 and 2009-10. The Committee observes that the school was neither maintaining any earmarked development fund nor any earmarked depreciation reserve fund. The development fee was credited to income and expenditure account and the yearly surplus was carried to the capital fund. Since the school was not maintaining any development fund or depreciation reserve fund, its contention is that the entire amount of investments ought not to be considered to have been freely available for implementing the recommendations of the 6<sup>th</sup> pay commission and does not hold any ground.

While contending that the school ought to be allowed to retain reserve fund which is equivalent of 10% of saving as per rule 177 for 70 years, the school has not given any figures of the savings created by the school over a period of 70 years and how much of such savings have been utilized in the past. The Committee has already allowed the school to retain funds to the extent of Rs.1,17,01,313 as a reasonable reserve which has been calculated on the basis of 4 months average salary for the year 2009-10. The school in its written submissions has itself relied upon Para 2 of the order dated

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Secretary





11.2.2009 which says that the school must first of all explore the possibility of utilizing the existing reserve to meet any short fall in payment of salaries and allowances as a consequence of increase in the salary and allowances of employees on implementation of the recommendations of the 6<sup>th</sup> pay commission. The school contends that it did explore the possibility of utilizing its existing reserve and as a result, did not charge the arrear fee for the period 1.1.2006 to 31.08.2008. It only hiked the fee w.e.f. 1.09.2008 and the arrears of salary to the staff for the period 1.1.2006 to 31.08.2008 were paid out of the existing reserves. The authorized representative appearing for the school requests for being allowed sometime to calculate the reserve as contemplated in Rule 177 which was available with the school as on 31.3.2008. Let the same be filed on or before the next date of hearing .

The school may also give details of the expenditure related to salary for the years 2008-09 and 2009-10, which have not been considered by the Committee in its calculation sheet.

With regard to development fee, the Committee observes that since the school was charging development fee at a fixed rate which was not linked to tuition fee, it could not have raised the development fee in terms of Para 15 of the order dated 11.2.2009, as the increase in tuition fee would not have resulted any increase in development fee. The school recovered a sum of Rs.29,25,461 as arrears of development fee for the period 1.09.2008 to 31.3.2009. Therefore, while the school did not recover the lump sum arrear fee for the period 1.1.2006 to 31.8.2008, it unauthorisedly recovered a sum of Rs.29,25,461 as arrears of development fee. The authorized representative appearing for the school submits that to the extent it recovered arrears of development fee, the same may be considered as recovery of lump sum arrear fee which the school did not recover.

With regard to the regular development fee for the year 2009-10 and 2010-11, the Committee has prima facie considered to be refundable on account of the school not fulfilling any of the pre conditions laid down by the Dugal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India, the learned authorized representative submits that the school in the year 2017-18 created the necessary reserve funds i.e. development fund and depreciation reserve fund and set aside investments for an equal amount. In support of his contention he has filed the audited balance sheet of the school as on 31.3.2018. It is submitted that the reserve fund has been created for the entire amount of unutilized development fund and depreciation reserve fund charged by the school since 1.4.2006 and that covers the years 2009-10 & 2010-11 for which the Committee has prima facie observed that the same is refundable. The school will file evidence of earmarked investments against development fund and depreciation reserve fund on the next date of hearing. Since the school in the past was treating development fee as a revenue receipt, it will also file the statement showing how much of such development fee have been utilized for meeting its revenue expenses and how much was the



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Secretary

14.09.2018

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balance left with it for the permitted utilization i.e. purchase of furniture and fixtures and equipments.

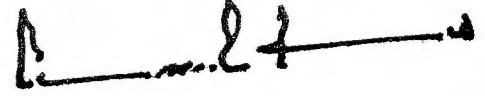
The matter is adjourned to 15<sup>th</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S. KOCHAR  
MEMBER**



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

TRUE COPY

  
Secretary

B-597

**St.Margaret's Sr.Sec. School, Prashant Vihar, Delhi.**

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

The school has filed written submissions dated 13.09.2018. The only issue raised is that the sum of Rs. 6,44,44,231 which the school transferred to its parent society up to 31.3.2008, ought not be considered as funds available with the school at that point of time as the funds were utilized by the society for purchase of land for setting up another school in Nimrana, Rajasthan. Consequently the school had to recover the arrear fee and increase the regular fee for meeting its additional liability on account of implementation of the recommendations of the 6<sup>th</sup> pay commission.

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

No other issue has been raised with regard to the calculation sheet. Accordingly the hearing is concluded.

