

**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 May 2019**

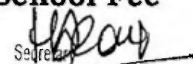
No. DHCC/2019/316

Dated: 25/06/19

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(a)	Final recommendations/ Review orders passed in the following cases:-		
	S.N.	Date	Name of the School
	1	24.05.2019	Order in respect of <b>Evergreen Public School, Vasundhara Enclave (B-347)</b> recommending no intervention as the school paid arrears of salary amounting to <b>Rs.11,64,130</b> to the staff during the course of hearing itself.
	2	27.05.2019	Order in respect of <b>Ahlcon Public School, Mayur Vihar (B-6)</b> recommending no intervention.
	3	28.05.2019	Order in respect of <b>Darshan Academy, Sant Kripal Singh Marg (B-308)</b> recommending no intervention.
	4	28.05.2019	Order of disposal of <b>Review application of Apeejay School, Pitampura (B-642).</b>
	5	29.05.2019	Order in respect of <b>Universal Public School, Mahavir Enclave (B-674)</b> recommending refund of unjustified fee hike effected by the school over and above 10% of fee charged by it in 2008-09 alongwith 9% interest with ripple effect.
	6	29.05.2019	Order in respect of <b>Rosary Sr. Sec. School, Kingsway Camp (B-539)</b> recommending refund of unjustified fee hike amounting to <b>Rs.8,70,252</b> alongwith 9% interest.
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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 Baita Road, Civil Lines, Delhi-110018

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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:**

**Evergreen Public School, Vasundra Enclave, Delhi-110096 (B-347)**

**Order of the Committee**

**Present :** Sh. Rahul Jain, Chartered Accountant with Sh. Lokendra Singh Accountant of the school

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

The school did not respond to the questionnaire or to the reminder. A fresh communication was sent to the school on 06/05/2013 requiring it to furnish the replies to the questionnaire dated 27/02/2012 and also to furnish information regarding charging of development fee, its treatment in the accounts and maintenance of earmarked development and depreciation reserve funds in order to examine whether the school was complying with the pre conditions

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laid down by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 regarding charging of development fee.


The school submitted its reply to the aforesaid communication and furnished the required information under cover of its letter dated 12/06/2013.

As per the reply given by the school, it had implemented the recommendations of VI Pay Commission and started paying the increased salary to the staff w.e.f. 01/05/2009. It also stated that it had paid a sum of Rs. 29,24,862 as arrears of salary, without furnishing any details of such payment.

With regard to hike in fee, the school admitted that it had hiked the fee in accordance with the order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009 and also recovered a sum of Rs. 36,96,660 as arrear fee from the students for the period 01/1/2006 to 31/03/2009, as envisaged in the order.

With regard to collection of development fee, the school admitted that it had collected development fee from the students in all the five years for which the information was sought i.e. 2006-07 to 2010-11. For the years 2009-10 and 2010-11, with which this Committee is concerned, the school stated that it had recovered a sum of Rs. 32,13,852 in 2009-10 out of which a sum of Rs. 7,85,534 was utilised on purchase of equipments. In 2010-11, it recovered a sum of

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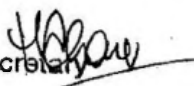
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Rs. 34,90,502 as development fee out of which it utilised Rs. 5,55,755 on purchase of furniture and equipments. It also stated that the development fee was treated as a capital receipt and earmarked accounts were maintained for unutilised development fund and depreciation reserve fund.

In the first instance, preliminary calculations were made by the Chartered Accountants (CAs) deputed by the Directorate of Education to assist this Committee and they determined that prima facie the school had recovered a sum of Rs. 27,19,538 in excess of its requirements for meeting the additional expenditure on account of implementation of the recommendations of VI Pay Commission. However, on review of the calculations made by the CAs, the Committee observed that they had included the arrear fee for the period 01/09/2008 to 31/03/2009 twice over. Therefore, the Committee did not rely upon the calculations made by the CAs.

The Committee issued a notice dated 14/05/2015, requiring the school to furnish complete break up of fee and salaries for the years 2008-09 to 2010-11 (including arrear fee and arrear salary pursuant to implementation of VI Pay Commission), copies of bank statements showing payment of arrear salaries, statement of account of the parent society running the school and details of its accrued liabilities of gratuity and leave encashment, besides copy of the circular issued to the parents regarding fee hike effected by the school.

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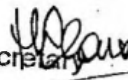
The school submitted the information vide its letter dated 23/06/2015. A notice of hearing was issued on 30/06/2016, requiring the school to appear before the Committee on 20/07/2016 and produce its books of accounts, fee and salary records etc.

Sh. Rahul Gaur, Accountant of the school appeared and requested for adjournment. The matter was adjourned to 01/09/2016 when Sh. Rahul Jain, Chartered Accountant appeared on behalf of the school.

The Committee perused the circular issued by the school to the parents of the students regarding fee hike effected by it in pursuance of order dated 11/02/2009 issued by the Directorate of Education. As per the circular, the school increased tuition fee of the students @ Rs.300 p.m. w.e.f. Sept. 2008 and accordingly recovered arrears of Rs.2100 per student for the period Sept. 2008 to March 2009. Besides, the school also recovered Rs.3000 per student as lump sum fee for the period 01/01/2006 to 31/08/2008, as provided in the aforesaid order.

The Committee observed that although the school was charging development fee in 2008-09 @ 10% of tuition fee, there was no mention of any consequential hike in development fee w.e.f. 01/09/2008. The authorized representative of the school submitted that no increase in the development fee had been effected w.e.f.

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01/09/2008 till 31/03/2009, although the development fee was increased to 15% of the tuition fee w.e.f. 1st April 2009.

The information filed by the school on 23/06/2015 as required by the Committee vide its notice dated 14/05/2015 was perused by the Committee. The Committee observed that as per the information furnished, the school recovered the entire amount of arrear fee aggregating Rs. 36,96,660 in the years 2008-09 and 2009-10. However the arrear salary to the staff was paid only during the financial years 2011-12 and 2012-13. From the copy of bank statement filed by the school showing the payment of arrear salary, the Committee observed that the school started paying arrears on 29<sup>th</sup> March 2012. Significantly this Committee started functioning on 26/12/2011 and sent its questionnaire to the school on 27/02/2012, which was followed by reminder dated 27/03/2012.

The school did not produce its audited financials for the years 2011-12 & 2012-13 in which the arrear salary was stated to have been paid. The school also did not produce its books of accounts for perusal by the Committee. The authorized representative of the school sought some time to produce the same. The school was directed to produce the same on 17<sup>th</sup> October 2016. The school was also directed to furnish the information regarding fee and salary as per the format given in the notice dated 14.05.2015 for the years

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2011-2012 & 2012-13 and also its books of accounts etc. for those years.

The school furnished copies of its balance sheets as on 31/03/2010 to 31/03/2013 and also the information furnished in the format as per notice dated 14/05/2015 for the years 2011-12 and 2012-13, as the arrears of salary were paid in these years. The authorized representative of the school also filed copies of ledger account of arrear payable for those two years, showing the details of payment of arrears. It was submitted that the arrear fee received was not routed through Income and Expenditure account but was shown as arrear of salary payable by the school, as a liability in the balance sheet. The Committee observed that as on 31/03/2013, there was still a balance of Rs. 11,64,130 outstanding in the arrear payable account which reflected the excess of arrear fee recovered over the arrear salary paid. This sum of Rs. 11,64,130 was transferred to the Income & Expenditure Account of the school in the year 2013-14. Thus the school did not even pay the full amount of arrear fee recovered from the students for the purpose of payment of arrear salary to the staff but appropriated a sum of Rs. 11,64,130 to its own revenues, despite the fact that huge arrears to the staff were still payable. The authorized representatives stated that the full liability for arrear salary was more than Rs. 64 lacs and the school did not have sufficient funds to discharge this liability despite recovery of arrear fee from the students and increasing the regular fee in terms of order

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dated 11/02/2009. However, there was no explanation as to why even the full amount of arrear fee recovered from the students was not paid to the staff as arrear salary.

On perusal of the statement of account of the parent society i.e. Jyotirmay Bal Shiksha Samiti, the Committee observed that the school had received heavy amounts of aid from the Samiti, mostly in cash. The authorized representative of the school could not explain the source of cash in the hands of the Samiti and sought some time to take instructions in the matter from the school management. The school was directed to produce its fee structure for the years 2010-11 and 2011-12 in which the arrears were paid, as also its books of accounts for those two years. This was done to ensure that the school did not recover any additional or extra ordinary fee in those years for the purpose of payment of arrear salary.

Copies of fee schedules for the year 2010-11, 2011-12 and 2012-13 were filed by the school . On perusal of these documents, it appeared to the Committee that the fee hike effected by the school in both the years was around 10%. With regard to the source of cash received by the parent society, which was subsequently transferred to the school by way of aid, the authorized representatives submitted that the same were donations received from sundry persons but they were not linked with the admissions of students made to the

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school. An affidavit of the Manager of the school was filed to this effect.

The Committee prepared a calculation sheet to examine the justifiability of recovery of arrear fee and increase in regular tuition fee w.e.f. 01/09/2008. The Committee observed that the school was diverting the funds available with it towards creation of fixed assets and repayment of loans taken for creating such assets and thus was always hand to mouth in the matter of funds actually available with it.

However even after considering the amount of funds diverted by the school for capital expenditure, the Committee found that the school was not having adequate funds for payment of increase salaries for implementation of the recommendations of the 6<sup>th</sup> pay commission.

So far as development fee is concerned, the Committee observed that contrary to what the school stated in reply to the questionnaire issued by the Committee, the school was treating the same as a revenue receipt. The school was thus found to be not compliant with the essential pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra). The amount collected as development fee in 2009-10 was Rs.32,13,852 and in 2010-11, it increased to Rs. 34,90,502.

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Therefore, prima facie, it appeared that the school would be required to make the total refund of Rs,78,68,484 i.e. Rs. 32,13,852 and Rs. 34,90,502 as development fee in the two years and Rs. 11,64,130 which was the arrear fee misappropriated by the school to its own revenues. However, in case it pays the arrear salary to the staff, the same shall be duly factored in by making the final recommendations. The school was put on notice and asked to file its objections, if any.