Recommendations reserved.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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Secretary



14.09.2018

000131

B-469

**St.Peter's Convent Vikas Puri, Delhi**

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

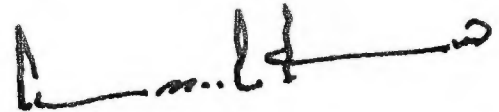
The school has filed a letter dated 14.09.2018 stating that it has made the balance payment of Rs.1,62,806 as arrear salary to 6 staff members who had left the school. The school has also filed copies of the pay orders and bank statements showing debit to the bank account. The school has also filed copies of the speed post receipts through which the pay orders were dispatched. Perusal of the same shows that all the pay orders were dispatched only yesterday. The school will appear again on 5<sup>th</sup> October 2018 at 11.00 A.M. and placed on record the delivery track reports of speed posts



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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Secretary



Mother Divine Public Schol, Rohini, Delhi

Present : Sh.Puneet Batra, Advocate and Sh.Manan Budhiraja,  
Admn. Officer of the school.

The Committee has prepared the Calculation Sheet to examine the justifiability of fee hike effected by the school in pursuance of order dated 11.2.2009 issued by the Director of Education. As per the Calculation Sheet, it appears that the school did not have sufficient funds to implement the recommendations of the 6<sup>th</sup> pay commission after accounting for its requirements to keep funds in reserve for accrued liabilities of gratuity, leave encashment and a reasonable reserve for future contingencies. Further though the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School for charging of development fee, the aggregate sum recovered by the school on this account in the years 2009-10 & 2010-11 is less than the deficit incurred by the school on implementation of the recommendations of the 6<sup>th</sup> pay commission. In view of this the Committee is of the view that no refund is required in the matter of fee hike effected by the school.

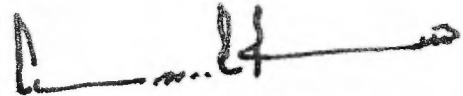
Detailed order to be passed separately.



**R.K. SHARMA**  
MEMBER

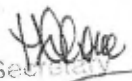


**J.S.KOCHAR**  
MEMBER



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

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Secretary



**Kasturi Ram International School, Narela, Delhi**

Present: Sh.Anil Kumar, PT (sports) of the school.

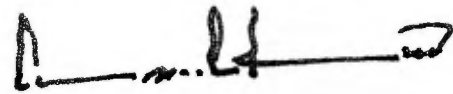
The school has filed an application seeking adjournment on account of non availability of the person who is representing the school in the matter. As requested, the matter is adjourned to 9<sup>th</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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Secretary

M.M.Public School, Pitampura, Delhi

Present : Sh.S.R.Pathak, Manager & Sh.Puneet Batra, Advocate of the school.

The Committee has verified payment of arrear salaries which were paid subsequent to 31.3.2011. However a Calculation Sheet earlier prepared by the Committee prima facie needs certain verifications. Accordingly the matter is adjourned to 12<sup>th</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**



**J.S.KOCHAR  
MEMBER**



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

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Secretary

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

Present: Sh.Birendar Singh, A.O., Sh.Jitendra Singh, Sr. Accountant, Sh.Kamal Gupta, Advocate & Sh.Satish Pikhriyal, C.A. of the school.

The learned counsel appearing for the school has been partly heard. He seeks to dispute only 4 items of the Calculation Sheet. These are as follows:

1. Rs.4,48,11,739 which is due from the parent society and included by the Committee as part of funds deem to be available with the school.
2. Funds applied for capital expenditure from 2006-07 to 2009-10 amounting to Rs. 21,50,81,665 and included by this Committee in the funds deem to be available with the school.
3. Reserves for future contingencies amounting to Rs.2,24,24,971.

The counsel submits that there is a calculation error in working out these figures and development fee received by the school in 2009-10 and 2010-11 which have been considered by the Committee to be prima facie refundable on account of the same being treated as a revenue receipt.

He seeks to buttress his contention by making out the calculations showing the amount available out of the accumulated revenues of the school for the purpose of incurring capital expenditure. The Committee observes that the calculations made out by the school does not accord with Rule 177 of Delhi School Education Rules, on which the learned counsel has relied upon. He also relies upon the judgment of the Hon'ble Supreme Court in the case of Modern School to convince the argument and there is no infirmity in incurring capital expenditure out of the accumulated surplus of the school arising from the fee charged by the school. The learned counsel seeks to file written reasons in support of his arguments. The same may be filed on or before the next date of hearing. Matter will be taken up for further hearing on 2<sup>nd</sup> November 2018 at 11.00 A.M.