The school filed its own calculation sheet as per which it had a deficiency of Rs. 1,57,45,654 even after partial implementation of the recommendations of VI Pay Commission and after considering the funds available with the school as on 31/03/2008 and the effect of recovery of arrear fee and incremental fee as per order dated 11/02/2009 issued by the Director of Education. However, the Committee observed that the calculation sheet prepared by the school did not factor in the fee revenues diverted by the school for capital expenditure nor the development fee recovered by it in 2009-10 and 2010-11 which was treated as a revenue receipt by the school. The position that emerged after the Committee prepared its own calculation sheet reflected that the deficit incurred by the school as calculated by it was excessive and after considering the effect of diversion of funds for capital expenditure amounting to Rs. 72,10,239 and factoring in the development fee for 2009-10 and 2010-11 which was treated as a revenue receipt, the school barely had any funds with

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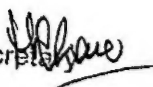
it considering that it was required to keep funds in reserve for accrued liability of gratuity and leave encashment which amounted to Rs. 43,69,556 and Rs. 11,58,414. Besides, the school was also required to maintain a reasonable reserve for future contingencies which the Committee determined to be Rs. 68,23,964.

However, the Committee was of the view that the school could not have appropriated the sum of Rs. 11,64,130 out of the arrear fee recovered by it specifically for payment of arrear salary to the staff. Either it had to be paid to the staff against the remaining liability of arrear salary (The total liability of the school was Rs.64,55,431 against which it had paid only Rs.25,32,530) or it had to be refunded to the students.

The authorized representative of the school submitted that he would seeks instructions from the management of the school in this regard. Accordingly the matter was adjourned to 14<sup>th</sup> July 2017. It was directed that in case the management decided to pay the arrear salary to the staff, the payment ought to be made latest by 10<sup>th</sup> July 2017 and evidence of such payment by means of bank pay order or transfer to the accounts of the teachers would be filed before the next date of hearing.

The school has filed its submissions dated 10.7.2017 stating that it had since paid the amount of Rs.11,64,130, which remained with it out of the arrear fee charged by the school from the students.

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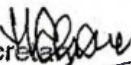


The school also furnished a list of payments made to the staff alongwith copies of its own bank statement and bank statements of the concerned staff members to show that the amounts have since been credited to their accounts. It was also submitted that the school ought not be directed to refund any part of development fee charged in 2009-10 and 2010-11, in view of the funds position of the school. The school did not have sufficient funds to maintain reserves for contingences and accrued liabilities of gratuity and leave encashment.

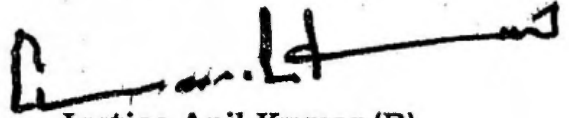
The Committee has considered the submissions made by the school and as the calculations made by the Committee also revealed that the school barely had sufficient funds to cover its accrued liability of gratuity, leave encashment and requirement of maintaining a reasonable reserve for future contingencies, no part of development fee charged in 2009-10 and 2010-11 be refunded despite the fact that the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra).

**Since the school has paid the sum of Rs. 11,64,130 towards partial discharge of its liability of payment of arrear salary to the staff, out of the arrear fee recovered by it specifically for payment of such arrear salary and which it had initially appropriated to its own revenues, the Committee is of the view that no further intervention is required in the matter of fee hike**


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effected by it in 2009-10 or the recovery of arrear fee and  
development fee pursuant to order dated 11/02/2009 issued by  
the Director of Education.



Justice Anil Kumar (R)  
(Chairperson)




CA J.S. Kochar  
(Member)



Dr. R.K. Sharma  
(Member)

Dated: 24/05/2019

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

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

**In the matter of:**

**Ahlcon Public School, Mayur Vihar, Delhi-110091 (B-6)**

**Order of the Committee**

**Present :** Ms. Neetu Sharma, Sr. Exectuvie, Sh. Sanjay Kumar, UDC  
& Sh. Birander Singh, Office Assistant of the school.

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

The school furnished its reply under cover of its letter dated 02/03/2012. As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission and started paying the increased salary w.e.f. 01/01/2006. In the same breath, it stated that it had paid arrears of increased salary for the period January 2006 to March 2009 in five installments, which amounted to Rs. 3,86,81,431 and a sum of Rs. 6,21,722 was still payable.

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With regard to fee hike, the school admitted having hiked the tuition fee as well as development fee w.e.f. 01/09/2008, purportedly in pursuance of order dated 11/02/2009 issued by the Director of Education. As per the information furnished by the school, the tuition fee was apparently hiked @ Rs. 300 per month for all the classes except class IX, X and XII. The hike in tuition fee for these three classes was apparently Rs. 400 per month. However, the hike in monthly development fee was at varying rates for almost all the classes. For class pre-school it was around Rs. 107 per month and for class XII it was around Rs. 138 per month. Apparently, the hike in development fee was around 35% of the hike in tuition fee. The school also admitted having recovered lump sum arrear fee for the period 01/01/2006 to 31/08/2008 @ Rs. 3000 per student where the monthly tuition fee hike was Rs. 300 and @ Rs. 3,500 per student where the monthly tuition fee hike was @ Rs. 400.

In the first instance, preliminary calculations were made by the Chartered Accountants (CAs) deputed by the Directorate of Education to assist this Committee and they determined that prima facie the school had recovered a sum of Rs. 1,86,94,955 in excess of its requirements for meeting the additional expenditure on account of implementation of the recommendations of VI Pay Commission after taking into account the funds available with the school prior to effecting the fee hike. However, on review of the calculations made by the CAs, the Committee observed that they had not factored in the

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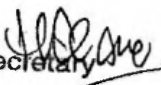
requirement of the school to keep funds in reserve for accrued liabilities of gratuity, leave encashment etc. Therefore, the Committee did not rely upon the calculations made by the CAs.

The Committee issued a notice dated 22/01/2015, requiring the school to furnish complete break up of fee and salaries for the years 2008-09 to 2010-11 (including arrear fee and arrear salary pursuant to implementation of VI Pay Commission), copies of bank statements showing payment of arrear salaries, statement of account of the parent society running the school and details of its accrued liabilities of gratuity and leave encashment, besides copy of the circular issued to the parents regarding fee hike effected by the school. The school was also afforded an opportunity to appear before the Committee on 10/02/2015 and make submissions in justification of the fee hike effected by it. The hearing was however, postponed to 17/03/2015.

On the date of hearing, Sh. Pramod Bhatnagar, Manager of the school appeared with Sh. V.K.S. Panicker, The school also submitted the information asked for vide its letter dated 17/03/2015 during the course of hearing.

The authorized representatives of the school were partly heard. The Committee observed that originally, the school was charging development fee @ 10% of tuition fee in the year 2008-09. However, for the period 01/09/2008 to 31/03/2009, the school not only recovered the arrears of differential development fee calculated at the

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rate of 15% of incremental tuition fee but also recovered the differential development @ 5% of the tuition fee for the entire year of 2008-09.

Prima facie, it appeared that the arrears of incremental development fee @ 15% of incremental tuition fee, for the period 01/09/2008 to 31/03/2009 was excessive as the school was recovering development fee @ 10% of the tuition fee and the order dated 11/02/2009 issued by the Director of Education, did not authorize the school to increase the rate of recovery of development fee to 15% where it was charging development fee at a lesser rate. The excessive amount recovered by the school was Rs. 4,78,887 calculated as follows:

<b>Excess development fee arrears for the period 01.9.08 to 31.3.09 recovered</b>	
Actual Recovery @ 15% of tuition fee	1,436,662
Less: Permissible recovery @ 10% of tuition fee	957,775
<b>Excess recovery</b>	<b>478,887</b>

Over and above, this amount, the recovery of additional development fee for the period 01/04/2008 to 31/08/2008, which amounted to **Rs. 21,13,700** appeared to be wholly unauthorized as the order dated 11/02/2009 of the Director of Education authorized the increase in fee only w.e.f. 01/09/2008.

The Committee prepared a provisional calculation sheet which remained inconclusive as it observed that the school was not filing its

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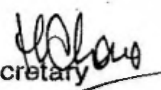
Receipt and Payment Accounts under Rule 180 of the Delhi School Education Rules, 1973, as part of its audited financials. The matter could not be proceeded further on account of resignation of Justice Anil Dev Singh as Chairman of the Committee.

After reconstitution of the Committee, a fresh notice of hearing was issued on 24/08/2017 requiring the school to appear on 06/09/2017. The school was directed to file the Receipt and Payment Accounts for the years 2006-07 to 2010-11 latest by 01/09/2017, vide email dated 28/08/2017.

On the date of hearing, Ms. Neetu Sharma, Sr. Executive of the school appeared with Sh. Sanjay Kumar, and Sh. Birender Singh, Accounts Assistants of the school.

The authorized representatives of the school sought to file the Receipt and Payment Accounts of the school during the course of hearing. The Committee examined the same and observed that the same were not prepared in accordance with the accounting principles. The authorized representatives also accepted this and requested for some time to file proper Receipt and Payment accounts for the years 2006-07 to 2010-11. The Committee also noticed that the school was apparently recovering fee under various heads, which did not form part of fee schedules filed by the school under Rule 180 of the Delhi School Education Rules, 1973. The school was directed to file copies of the fee schedules which would have been submitted to the

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Directorate of Education before the start of the academic every year from 2006-07 to 2010-11 and also to furnish a statement regarding fees actually charged from the students under different heads during those years. The matter was posted for further hearing on 04/10/2017.

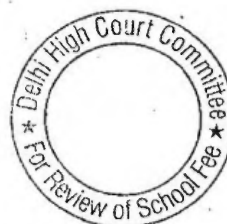
The school filed its Receipt and Payment Accounts under cover of its letter dated 21/09/2017. Vide another letter dated 26/09/2017, the school also filed its fee structures which were filed by it with the Directorate of Education before the start of the academic session every year.

The Committee prepared a calculation sheet to examine the justifiability of recovery of arrears of lump sum fee and the hike in tuition fee and development fee w.e.f. 01/09/2008.

As per the calculations made by the Committee, it appeared that the school had a sum of **Rs. 5,06,86,613** in its kitty as on 31/03/2008 i.e. before the fee hike was effected w.e.f. 01/09/2008. The same was calculated as follows:

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<b><u>Current Assets + Investments</u></b>		
Cash in hand	29,328	
Balance in Bank accounts	243,921	
Bank FD	22,027,193	
Loans and Advances	1,219,747	
Imprest	21,061	
IT deducted deposit	2,685	
Loan to Shanti Devi Progressive Education Society	34,596,700	
TDS Recoverable	5,442	58,146,077
<b><u>Less : Current Liabilities</u></b>		
Students Security Deposit	3,775,500	
Security Deposit Housekeeping, Transport, Security	185,000	
Security Deposit Canteen, Uniform, Books	20,000	
Loan	47,600	
Loans (Current accounts)	2,870,517	
Miscellaneous Current liabilities	560,847	7,459,464
<b>Net Current Assets + Investments (B)</b>		<b>50,686,613</b>

The Committee also observed that the school had an accrued liability of Rs. 2,83,53,738 towards gratuity to the staff as on 31/03/2010. Further, the Committee has held that the schools should not denude themselves of the entire funds available with them while implementing the recommendations of VI Pay Commission and they ought to keep a reasonable amount for future contingencies, which the Committee has determined to be equivalent to 4 months salary. The requirement of the reserve to be maintained for this purpose as determined by the Committee was Rs. 2,39,52,005.

Thus, the Committee determined that the funds to be kept in reserve for the aforesaid purposes amounted to **Rs. 5,23,05,743.**

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Thus the Committee determined that as against Rs. 5,06,86,613 available with it, the requirement of the school to keep funds in reserve amounted to Rs. 5,23,05,743.

Thus effectively, the school apparently did not have any funds of its own to implement the recommendations of VI Pay Commission. However, the Committee observed from the audited financials of the school that it had been utilising its fee revenues for repayment of loans and interests thereon taken for acquiring fixed assets i.e. incurring capital expenditure. The Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583 has laid down that capital expenditure cannot form part of fee structure. To say it in other words, the school cannot divert its fee revenues for incurring capital expenditure. The Committee determined that from 2006-07 to 2009-10, the school utilised its fee revenues for repayment of loans for capital expenditure to the tune of Rs. 1,47,20,525 and Rs. 26,04,024 for payment of interest on such loans. The Committee was of the view that the funds so diverted for capital expenditure ought to be considered as available with the school for implementation of recommendations of VI Pay Commission. After so considering and taking into account the funds actually available and the requirement of the school to keep funds in reserve, the Committee determined that a sum of **Rs. 1,57,05,419** (5,06,86,613 + 1,73,24,549 – 5,23,05,743 ) was deemed to be available with the school for implementation of the recommendations of VI Pay Commission.

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The financial impact of the implementation of the recommendations of VI Pay Commission on the school was calculated to be **Rs. 6,22,23,596** as follows:

<b>Additional Liabilities after implementation of 6th CPC:</b>		
Arrear of Salary as per 6th CPC 1.1.2006 to 31.03.2009	34,528,000	
Incremental Salary for 2009-10 (as per calculation given below*)	27,695,596	62,223,596

<b>*Incremental Salary for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	44,160,419	71,856,015
<b>Incremental salary 2009-10</b>	<b>27,695,596</b>	

Thus, the school required to hike its fee/recover arrear fee to generate additional revenues to the tune of **Rs.4,65,18,177** (6,22,23,596 – 1,57,05,419).

The additional revenue generated by the school by way of recovery of arrear fee and incremental fee pursuant to order dated 11/02/2009 of the Director of Education, amounted to **Rs. 2,36,80,453**, calculated as follows:

<b>Additional Recovery for implementation of 6th CPC:</b>		
Arrear fee w.e.f 01.01.06 to 31.08.08	3,508,186	
Arrear of tuition fee w.e.f 01.09.08 to 31.03.09	9,577,747	
Arrear of Development fee w.e.f 01.09.08 to 31.03.09	1,436,662	
Incremental fee for 2009-10 (as per calculation given below)*	9,157,858	23,680,453

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*Incremental fee for 2009-10	2008-09	2009-10
Normal/ Regular Tuition fee	46,245,135	55,402,993
<b>Incremental tuition fee in 2009-10</b>	<b>9,157,858</b>	

Since, the revenue generated by the school by way of fee hike and recovery of arrear fee was less than the gap which the school required to bridge which amounted to **Rs. 2,28,37,724** (4,65,18,177 - 2,36,80,453), the Committee determined that, subject to the hike in development fee which was beyond the fee hike authorised by the order dated 11/02/2009 of the Director of Education, there was no case for ordering refund of fee by the school.

The Committee has not considered whether the school was fulfilling the pre conditions laid down by the Hon'ble Supreme Court with regard to recovery of development fee, as the total development fee recovered by the school in 2009-10 and 2010-11 was **Rs. 1,79,75,694**. Even if the school was not fulfilling the essential pre conditions, the deficit on implementation of the recommendations of VI Pay Commission exceeded this amount by **Rs. 48,62,030** (2,28,37,724 - 1,79,75,694).

Hence, the Committee is of the view that so far as the recovery of lump sum arrear fee, arrears of incremental tuition fee for the period 01/09/2008 to 31/03/2009, arrears of incremental development fee to the extent authorized by the order dated 11/02/2009, incremental tuition fee for the year 2009-10 and regular

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development fee for the year 2009-10 and 2010-11 are concerned, there is no case for ordering any refund.

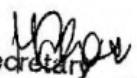
However, in so far as the arrears of development fee which was recovered by the school for the period 01/04/2008 to 31/08/2008 and the arrears of incremental development fee for the period 01/09/2008 to 31/03/2009 are concerned, they need to be discussed separately. The total amount of arrears of development fee/incremental development fee recovered by the school has been determined to be **Rs. 25,92,587** as follows:

<b>Excess development fee arrears for the period 01.9.08 to 31.3.09 recovered</b>	
Actual Recovery @ 15% of tuition fee	1,436,662
Less: Permissible recovery @ 10% of tuition fee	957,775
<b>Excess recovery</b>	<b>478,887</b>
Differential Development fee @5% charged in 2009-10	1,748,285
Differential Development fee @5% charged in 2010-11	365,415
<b>Total excess recovery of arrears of development fee</b>	<b>2,592,587</b>

The order dated 11.2.2.009 issued by the Directorate of Education permitted the fee hike only w.e.f. 01/09/2008 and further the order did not authorize the school to increase development fee to 15% of tuition fee when the school was charging the same originally at a lesser rate(10%).

The authorized representatives who appeared for the school were provided with a calculation of the above amount of Rs. 25,92,587 for rebuttal, if any.

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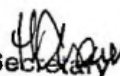




The school filed written submissions dated 24/10/2017 as per which it was stated that the incremental development fee charged by the school in pursuance of order dated 11/02/2009 issued by the Director of Education was in order in view of the fact that the maximum development fee that could be charged by the school was increased to 15% of the annual tuition fee vide clause 14 of the said order.

Today, in response to a fresh notice of hearing, the authorized representative of the school submits that at any rate, the increased amount of development fee had only been utilized for meeting the additional salary on account of implementation of 6<sup>th</sup> pay commission and despite this, the school was in deficit after implementation of the recommendations of VI Pay Commission. She further submits that since the school incurred a deficit on implementation of the recommendations of VI Pay Commission, it is entitled to a fee hike over and above the fee hike permitted by the order dated 11/02/2009 as per the ratio of the judgment of the Hon'ble Delhi High Court in WP (C) 7777 of 2009 by which this Committee was constituted. She submits that since the school is entitled to be granted a further fee hike by this Committee, the school would be satisfied if the apparently unauthorized fee hike effected by it may be regularized against its entitlement for a further fee hike.

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The Committee has considered the submissions made by the 000025 authorized representatives appearing for the school. The Committee is not appreciative of the manner in which the school unauthorisedly hiked its fee. In case, the school felt that the fee hike allowed to it vide order dated 11/02/2009 was not adequate to discharge its additional liabilities on account of implementation of the recommendations of VI Pay Commission, the order provided for a remedial mechanism. Clause 10 of the order provided that a Grievance Redressal Committee had been constituted with the Director of Education as its Chairperson and any school which was aggrieved by this order would approach the said Committee which would resolve the grievance brought before it. The school instead of approaching the Grievance Redressal Committee, hiked the fee over and above the rates prescribed by the Director of Education on its own. However, in view of the judgment of the Hon'ble Delhi High Court in WP (C) 7777 of 2009, this Committee has been given power to grant a further hike in fee where it determines that the fee hike permitted by order dated 11/02/2009 was not adequate considering the requirement of funds by the school for implementation of the recommendations of VI Pay Commission. As noticed supra, the school incurred a deficit of Rs. 48,62,030 even after considering the regular development fee charged by it in the years 2009-10 and 2010-11. The fee unauthorisedly collected by the school amounted to Rs. 25,92,587. The school is not seeking any further hike in fee to bridge the deficit of

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Rs. 48,62,030 but only to regularize the excess fee of Rs. 25,92,587 000026  
charged by it.

The Committee is of the view that though school did not approach to the Grievance Redressal Committee, it would not be justifiable to order refund of Rs. 25,92,587 in view of the fact that the school had a deficit of Rs. 48,62,030. The Committee, therefore, recommends no intervention in the matter of fee hike and arrear fees, development fees actually recovered by the school for implementation of the recommendations of VI Pay Commission.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 27/05/2019

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**BEFORE DELHI HIGH COURT COMMITTEE FOR REVIEW OF SCHOOL FEE, NEW DELHI** 000027

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

**In the matter of:**

**Darshan Academy, Sant Kirpal Singh Marg, Delhi-110009 (B-308)**

**Order of the Committee**

**Present :** Sh. A David, Principal of the School.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear 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.

In response, the school submitted a reply dated 16/03/2012 to the questionnaire. As per the reply, the school implemented the recommendations of VI Pay Commission and started paying the increased salaries w.e.f. 1<sup>st</sup> September 2009. It further stated that it paid arrears of differential salary for the period 01/01/2006 to 31/08/2008. The reply was received by email without any enclosures although the school stated that the details of arrears of salary as well

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as the salary paid for the month of August 2009 and September 2009<sup>000028</sup>  
were enclosed.

With regard to hike in fee, the school admitted that it had hiked the fee in accordance with the order dated 11/02/2009 issued by the Director of Education w.e.f. 01/09/2008. Instead of giving the figure of total amount of arrear fee collected from the students, the school merely stated that it had recovered Rs. 2100 per student for the period 01/09/2008 to 31/03/2009 towards differential tuition fee and Rs. 315 per student towards differential development fee besides lump sum arrears for the period 01/01/2006 to 31/08/2008 which amounted to Rs. 3000 per student.

Since no details were furnished by the school along with the reply to the questionnaire, the Committee issued a fresh questionnaire on 07/05/2013 vide which, besides the information sought vide questionnaire dated 27/02/2012, the school was also required to furnish information with regard to collection and utilisation of development fee and maintenance of earmarked development and depreciation reserve funds in order to examine whether the school was 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 collection of development fee.

The school submitted its reply along with detailed annexures. This time it modified its answers to the queries raised in the

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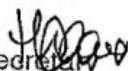


questionnaire and also gave detailed information vide various 000029 annexures attached with the reply. It stated that the school started paying increased salaries w.e.f 01/04/2009 itself on implementation of the recommendations of VI Pay Commission and the gross salary bill of the school for the month of April 2009 rose to Rs. 7,22,713 from Rs. 4,47,330 in March 2009, as a result of implementation of the recommendations of VI Pay Commission. It further stated that it had paid total sum of Rs. 73,00,695 as arrears of salary. It also stated that the school had recovered a sum of Rs. 33,73,193 as arrear fee from the students.