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*[Signature]*  
Secretary

*[Signature]*

**R.K. SHARMA**  
MEMBER

*[Signature]*

**J.S.KOCHAR**  
MEMBER

*[Signature]*

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





Ganga International School, Saavda Ghevra, Delhi.

Present: Sh.Kamal Gupta, Advocate, Sh.Harsh Kumar, Advocate, Sh.Harbans Singh, Accountant & Sh.Agasti Kumar, Accountant of the school.

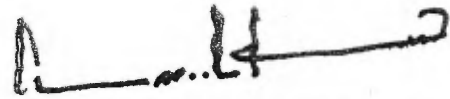
The learned counsel appearing for the school submits that the addition of fixed assets in the year 2008-09, which the Committee has deemed to be part of funds available includes a sum of Rs.55,94,000 which represents the cost of buses which were purchased by the parent society and introduced as an asset of the school in that year. He submits that since the school has not paid the aforesaid amount out of its funds, the same ought not be considered as diversion of capital expenditure. He also disputes the addition of development fee for the years 2009-10 and 2010-11. After arguing for sometime he seeks to file written reasons in support of his arguments. The same may be filed on or before the next date of hearing. The matter will be taken for further hearing on 2<sup>nd</sup> Nov. 2018 at 11.00 A.M.



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



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



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

TRUE COPY

  
Secretary



**Ganga International School, Hiran Kunda, Delhi.**

Present: Sh.Kamal Gupta, Advocate, Sh.Harsh Kumar, Advocate, Sh.R.K. Narang, Accounts Officer and Sh.Sunil Bhatia, Accounts Assistant of the school.

At the outset the learned counsel points out that in the statement of funds diverted for capital expenditure and transferred to parent society prepared by the Committee, there is an apparent error in as much as the Committee has also included the figures of the year 2010-11. After arguing the matter for some time the learned counsel seeks to file written reasons in support of his oral rebuttal. The same may be filed on or before the next date of hearing. The matter will come up for further hearing on 2nd November 2018 at 11.00 A.M.



**R.K. SHARMA  
MEMBER**

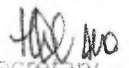


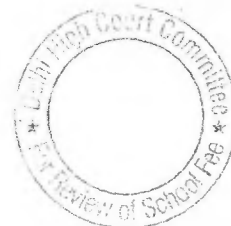
**J.S.KOCHAR  
MEMBER**



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

TRUE COPY

  
Secretary



**Ryan International School, Vasant Kunj, Delhi**

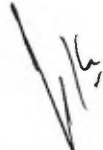
Present : Sh.Mukesh Gupta, Sr. Accounts Officer of the school.

The matter was relisted for seeking certain clarifications with regard to the contentions made by the school vide its written submissions in rebuttal of the calculation sheet. It was contended that the Committee had not taken into consideration the accrued liability of the school on account of gratuity, leave encashment and contingency reserves as on 31.3.2010. Prima facie it appeared that the Committee had considered these liabilities in its calculation sheet. The learned authorized representative appearing for the school submits that though on the face of it liabilities have been taken note of by the Committee, they have not been factored in making the relevant calculations for determining the amount apparently found to be refunded to the students. The Committee has rechecked the calculation sheet and finds that the submission made by the authorized representative is correct. If such liabilities and requirements of reserves are factored in the relevant calculations, the school will not be required to refund any amount to the students.

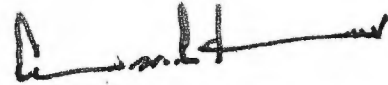
Detailed order to be passed separately.



**R.K. SHARMA**  
MEMBER



**J.S. KOCHAR**  
MEMBER



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

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Secretary

Vivekanand School, Vivek Vihar, Delhi

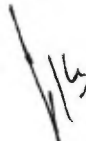
Present : Sh.Manu RG Luthra, CA & Sh.Pradyumn Ahuja, Chairman of the school.

The matter was re-fixed for hearing as while finalizing the recommendations, the Committee observes that the calculation sheet was based on the information which did not reconcile the audited financials of the school. Moreover, the calculations prepared earlier did not take into account the apparent diversion of fee revenue of the school towards creation of fixed assets and/or transfer of funds to the society as the school has not filed the Receipt and Payment accounts as part of its audited financials. The school has also subsequently filed a revised information sheet with regard to different components of fee and salary which it claims reconciles with the Income and Expenditure accounts.