With regard to collection of development fee, the school admitted that it had collected development fee from the students in all the five years for which the information was sought i.e. 2006-07 to 2010-11. For the years 2009-10 and 2010-11, with which this Committee is concerned, the school stated that it had recovered a sum of Rs.20,17,810 in 2009-10 and Rs. 23,03,814 in 2010-11. It conceded that the school was treating development fee as a revenue receipt and no earmarked accounts were maintained for unutilised development fund and depreciation reserve fund.

Thus the school at the threshold itself conceded that it was not in compliance with the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra) which were also reiterated by the Director of Education in its order dated 11/02/2009.

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In the first instance, preliminary calculations were made by the 000030 Chartered Accountants (CAs) deputed by the Directorate of Education to assist this Committee and they determined that prima facie the school was in deficit to the tune of Rs. 20,37,009 after implementation of the recommendations of VI Pay Commission. However, on review of the calculations made by the CAs, the Committee observed that they had calculated the funds already available with the school prior to fee hike with reference to the audited balance sheet of the school as on 31/03/2009. This was obviously not in order as the school had already hiked the fee w.e.f. 01/09/2008 and recovered the arrears partly before 31/03/2009, which would distort the calculations made by the CAs. The Committee therefore, did not rely upon the calculations made by the CAs.

The Committee issued a notice dated 29/04/2015, requiring the school to furnish complete break up of fee and salaries for the years 2008-09 to 2010-11 (including arrear fee and arrear salary pursuant to implementation of VI Pay Commission), copies of bank statements showing payment of arrear salaries, statement of account of the parent society running the school and details of its accrued liabilities of gratuity and leave encashment, besides copy of the circular issued to the parents regarding fee hike effected by the school. The school was also given an opportunity of being heard in the matter on 25/05/2015.

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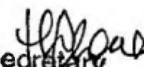
On the date of hearing, Sh. A. David, Principal of the school appeared with Sh. I.R. Malik, Manager and Sh. Avtar Singh and Ms. Dimple, Accountants of the school. The school also furnished the information sought vide notice dated 29/04/2015.

It was submitted by the Principal of the school that the school implemented the recommendations of VI Pay Commission and paid arrears of incremental salary through Account Payee cheques and direct bank transfers during the years 2010-11 to 2013-14. The regular salary of the staff was hiked w.e.f. 01/04/2009. He further contended that the school did not have adequate funds of its own and therefore to generate funds for implementing the recommendations of VI Pay Commission, it increased the fee of the students and also recovered arrears of fee as per order dated 11/02/2009 issued by the Director of Education. He again conceded that the school was treating development fee as a revenue receipt and no earmarked development fund and depreciation reserve funds were maintained.

During the course of hearing, it emerged that the school also ran a pre primary school from the same campus but its financials were not merged with the financials of the main school. Accordingly the school was directed to furnish the information in respect of its pre primary school also as was required vide notice dated 29/04/2015.

The school submitted the information with regard to its pre primary school on 27/05/2015.

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The information submitted by the school in respect of the main school as well as the pre primary school was validated with reference to their audited financials. After examining the information as provided by the school and its audited financials, the Committee prepared a calculation sheet in order to examine whether the school was justified in hiking the fee and recovering the arrear fee for implementation of the recommendations of VI Pay Commission. For the purpose of calculations, the Committee consolidated the figures of the main school and the pre primary school. It arrived at the following conclusions:

The school had available with it a sum of **Rs. 63,94,534** as on 31/03/2008, as follows:

<u>Particulars</u>	<u>Main School</u>	<u>Pre Primary school</u>	<u>Total</u>
<u>Current Assets</u>			
Cash in hand	50	1,441	1,491
Bank Balance	16,371	38,095	54,466
FDRs	2,938,361	618,797	3,557,158
Imprest	280	-	280
TDS on interest	6,681	6,279	12,960
Darshan Academies	650,000	1,390,000	2,040,000
Other Advances	406,096	560	406,656
Darshan Education Foundation	-	2,930,592	2,930,592
<b>Total Current assets (A)</b>	<b>4,017,839</b>	<b>4,985,764</b>	<b>9,003,603</b>
<u>Current Liabilities</u>			
Expenses Payable	557,581	112,969	670,550
Sundry Creditors	159,592	-	159,592
Caution Money	477,000	115,000	592,000
Advance from Students	3,550	683,377	686,927
Darshan Academy (Nursery)	500,000	-	500,000
<b>Total Current Liabilities (B)</b>	<b>1,697,723</b>	<b>911,346</b>	<b>2,609,069</b>
<b>Net Current Assets + Investments</b>	<b>2,320,116</b>	<b>4,074,418</b>	<b>6,394,534</b>

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The total financial impact of implementation of the 000033 recommendations of VI Pay Commission on the school was of the order of **Rs. 1,12,87,474**, as follows:

Particulars	Main School	Pre Primary school	Total
<b>Additional Liability for 6th CPC:</b>			
Arrear of Salary as per 6th CPC w.e.f. 01.01.06 to 31.03.2009	7,300,695		7,300,695
Incremental Salary in 2009-10 (as per working given below*)	4,075,045	(88,266)	3,986,779
<b>Total</b>	<b>11,375,740</b>	<b>(88,266)</b>	<b>11,287,474</b>

\*

<b>Working Notes:</b>		
<b>Sr. Sec. School</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ regular salary	5,242,332	9,317,377
<b>Incremental salary 2009-10</b>	<b>4,075,045</b>	
<b>Nursery School</b>		
Normal/ regular salary	1,224,019	1,135,753
<b>Incremental salary 2009-10</b>	<b>(88,266)</b>	

Thus the school did not have sufficient funds of its own and there was a gap of **Rs.48,92,940** (1,12,87,474 – 63,94,534), which required to be bridged by fee hike and recovery of arrear fee.

The fee hike and recovery of arrear fee effected by the school resulted in an additional revenue of **Rs. 76,23,399** as per details below:

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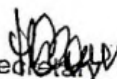
Particulars	Main School	Pre Primary school	Total
Lump-sum arrear fee @ 3000 per student	1,868,805		
Tuition fee arrears from 01.09.2008 to 31.3.2009	1,308,163		
Development fee arrears from 01.9.2008 to 31.3.2009	196,225		
Total Arrear fee for the period from 01.01.06 to 31.03.09 :	3,373,193		
Incremental Tuition fee in 2009-10 (as per working given below*)	3,485,305	764,901	7,623,399
<b>Total</b>	<b>6,858,498</b>	<b>764,901</b>	<b>7,623,399</b>

\*

<u>Working Notes:</u>		
<u>Sr. Sec. School</u>	2008-09	2009-10
Regular/ Normal Tuition fee	8,459,822	
<b>Incremental tuition fee in 2009-10</b>	<b>3,485,305</b>	11,945,127
<u>Nursery School</u>		
	2008-09	2009-10
Regular/ Normal Tuition fee	2,395,818	3,160,719
<b>Incremental tuition fee in 2009-10</b>	<b>764,901</b>	

Thus at first sight, it appears that the school recovered a sum of **Rs. 27,30,459** (76,23,399 - 48,92,940) in excess of its requirement for implementation of the recommendations of VI Pay Commission. However, it is noticeable that so far the Committee has not factored in the requirement of the school to keep funds in reserve for its accrued liabilities of gratuity and leave encashment and requirement of a reasonable reserve for future contingencies, which the Committee has determined to be equivalent to four months salary. The requirement of the school to keep funds in reserve amounts to **Rs. 70,50,080** as per details below:

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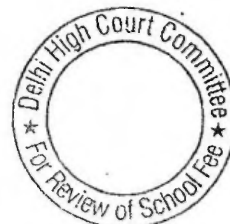
Particulars	Main School	Pre Primary school	Total
<b>Funds to be kept in reserve</b>			
a) For accrued liability of gratuity as on 31.03.2010 *	2,061,818	257,285	2,319,103
b) For accrued liability of leave encashment as on 31.03.2010	1,152,013	94,587	1,246,600
c) Reserve for future contingencies equivalent to 4 months salary	3,105,792	378,584	3,484,377
<b>Total Reserves</b>	<b>6,319,623</b>	<b>730,456</b>	<b>7,050,080</b>

In view of the foregoing determinations, the Committee is of the view that the fee hike effected by the school as well as the arrear fee recovered by it pursuant to order dated 11/02/2009 was justified and calls for no intervention.

As noticed supra, the school was not complying with any of the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra) which were reiterated by the Director of Education in its order dated 11/02/2009. In normal course, the Committee would have recommended refund of the development fee collected in the years 2009-10 and 2010-11 pursuant to the aforesaid orders. The total amount collected by the school towards development fee in these two years was **Rs. 43,21,624**. However, in view of the determinations made by the Committee that the school did not have adequate funds to keep in reserve as mentioned supra and the deficiency was to the tune of **Rs. 43,19,621** (70,50,080 – 27,30,459), the Committee is not inclined to recommend any refund in this case.

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Resultantly, the Committee is of the view that no 000036  
intervention is required in the matter of fee hike effected by the  
school w.e.f. 01/09/2008 or the arrear fee recovered by it for the  
period 01/01/2006 to 31/08/2008 or the development fee  
recovered by it for the years 2009-10 and 2010-11.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 28/05/2019

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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:**

**APEEJAY SCHOOL, (B-642)**

**PITAM PURA**

**NEW DELHI 110034.**

**And in the matter of:**

**Application for review dated  
9<sup>th</sup> January, 2019 and 9<sup>th</sup>  
May, 2019 seeking review of  
recommendations /Order  
dated 21<sup>st</sup> August, 2018 in  
the matter of school (B-  
642).**

**ORDER**

28.05.2019

Present : Mrs. Veena Goel, Principal; Sh. S.K.  
Murgai, Financial Advisor and Mr. Bharat Bhushan,  
General Manager of the School

**ORDER ON APPLICATION DATED 9<sup>TH</sup>  
JANUARY, 2019 AND 9<sup>TH</sup> MAY, 2019  
SEEKING REVIEW OF RECOMMENDATIONS  
/ORDER DATED 21<sup>ST</sup> AUGUST, 2018 IN THE  
MATTER OF SCHOOL (B-642).**

1. Apeejay School, Pitam Pura, New Delhi-110034 (B-642), hereinafter referred as 'The School' has sought review of order dated 21<sup>st</sup> August, 2018 by applications for review dated 9<sup>th</sup> January, 2019 and 9<sup>th</sup> May, 2019.

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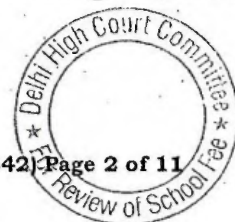


2. 'The School' has sought review of order dated 21<sup>st</sup> August, 2018 passed by the Committee inter-alia on the grounds as stated hereinafter:

"That 'The School' became aware of the recommendations/order of the committee dated 21<sup>st</sup> August, 2018 from the latter of Deputy Director of Education by his letter dated 29<sup>th</sup> December, 2018. According to 'The School' the amount of FDR's works out to be ₹ 7,577,131, the Committee in inadvertently did not order for a further hike of fee by the school to offset the said amount of ₹ 7,577,131 though 'The School' in its written submission had requested the Committee to pass an order for increasing fee. The plea of 'The School' is that the school has been able to make out a case for higher increase of fee, the Committee ought to have passed an order permitting the school to increase the fee which the Committee inadvertently overlooked though requested to by the school. The error in the order/recommendation of the Committee is apparent on the face of the record and is liable to be corrected in the facts and circumstances. The Committee ought to have adjusted the amount of ₹ 1,762,441 and should have passed an order for "No refund" by the school. The order/recommendation of the Committee directing refund of ₹ 1,762,441 with interest, on the face of the record is an apparent mistake which needs to be rectified. The plea of the School is that the Committee ought to have adjusted the said amount of ₹ 1,762,441 against the definition of tuition fee of ₹ 7,577,131 which the committee inadvertently omitted to do. Thus the face of order to be refunded by the School ought to be ₹ 5,814,690 and not as has been order/recommended by the Committee. According to the School the application for the review is filed without prejudice to write of the School to challenge the refund directed by the Committee's recommendation dated 21<sup>st</sup> of August, 2018. A similar application for review of the order/recommendation of the committee dated 21<sup>st</sup> of August, 2018 was filed again being application dated May, 2019.

3. The Order/recommendation dated 21<sup>st</sup> August, 2018 were passed by the Committee after giving adequate opportunity to the school. In its order/recommendation dated 21<sup>st</sup> of August, 2018 the Committee had held as under:

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"Before proceeding further, it would be apposite to mention here that as per the preliminary calculation sheet prepared by the Committee, the Committee determined that the school had available with it a sum of Rs. 3,03,29,723 as funds available with it as on 31/03/2008, i.e. before the decision to hike the fee was taken.

The Committee considered that out of the total funds available, the school ought to maintain reserves amounted to Rs. 2,72,54,139 for meeting its accrued liabilities of gratuity and leave encashment as on 31/03/2010 besides maintaining a further reserve equivalent to four months salary.

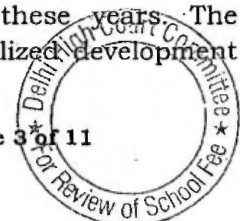
Thus the Committee prima facie concluded that the school had available with it a sum of Rs. 30,75,584 which could be utilised for implementing the recommendations of VI Pay Commission. The additional liability of the school arising on account of implementation of the recommendations of VI Pay Commission were of the order of Rs. 3,41,36,197. Thus the school had a shortfall to the tune of Rs. 3,10,60,613 ( 3,41,36,197 - 30,75,584), which the school needed to bridge by recovering the arrear fee as well as hiking the regular fee in terms of order dated 11/02/2009 issued by the Director of Education

4. Regarding the fee hiked by "The School" the Committee had held that the School was not fulfilling the pre-conditions laid down by the Hon'ble Supreme Court. The Committee held as under:

"On perusal of the break-up of fee charged by the school under different heads during the years 2008-09 to 2010-11, the Committee observed that the school recovered arrears of development fee amounting to Rs.24,46,317 for the period 01/09/2008 to 31/03/2009, whereas the arrears of tuition fee for the same period, which the school recovered, amounted to Rs. 43,51,624. In percentage terms, the arrears of development fee recovered by the school were found to be almost 56% of the arrears of tuition fee charged by the school. The school was required to furnish the explanation with regard to the apparent discrepancy in recovering arrear of development fee which ought not to have exceeded 10% of tuition fee at

With regard to regular development fee, the school filed a detailed chart showing development fund collected and utilized from 1999 to 2010-11. It was contended that the school utilized the development fund only for the permitted purposes i.e. acquisition of furniture and fixtures and equipments. The school also furnished the details of depreciation reserve on the assets acquired out of development fund during these years. The Committee observed that as on 31/03/2008, the unutilized development

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fund held by the school amounted to Rs.40,58,674 and the balance in depreciation reserve fund on assets acquired out of development fund was Rs.30,21,100 totaling Rs.70,79,774. The authorized representatives of the school submitted that the school held a sum of Rs.1,00,92,246 in earmarked FDRs and saving bank accounts.

The Committee observed that the school had claimed more earmarked funds than the reserves held by it to the tune of Rs.30,12,472 (1,00,92,246 - 70,79,774) and that this position was untenable. The Committee is of the view that this amount was available to the school for the purpose of implementing the recommendations of the 6th pay commission

5. In these circumstances and with this background the Committee has recommended/ordered as under:

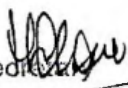
"In view of the foregoing discussion, the committee is of the view that the fee hiked by the school by Rs. 200 per month w.e.f. 01/04/2009 purportedly for the purpose of meeting its additional liabilities on account of implementation of the recommendation of VI Pay Commission was not justified and the same ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

As the fee increased in 2009-10 would also be part of the fee for the subsequent years. The fee for the subsequent year to the extent it relates to the fee hike in 2009-10 also ought to be refunded along with interest @ 9% per annum.

As the school did not recover any arrear fee and does not recover any development fee even till date, no recommendation is required to be made in respect of these. For the record, it may be stated that school was recognized on w.e.f. 10/04/2008 and as such there was no accrued liability for gratuity up 31/03/2010.

Taking into account the aforementioned submissions, with which the Committee agrees, a sum of Rs. 78,56,394 (70,79,773 + 7,76,621) out of the FDRs held by the school as on 31/03/2008 are required to be excluded from the preliminary determination of the funds available with the school, which the Committee found to be Rs. 3,03,29,723. By taking this figure, the Committee arrived at the prima facie conclusion that the fee hike effected by the school and the arrear fee recovered by the school was in excess of its requirement to the tune of Rs. 2,79,263. If the aforesaid sum of Rs. 78,56,394 is excluded, the inescapable conclusion is that the fee hike effected by the school was justified and no interference is called for on that account

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6. Regarding the Development fees also the Committee had considered in detail the plea of the school for the period 01/09/2008 to 31.03.2009. The Committee had held as under:

With regard to the arrears of development fee recovered by the school for the period 01/09/2008 to 31/03/2009, the Committee is of the view that the school was not justified in increasing the rate of development fee from 10% to 15% of tuition fee w.e.f. 01/09/2008 and upto 31/03/2009, although from 01/04/2009 the school could justifiably charge the development fee @ 15% of tuition fee. This is on account of the mandate of section 17(3) of the Delhi School Education Act, 1973, which prohibits the school from increasing the fee after the start of the academic session without obtaining specific approval from the Director of Education.

The Committee observed that in respect of the arrears of development fee, the school recovered the arrears for the period 1.9.2008 to 31.3.2009 @ 15% of the revised tuition fee while the school was charging development fee @ 10% of tuition fee as per its fee schedules filed under section 17(3) of the Delhi School Education Act 1973 for the year 2008-09. The school relied upon a subsequent order dated 25/02/2009 issued by the Director of Education which, in the opinion of the school, permitted the schools to recover the arrears of development fee for the period 01/09/2008 to 31/03/2009 @ 15% of the tuition fee.

The Committee has perused the order dated 25/02/2009 vide which para 6 of the order dated 11/02/2009 was substituted. The revised para 6 of the order reads as follows:

The parents of children, other than those studying in class X and XII, shall be allowed to deposit the arrears on account of the above tuition fee effective from 1st September 2008 and the consequent 15% hike in development fee in three equal installments i.e. by 31st March 2009, 31st July 2009 and 31st October, 2009 respectively.

Para 6 of the order 11/02/2009, which was substituted as above read as follows:

6. The parents shall be allowed to deposit the arrears on account of the above Tuition Fee effect from 1st September 2008 by 31st March 2009.

It is apparent from the reading of the original para 6 and the substituted para 6 of the order that the substituted para merely stated that instead of the entire amount of arrears of fee being recovered in one installment by 31st March 2009, the parents could pay the arrears in three equal installments by 31st March 2009, 31st July 2009 and 31st October 2009. Besides, the omission to mention the arrears of development fee in the original order was also sought to be remedied. The mention of the word "consequent" before "15% hike in development fee" makes it clear that where the schools were originally charging development fee @ 15% , they could recover the arrears of development fee @ 15%. It in no way permitted the

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schools to increase the rate of development fee from 10% of tuition fee to 15% of tuition fee.

In view of the foregoing discussion, the Committee does not agree with the submission of the school that it was permitted to recover arrears of development fee @ 15% or any higher rate than 10% of the tuition fee, which the school was originally charging.

7. It is to be noted that generally speaking, the mere fact that an authority has passed a particular order in the case of person similarly situated can never be the ground for issuing a writ and/or order in favor of an applicant on the plea of discrimination. The applicant cannot take the plea that in case of other school increase in fees has been permitted.
8. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.
9. **In any case before deciding the application of review of the 'school' on merits, the committee has to consider and decide whether it has power to review its own orders. Hon'ble Supreme**

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Court has held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. 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/order, Therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendation/order. 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 High 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"

10. 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

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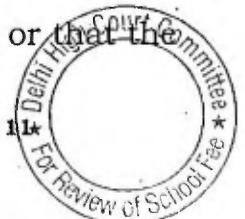


passed under a mis-apprehension by it, and a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. In Patel Narshi Thakershi & ors. The Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected 'ex debito a justitiae' to prevent the abuse of its process, and such power inheres in every Court or Tribunal. 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.

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

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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.

12. 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.

13. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and it cannot be termed as 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. PradyumansinghjiArjunsingjiMANU/SC/0433/1970MANU/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.

14. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 21<sup>st</sup> August, 2018 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

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applicant in the application for review dated 9<sup>th</sup> January, 2019 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.

15. It is also to be noted that a quasi-judicial authority will become functus officio when its order is pronounced, or published/notified or communicated (put in course of transmission) to the party concerned. When an order is made in an office noting in a file but is not pronounced, published or communicated, nothing prevents the authority from correcting it or altering it for valid reasons. But once the order is pronounced or published or notified or communicated, the authority will become 'functus officio'. Once an authority exercising quasi judicial power takes a final decision, it cannot review its decision unless the relevant statute or rules permit such review. P Ramanatha Aiyar's Advanced law Lexicon (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 (6th Edn., p 673) gives the meaning of functus officio as follows:

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

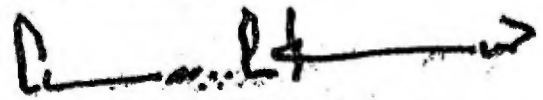
Consequently after the Committee had made its recommendation and passed the order in the case of Applicant school and notified the same to the Hon'ble High Court, the Committee

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became functus officio as it had decided the question brought before it.