The school is directed to furnish its Receipt and Payments accounts for the years 2006-07 to 2010-11 and also produce its books of accounts which are purportedly maintained in a accounting software. The same may be produced in a laptop for verification by the Committee. Matter will come up for further hearing on 15<sup>th</sup> October 2018 at 11.00 A.M.



**R.K. SHARMA**  
MEMBER

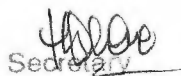


**J.S. KOCHAR**  
MEMBER



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

THIS COPY


  
Secretary

**Ryan International School, Mayur Vihar, Delhi**

Present: : Sh. Mukesh Gupta, Sr. Accounts Officer of the school.

The matter was reserved for order when the school was given copy of the Calculation Sheet and the only reasons the school was apparently required to refund a sum of Rs.34,63,628 was that the school had recovered arrears of development fee for the period 1.09.2008 to 31.3.2009 at a rate which was in excess of 10% of tuition fee at which the school was originally charging the development fee. This was not in confirmative of clause 15 of the order dated 11.2.2009 issued by the Director of Education which permitted the schools to recover the consequential increase in development fee on account of increase in tuition fee and not to recover the difference between 15% of tuition fee and the development fee actually charged by the schools in cases where the schools were charging development fee at a rate which was less than 15% of the tuition fee as on the present case. A liberty was given to the school to file written submissions on this aspect. Subsequently, the school filed its written submissions raising many contentions. With regard to the recovery of excess arrears of incremental development fee, the school submitted that it incurred a huge deficit on implementation of the recommendations of the 6<sup>th</sup> pay commission and this necessitated raising of additional resources and the school was of the view that it could rightfully raised the rate of development fee to 15% of tuition fee as provided in Clause 15 of the circular. It was further submitted that at any rate even the calculations made by the Committee shows that the school was in deficit to the tune of Rs.68,55,563 after implementation of the recommendations of the 6<sup>th</sup> pay commission and therefore, no recommendations is made regarding refund of the aforesaid sum of Rs.34,63,628.

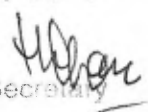
Matter is heard. Recommendations reserved.

  
R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



The Heritage School, Vasant Kunj, Delhi.

Present: Sh.Kamal Gupta, Advocate, Sh.Harsh Kumar, Advocate & Sh.Parveen Kumar Jain, C.A.

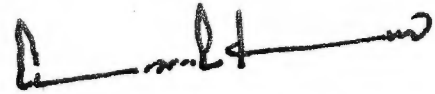
The learned counsel appearing for the school requests for some time to be given as he submits that he has got instructions to appear in this matter only two days back. He further requests that the hearing may be adjourned to 19<sup>th</sup> November on which date the Heritage school, Rohini is also due to appear. Accordingly the matter is adjourned to 19<sup>th</sup> Nov. 2018 at 11.00 A.M.



**R.K. SHARMA**  
MEMBER



**J.S.KOCHAR**  
MEMBER



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

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Secretary


**The Heritage School, Sector-23, Rohini, Delhi**

Present: Sh.Pulkit Malhotra, Advocate of the school.

The learned counsel appearing for the school submits that an application for stay of proceeding before this Committee is likely to be listed before the Hon'ble Bench of the Delhi High Court on 15<sup>th</sup> Nov. 2018 and accordingly requests that the matter be taken up for hearing after that date. The matter is accordingly adjourned to 19<sup>th</sup> Nov. 2018 at 11.00 AM. However in case the application is listed before the Delhi High Court before 15<sup>th</sup> Nov. and any order is passed thereon the school will inform of the same within 3 days of the passing of such order.



**R.K. SHARMA  
MEMBER**



**J.S. KOCHAR  
MEMBER**



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

TRUE COPY



Secretary



**Bhai Parmanand Vidya Mandir, Surya Niketan, Delhi.**

Present: Sh.Brij Bhushan Ojha, Accountant of the school.

An application has been filed on behalf of the school seeking adjournment on the ground that Sh. Mohinder Singh, Advocate, who is a member of the Management Committee of the school wishes to make submissions before this Committee but is unable to appear today. The authorized representative who is appearing for the school, after telephonically confirming the availability of Sh. Mohinder Singh, submits that the matter be adjourned to 22th Octo.2018. Accordingly the matter is adjourned to 22<sup>nd</sup> October 2018.



**R.K. SHARMA  
MEMBER**




**J.S.KOCHAR  
MEMBER**



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

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Secretary