16. 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. The 'school' is seeking that the order of the Committee directing the 'school' to refund fee hiked with interest @ 9% per annum to the students be reviewed. Apparently the Committee does not have such powers as has been invoked by the 'school'.
17. In the circumstances the applications of the applicant dated 9<sup>th</sup> January, 2019 and 9<sup>th</sup> May, 2019 seeking review is not maintainable and is disposed of as not maintainable and the said applications for review dated 9<sup>th</sup> January, 2019 and 9<sup>th</sup> May, 2019 seeking review of order dated 21<sup>st</sup> August, 2018 are therefore, dismissed.




**Justice Anil Kumar (R)**

(Chairperson)



**J.S.Kochar**

(Member)



**R.K.Sharma**

(Member)

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28.05.2019





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

000048

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

**In the matter of:**

**Universal Public School, Mahavir Enclave, Delhi-110045 (B-674)**

**Order of the Committee**

**Present :** Ms. Deepa Joshi, Manager cum Principal with Sh. Vasudev Sharma, Accountant of the school.

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

The school did not respond to the questionnaire or to the reminder. A notice was issued by the Committee on 13/07/2012 requiring the school to produce its fee and salary records, books of accounts and bank statements for the years 2008-09 to 2010-11 on 24/07/2012 before the audit officer of the Committee. The school was also directed to submit reply to the questionnaire dated 27/02/2012 issued by the Committee.

*Universal Public School, Mahavir Enclave, Delhi-110045/(B-674)/Order*

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Sh. Adarsh Kumar Sharma, Manager of the school and Sh. Vasudev Sharma, Accountant of the school appeared on 24/07/2012 before the audit officer of the Committee and produced the records of the school. The school also submitted its reply to the questionnaire issued by the Committee. 000049

As per the reply submitted by the school, it implemented the recommendations of VI Pay Commission with effect from 01/04/2009. The school was silent about the payment of arrear salary for the period 01/01/2006 to 31/03/2009. However, it stated that it did not increase the fee nor recovered any arrear fee from the students.

On examination of the records of the school, the audit officer of the Committee observed that contrary to what was stated by the school in its reply to the questionnaire, the school had in fact hiked the fee at the scales prescribed by order dated 11/02/2009 of the Director of Education for students of different classes. Where the tuition fee originally charged was upto Rs. 500 per month, the school hiked the same by Rs. 100 per month w.e.f. 01/04/2009 and where the tuition originally charged was between Rs. 501 and Rs. 1000, the tuition fee was hiked by Rs. 200 per month. He further observed that the audited financials of the school had been correctly prepared from the books of accounts. He also observed that the salary was being paid to staff by cheque/cash.

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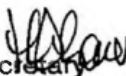
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On reviewing the observations of the audit officer, the 000050  
Committee felt that the audit officer had not properly examined the  
records of the school as he had not examined the crucial fact whether  
the school had actually implemented the recommendations of VI Pay  
Commission with effect from 01/04/2009, as claimed by the school,  
or not. Further he had not given any observations as to how much  
salary was being paid by Account Payee cheques and how much in  
cash. The Committee also observed that the school had not filed the  
details of salary for the month of March 2009. Only the details for the  
month of April 2009 was filed, which would not be sufficient for  
ascertaining whether the school had increased any salary with effect  
from April 2009. Further there was no indication in the observations  
made by the audit officer as to whether the school had collected any  
arrear fee from the students for the period 01/01/2006 to  
31/03/2009.

Accordingly another notice was issued to the school to furnish  
the details of the salary paid by it for the month of March 2009 and  
also clarify the position with regard to payment of arrear salary and  
collection of arrear fee. The school was also issued a fresh  
questionnaire regarding collection and utilisation of development fee  
and maintenance of earmarked development and depreciation reserve  
funds.

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The school vide its reply dated 21/09/2013 submitted that it had neither paid any arrear salary to the staff nor collected any arrear fee for such payment. It also stated that it was not charging any development fee from the students. It also furnished a copy of pay bill for the month of March 2009.

Preliminary calculations were made by the Chartered Accountants (CAs) deputed by the Directorate of Education to assist this Committee. They determined that the school had available with it a sum of Rs. 6,61,447 as on 31/03/2009 and the incremental tuition fee recovered by the school for the year 2009-10 was also in excess of the incremental salary paid by the school in the year 2009-10 on purported implementation of the recommendations of VI Pay Commission with effect from 01/04/2009. However, the calculation sheet prepared by the CAs was kept in abeyance as the Committee was prima facie not convinced of the claim of the school that it had implemented the recommendations of VI Pay Commission.

A notice of hearing was issued on 09/07/2015 requiring the school to furnish the different components of fee and salary for the years 2008-09 to 2010-11, duly reconciled with its audited financials. Besides the school was also required to furnish the statement of account of the parent society as appearing in its books, the details of its accrued liabilities of gratuity and leave encashment and a copy of the circular issued to the parents regarding fee hike.

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Ms. Deepa Joshi, Principal of the school appeared with Sh. Vasudev Sharma, Accountant. She submitted written submissions dated 29/07/2015 and conceded that the school only partially implemented the recommendations of VI Pay Commission with effect from 01/04/2009 in as much as dearness allowance was not paid at the rates which the staff was entitled to as per the recommendations of VI Pay Commission. She further contended that although the school had not fully implemented the recommendations of VI Pay Commission, the fee hike effected by it was justified, as the maximum fee hike that was allowed to the school vide order dated 11/02/2009, allowed the school only to increase the salaries to the extent it did.

The Committee examined the books of accounts of the school and observed that every month about 50% of the salary was paid in cash. Further the entire salary for the month of June was paid in cash. The Committee also observed that only nominal amount of TDS was deducted from the salaries of some of the staff members in the month of March 2010. The audit officer of the Committee was directed to prepare a table showing the salaries for the years 2008-09, 2009-10 and 2010-11 according to the mode of their payment.

The audit officer prepared the table as directed. As per the table prepared by the audit officer which was countersigned by the Principal and Accountant of the school, the position that emerged is as follows:

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Financial Year (A)	Salary paid in cash (B)	Salary paid by bank transfer (C)	Total salary paid (D) = (B) + (C)
2008-09	26,46,082	20,94,638	47,40,720
2009-10	33,21,395	23,15,175	56,36,570
Increase in 2009-10 over 2008-09	6,75,313	2,20,537	8,95,850
Percentage increase	25.52%	10.52%	18.89%

The matter could not be concluded on account of resignation of Justice Anil Dev Singh as Chairman of the Committee. After the reconstitution of the Committee, the school was given a fresh opportunity of being heard when Ms. Deepa Joshi and Sh. Vasudev Sharma appeared and were heard by the Committee. No explanation was offered as to when the school was making almost 40% of its total salary by bank transfer, why the rest 60% was being paid in cash. Further the school could not give any justification that when the overall expenditure on salary increased by 18.89% in 2009-10 after it purportedly implemented (partially) the recommendations of VI Pay Commission, why bulk of the increase was in cash payments i.e. 25.52% as against only 10.52% in payments by bank transfers.

The Committee has examined the audited financials of the school, reply to the questionnaire issued by the Committee, the observations of the two audit officers and the submissions made by the Principal and Accountant of the school who appeared before this Committee.

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The Committee finds it without any reasonable rationale that when the school was maintaining a bank account and also paying substantial part of the salary ( about 40%) by direct bank transfer to the accounts of the staff members, why it had to resort to cash payments to the tune of almost about 60%. The Committee also finds it unreasonable as to why the component of cash payments increased by 25.52% in 2009-10 when the overall increase was only 18.89%. The payments by bank transfers registered only 10.52% increase. With increased salaries on the purported implementation of the recommendations of VI Pay Commission, the reverse should have been true. On the preponderance of probabilities, the Committee is of the view that the school has in actual fact, not implemented the recommendations of VI Pay Commission with effect from 01/04/2009, as claimed by it. It has merely shown payment of increased salaries in cash in its books. Only about 10% of the salary was increased in 2009-10 which was reflected in payment by direct bank transfers. This 10% increase is normal increase and is not indicative of any extra ordinary increase which would have occurred if the recommendations of VI Pay Commission were even partially implemented, as claimed by the school.

Now let us see the fee hike actually effected by the school. Although initially the school claimed that it had not effected any fee

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hike at all in pursuance of order dated 11/02/2009 issued by the 000055  
Director of Education, it had to perforce admit that it had increased  
the fee at the maximum rates which were allowed to the school as per  
its existing fee structure as then prevailing. However, this admission  
came only when its records were examined by the audit officer of the  
Committee. As per the circular dated 27/02/2009 issued by the  
school to the parents, it was stated that

*"In pursuance of the order of Director of Education dt.  
11/02/2009 towards implementation of recommendation of 6<sup>th</sup> Pay  
Commission, the school has decided to increase Tuition Fee by Rs. 100  
for 1<sup>st</sup> to V<sup>th</sup> Rs. 200 from VI<sup>th</sup> to X<sup>th</sup> in the ensuing session 2009-10  
which is as under:*

<i>Class</i>	<i>Tuition Fee</i>
<i>1<sup>st</sup></i>	<i>480.00</i>
<i>II<sup>nd</sup></i>	<i>520.00</i>
<i>III<sup>rd</sup></i>	<i>540.00</i>
<i>IV<sup>th</sup></i>	<i>560.00</i>
<i>V<sup>th</sup></i>	<i>590.00</i>
<i>VI<sup>th</sup></i>	<i>720.00</i>
<i>VII<sup>th</sup></i>	<i>750.00</i>
<i>VIII<sup>th</sup></i>	<i>800.00</i>
<i>IX<sup>th</sup></i>	<i>850.00</i>
<i>X<sup>th</sup></i>	<i>900.00</i>

*Manager"*

On examination of the fee schedules of the school for the years  
2008-09 and 2009-10, the following position emerges with regard to

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the fee hike effected by the school in 2009-10 as compared to 2008-

000056

09:

Class	Tuition Fee in 2008-09 (Rs.)	Tuition Fee in 2009-10 (Rs.)	Increase in 2009-10 (Rs.)	Percentage increase in 2009-10
I	380	480	100	26.31%
II	420	520	100	23.81%
III	440	540	100	22.73%
IV	460	560	100	21.74%
V	490	590	100	20.41%
VI	520	720	200	38.46%
VII	550	750	200	36.36%
VIII	600	800	200	33.33%
IX	650	850	200	30.77%
X	700	900	200	28.57%

It is apparent from the above chart that the fee hike effected by the school was much in excess of the 10% hike which the Committee considers normal when the schools have not implemented the recommendations of VI Pay Commission and the Director of Education also does not consider it excessive.

**The Committee is of the view that the fee hike effected by the school over and above 10% of the fee charged by it in 2008-09 was not justified and ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund. Further the fee hiked in 2009-10 would also be a part of fee for the subsequent years, there would be a ripple effect in the subsequent years also and the fee of subsequent years to the**

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extent it is relatable with the fee hiked in 2009-10, ought also be refunded along with interest @ 9% per annum.

000057

Similar view taken by the Committee in the case of Nutan Vidya Mandir, Gandhi Nagar, Delhi (A-150) has been upheld by the Hon'ble Delhi High Court vide its order dated 19/03/2014 on **CM No. 3281/2014 in WP (C) 7777/2009**. The Hon'ble High Court held as follows:

*The learned counsel for the applicant submitted that the recommendation made by the said committee was not in consonance with the direction given by the Division Bench in its judgment dated 12.08.2011 and in particular with the directions in paragraph 83 thereof. For the sake of convenience, paragraph 83 of the said judgment is re-produced herein below:-*

*"We reiterate that the fee hike contained in orders dated 11.02.2009 was by way of interim measure. There is a need to inspect and audit accounts of the schools to find out the funds to meet the increased obligation cast by the implementation of VIth Pay commission and on this basis, to determine in respect of these schools as to how much hike in fee, if at all, is required. On the basis of this exercise, if it is found that the increase in fee proposed, orders dated 11.02.2009 is more the same shall be slided down and excess amount paid by the students shall be refunded along with interest @ 9%. On the other hand, if a particular school is able to make out a case for higher increase, then it would be permissible for such schools to recover from the students over and above what is charged in terms of Notification dated 11.02.2009."*

On going through the above paragraph it is evident that the direction was to inspect and audit the account of the schools to find out the funds to meet the "Increased Obligation Cast by the Implementation of the Sixth Pay Commission" and "on this basis" to determine in respect of the schools as to how much of the hike in fee, if at all, was required. In other words, the committee was to examine the hike in fee made by the schools concerned in the back drop of the increased obligation cast by the implementation of the Sixth Pay Commission. We find that the Committee has observed in its recommendation that the applicant's school had not implemented the recommendations of the Sixth Pay Commission. As such the fee was in excess of the tolerance

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limit of 10% and therefore, the recommendation is for refund of the access amount. In terms of the direction given by the Division Bench on 12.08.2011, the access is to be refunded along with the interest @ 9% p.a. and this is exactly what is recommended by the said Committee. 000058

The learned counsel appearing on behalf of the applicant submits that the recommendation is not in consonance with the directions noted in paragraph 83 of the said judgment dated 12.08.2011 inasmuch as the Division Bench had observed that it would be permissible for schools to recover amounts from the students over and above what is charged in terms of the Notification dated 11.02.2009 if they were able to make out a case for higher increase. We must understand that the said observation was made in the back drop of the earlier part of paragraph 83 which concerned itself with regard to the requirements of meeting increased obligation cast by the implementation of the Sixth Pay Commission. Since the applicant school has not implemented the Sixth Pay Commission at all, there is no question of any justification of hike in fee. As such there is no merit in the application. The same is dismissed."

The matter was taken by the school to the Hon'ble Supreme Court by way of SLP (No. 14608/2014). However, the Hon'ble Supreme Court held that no ground for interference was made out by the school and the SLP was accordingly dismissed.

Ordered accordingly.

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

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

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

Dated: 29/05/2019

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

In the matter of:

Rosary Sr. Sec. School, Kingsway Camp, Delhi-110009 (B-539)


**Order of the Committee**

**Present :** Sh. J.A. Martins Chartered Accountant with Sh. Joseph Prabhakar Ryan, Accountant of the school.

The Committee issued a questionnaire to all the schools (including this school) on 27/02/2012, which was followed by a reminder dated 27/03/2012, eliciting information with regard to the arrear fee and fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education. The school was also required to furnish information with regard to the arrear 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, instead of responding to the questionnaire issued by the Committee, submitted copies of its annual returns filed under Rule 180 of Delhi School Education Rules, 1973 for the years 2006-07 to 2010-11, to the Dy. Director of Education (DDE), Distt. North West-A, Delhi. The documents submitted by the school were transmitted to the office of this Committee by the DDE.

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Along with the annual returns as aforesaid, the school also submitted copy of the circular dated 05/03/2009 issued to the parents regarding "Enhancement of Tuition Fee for Implementation of Salary and Arrears as per Sixth Pay Commission", in pursuance of order dated 11/02/2009 and 25/02/2009 issued by the Director of Education. The school also submitted details of arrears of salary paid to the staff as well as details of its monthly expenditure on salary before implementation of the recommendations of VI Pay Commission as well as after its implementation.

On going through the documents filed by the school, the Committee observed that the school had not submitted the schedules to Income & Expenditure Accounts and balance sheets for the years 2006-07 to 2010-11. The school was requested to submit the same vide email dated 27/09/2013 and again vide email dated 25/10/2013. The school furnished complete set of its audited financials for the years 2006-07 to 2010-11 vide its letter dated 06/11/2013.

The Committee issued a notice dated 25/05/2015, requiring the school to furnish complete break up of fee and salaries for the years 2008-09 to 2010-11 (including arrear fee and arrear salary pursuant to implementation of VI Pay Commission) duly reconciled with its audited financials, copies of bank statements showing payment of arrear salaries, statement of account of the parent society running the

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school and details of its accrued liabilities of gratuity and leave encashment. Since the school had not specifically replied to the questionnaire issued by the Committee, a revised questionnaire was again issued to the school. The school was required to furnish the information within 10 days of receipt of the noticed. However, vide letter dated 05/06/2015, the school requested for extension of time for furnishing the information as the school was closed for summer vacation.

The school submitted the required information vide its letter dated 10/07/2015. The school also enclosed a certificate dated 27/02/2006 issued by National Commission for Minority Educational Institution, declaring that the school is a Minority Educational Institution covered under Article 30 of the Constitution of India. The school also enclosed copies of a series of circulars issued to the parents of the students with regard to fee hike and payment of arrear fee for implementation of the recommendations of VI Pay Commission.

However, the school still did not submit reply to the questionnaire issued by the Committee. The same was submitted subsequently on 15/07/2015.

As per the reply, the school submitted as follows:

- (a) The school had implemented the recommendations of VI Pay Commission in full and the increase salary to the staff was being paid from 01/09/2009.

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- (b) The school paid the arrears of salary to the staff consequent upon implementation of the recommendations of VI Pay Commission with effect from 01/01/2006 to the date of its actual implementation.
- (c) The school increased the fee in terms of order dated 11/02/2009 with effect from 01/09/2008 and also recovered the arrear fee for the period 01/01/2006 to 31/08/2008.
- (d) The school was charging development fee from the students to be utilised for capital expenditure in all the five years for which the information was sought that is 2006-07 to 2010-11.
- (e) The school treated development fee as a revenue receipt in its accounts but utilised totally for the purpose of capital expenditure.
- (f) The school did not maintain a depreciation reserve fund (presumably in its books of accounts) but maintained a separate depreciation and development fund bank account, bearing no. 2592101006488 with Canara Bank, Tagore Park, Model Town, Delhi.

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A notice of hearing was issued on 20/09/2016, requiring the school to appear before the Committee on 07/10/2016 and produce its books of accounts, fee and salary records etc.

Sh. Justin Fernandes, Member of the Governing Body of the school appeared with Sh. Joseph Prabhakar Rayan, Accountant and Sh. Rajesh Grover, Office Assistant appeared and were partly heard by the Committee.

The Committee perused the various circulars issued by the school regarding hike in fee and recovery of arrear fee for implementation of the recommendations of VI Pay Commission.

The Committee observed that vide the circular dated 23/02/2009 issued by the school to the parents of students of 10<sup>th</sup> class, the school demanded arrears of tuition fee for the period Sept. 2008 to March 2009 @ Rs. 300 per month (Rs. 2100 for 7 months) plus the first installment of lump sum arrear fee of Rs. 1500. No hike in development fee was demanded.

Another circular issued to the parents of the students of 12<sup>th</sup> class demanded a hike in tuition fee (Rs. 2100 for 7 months) plus the full amount of lump sum arrear fee of Rs.3000.

In respect of remaining classes the circulars were issued on 05/03/2009, as per which the arrears of tuition fee and arrears of

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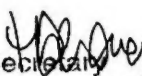
development fee were demanded from the parents are as per the following table.

Classes	Arrears of tuition fee for 7 months (Rs.)	Arrears of development fee for 7 months (Rs.)
KG & I	1400	385
2	1400	385
3 to 5	1400	385
6 to 8	1400	420
9	2100	525
11	2100	560

The circulars issued on 05/03/2009 made reference to another order dated 25/02/2009 issued by the Director of Education, besides the original order dated 11/02/2009 issued by it. It appears that while the school recovered arrears of incremental tuition fee and incremental development fee for the period 01/09/2008 to 31/03/2009, from students of all the classes except 10<sup>th</sup> & 12<sup>th</sup>, it recovered arrears of tuition fee only from the students of classes 10<sup>th</sup> and 12<sup>th</sup>.

The Committee observed that the hike in development fee as a percentage of the hike in tuition fee was much more than 15%, the cap in force by the Hon'ble Supreme Court in the case of Modern School vs. Union of India ( 2004) 5 SCC 583. The Committee also observed that the school was originally charging development fee @ 12% of tuition fee in respect of all the classes for the year 2008-009 prior to its revision.

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While perusing the statements filed by the school along with its letter dated 10/07/2015, the Committee observed that the figures given in the same did not conform to the figures given in the audited balance sheets and income and expenditure accounts. The authorized representatives appearing for the school, could not throw much light on this aspect. In particular, the Committee observed that there was no explanation in respect of the liabilities of the arrears of Sixth Pay Commission amounting to Rs.97,68,642, which appeared in the balance sheet as on 31<sup>st</sup> March 2010. They sought some time to give reconciliation of the statement filed and the audited accounts.

With regard to regular development fee, the Committee observed that the school in its reply dated 15 Sept. 2015 to the questionnaire, had stated that development fee was treated as a revenue receipt but utilized for capital expenditure. Further the school had stated that no depreciation reserve fund was maintained in the books. The statement of the school that it maintained an earmarked depreciation and development fund in Canara Bank, Tagore Park, Model Town, Delhi, was tested with reference to the audited balance sheet and the statement of this account with Canara Bank. The Committee observed that the balance of this account as on 31.3.2011 was Nil. In justification, the authorized representatives submitted that the entire development fund had been utilized by 2011. The school was accordingly directed to file the statement of its bank account of development fund for the period 01/04/2009 to 31/03/2011.

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At the request of the school, the matter was adjourned to 17<sup>th</sup> Nov. 2016. The school was also directed to file a revised statement of fee and salary, duly reconciled with its audited financials, within seven days.

On the next date of hearing, an application was received on behalf of the school seeking a fresh date of hearing as the Accountant of the school was on leave. The matter was accordingly adjourned to 14/12/2016.

The school, vide its letter dated 24/11/2016, furnished the details of arrears of salary which were outstanding as per the balance sheet as on 31/03/2010. As per the details furnished, the school stated that the total arrear salary for the period 01/01/2006 to 31/08/2009, that was due to the staff was Rs. 2,53,99,183, out of which a sum of Rs. 1,65,87,779 was paid during the financial year 2009-10 leaving a balance of Rs. 88,11,404. As against this, the liability towards arrear salary as appearing in its balance sheet as on 31/03/2010 was Rs. 87,68,642. The difference of Rs. 42,762 was stated to be on account of short provision made.

The school also submitted that the development fee was pegged at 15% the post hike tuition fee w.e.f. 01/09/2008 and the same was in order.

The school also relied upon the decision of the Hon'ble Supreme Court in the case of TMA Pai Foundation and ors. vs. State of

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Karnataka & ors to contend that fee charged by unaided institutions could not be regulated and the only prohibition is with regard to charging of capitation fee. It was further submitted that the fee recovered by the school for implementation of the recommendations of VI Pay Commission was justified.

During the course of hearing on 14/12/2016, the authorized representative appearing for the school contended that the arrears which were shown as outstanding in the balance sheet as on 31/03/2010, had been paid in the year 2010-11. He also furnished a copy of the ledger account of "6<sup>th</sup> pay salary arrears payable" for the year 2010-11, alongwith copies of the bank statements showing that the entire amount was paid either by direct bank transfer or through accounts payee cheques to the teachers who had left the school. He also filed a revised fee and salary statement, duly reconciled with the audited financials of the school.

The matter could not be proceeded further as the term of the Committee expired in the meantime and there was a hiatus between the date of expiry of the term and the date when the extension was granted to the Committee. After the term of the Committee was extended, the Committee prepared a calculation sheet to examine the justifiability of the fee hike effected by the school and the recovery of arrear fee for implementation of the recommendations of VI Pay Commission and to examine the justifiability of recovery of

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*[Signature]*



development fee for the years 2009-10 and 2010-11, pursuant to order dated 11/02/2009 issued by the Director of Education.

The Committee determined that the school had available with it a sum of **Rs. 3,21,73,864** as on 31/03/2008, before it effected the fee hike. The details of the funds available with the school at the threshold are as follows:

<u>Current Assets + Investments</u>		
Cash in hand	16,753	
Bank Balance	3,140,427	
FDRs with Accrued Interest (Transport Fund)	29,876,481	
Amount recoverable in cash or in kind	4,344,300	37,377,961
<u>Less : Current Liabilities</u>		
Transport Fund	2,885,631	
Caution Money Refundable	776,300	
Amounts payable	1,542,166	5,204,097
<b>Net Current Assets + Investments</b>		<b>32,173,864</b>

However, the Committee has taken a consistent view that the entire funds available with the school cannot be considered as available for implementation of the recommendations of VI Pay Commission as the school ought to keep funds in reserve for meeting its accrued liabilities of gratuity and leave encashment and also a reasonable reserve (equivalent to four months' salary) for future contingencies. The requirement of the school to keep funds in reserve for the aforementioned purposes was determined to be **Rs. 2,99,74,884**, as per the details below:

<b>Reserves required to be maintained:</b> for future contingencies (equivalent to 4 months salary)	11,526,352	
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for accrued liability towards Leave Encashment as on 31.03.2010	4,659,393	
for accrued liability towards Gratuity as on 31.03.2010	13,789,139	<b>29,974,884</b>

Thus, the Committee determined that the school had available with it **Rs. 21,98,980** (3,21,73,864 - 2,99,74,884), which it could utilise for implementation of the recommendations of VI Pay Commission.

The total financial impact of implementing the recommendations of VI Pay Commission was determined to be **Rs. 3,34,92,772**, as per the following details:

<b>Additional Liabilities after implementation of 6th Pay Commission:</b>		
Arrear of Salary as per 6th CPC for 1.1.06 to 31.3.09	19,964,342	
Incremental Salary for 2009-10 (as per calculation given below)*	13,528,430	<b>33,492,772</b>

\*

Incremental Salary for 2009-10	2008-09	2009-10
Normal/ regular salary	21,050,626	34,579,056
<b>Incremental salary in 2009-10</b>	<b>13,528,430</b>	

Thus, there was a gap of **Rs. 3,12,93,792** (3,34,92,772 - 21,98,980), which required to be bridged by way of fee hike and recovery of arrear fee in terms of order dated 11/02/2009 issued by the Director of Education.

By increasing the fee and recovering the arrear fee in terms of the aforesaid order of the Director of Education, the school generated

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additional funds to the tune of Rs. **1,94,97,641** only. The details of the total fee recovered for implementation of the recommendations of VI Pay Commission are as follows:

<b>Additional fee for implementation of 6th Pay Commission</b>		
Arrear of tuition fee for 1.1.06 to 31.8.08	5,933,800	
Arrear of tuition fee for 1.9.08 to 31.3.09	4,539,930	
Arrear of development fee for 1.9.08 to 31.3.09	1,197,315	
Incremental tuition fee for 2009-10 (as per calculation given below)*	7,826,596	19,497,641

\*

<b>Incremental tuition fee for 2009-10</b>	<b>2008-09</b>	<b>2009-10</b>
Normal/ Regular Tuition fee	29,201,655	37,028,251
<b>Incremental tuition fee in 2009-10</b>	<b>7,826,596</b>	

Thus the Committee determined that in so far as the hike in fee with effect from 01/09/2008 and the recovery of arrear fee for the period 01/01/2006 to 31/08/2008 are concerned, the school was fully justified in recovering the same and no interference is called for on that account. In fact, as per the calculations made by the Committee, the school incurred a notional deficit of **Rs. 1,17,96,191** (3,12,93,792 - 1,94,97,641). The reason we have termed the deficit as notional is because the same has been calculated after factoring in the requirement of the school to keep funds in reserve to the tune of Rs. 1,15,26,352 for future contingencies.

The Committee also observed that prima facie, the school was not fulfilling the pre conditions laid down by the Hon'ble Supreme

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Court in the case of Modern School (supra) for recovery of development fee, in as much as the school was treating development fee as a revenue receipt in contradistinction from capital receipt. Consequently no development fund was being maintained by the school. The pre conditions laid down by the Hon'ble Supreme Court were reiterated by the Director of Education in its order dated 11/02/2009 vide clause 14, which reads as under:

*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 equipments. 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 development fee recovered by the school in 2009-10 amounted to Rs. 58,02,662 while in 2010-11 it amounted to Rs. 68,63,741. Thus in two years for which the accounts were available with the Committee in which the development fee was charged pursuant to order dated 11/02/2009 issued by the Director of Education, the school had collected a sum of **Rs. 1,26,66,403** on this account, apparently without fulfilling the rigorous pre conditions laid down by the Hon'ble Supreme Court which were reiterated by the Director of Education in its order dated 11/02/2009.

However taking notice of the notional deficit incurred by the school on implementation of the recommendations of VI Pay Commission which amounted to Rs. 1,17,96,191, the Committee felt

Rosary Sr. Sec. School, Kingsway Camp, Delhi-110009/(B-539)/Order Page 13 of 20

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that although the school was not apparently fulfilling the pre conditions for charging development fee, it would not be justifiable to order refund of the full amount of development fee recovered by the school which amounted to Rs. 1,26,66,403 in 2009-10 and 2010-11. The notional deficit incurred by the school ought to be set off against the development fee and only the balance of Rs. 8,70,252 could be ordered to be refunded.

The Committee issued a fresh notice of hearing 19/05/2017 requiring the school to appear on 09/06/2017. On this date, Sh. Joseph Prabhakar Rayan appeared for the school and he was provided with a copy of the calculation sheet prepared by the Committee. The school was directed to file a rebuttal to the calculation sheet on or before the next of hearing which was fixed for 14/07/2017.

On the date of hearing, Sh. J.A. Martins, Chartered Accountant appeared from the school and filed written submissions dated 14/07/2017, raising a number of issues.

With regard to development fee, it was submitted that out of Rs. 1,27,66,403 charged as development fee, the school had incurred capital expenditure to the tune of Rs. 53,48,602 and the balance left was only Rs. 74,17,801, which was retained by the school in fixed deposits and the bank account maintained for this purpose.

Secondly, he submitted that the development fund received for the years 2010-11 Rs. 68,63,741 ought not be considered at all as a

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calculations with regard to funds available for implementation of VI Pay Commission had been made only upto 31/03/2010.

Thirdly, he submitted that a sum of Rs. 43,44,300 taken by the Committee as part of current assets as on 31/03/2008, was not correct as the same represented payments made against bills of building construction which were settled in the year 2008-09 and hence, were not available for implementing the recommendations of VI Pay Commission.

Fourthly, he submitted that Rule 177 provided for a reasonable reserve fund equivalent to 10% of savings, which had not been provided by the Committee. The school claims that a sum of Rs. 69,44,961 ought to be considered as a reasonable reserve.

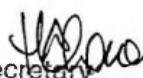
Lastly, he submitted that the school was a minority institution and in view of the judgment of the Hon'ble Supreme Court in the case of TMA Pai Foundation (supra), the fee hike effected by the school could not be interfered with.

**Reasons by the Committee:**

The Committee has considered all the contentions raised by the school. Before proceeding further, it would be apposite to deal with the contention of the school that it is a Minority Institution and therefore, the fee hike effected by the school or the development fee recovered by it cannot be interfered with.

This Committee was constituted by a judgment of the Hon'ble Delhi High Court in WP(C) 7777 of 2009 dated 12/08/2011. In this

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case, the Hon'ble High Court had framed a number of issues and subsequently proceeded to answer all of them. One of the issues framed by the Hon'ble High Court in para 57 of the judgment, was with regard to Minority Institutions, which was as follows:

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


This was dealt with by the Hon'ble High Court in para 68 of the judgment, which reads as follows:

**Minority Educational Institutions:**

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

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

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The argument proffered by the school based upon the TMA Pai case, in the teeth of the aforesaid findings of the Delhi High Court in WP(C) 7777 of 2009, have to be rejected without any further reason..

So far as the argument that a sum of Rs. 53,48,602 out of the development fee collected for 2009-10 as already been spent on capital expenditure and as such ought not be ordered to be refunded, is concerned, the Committee is of view that the issue of utilisation of development fee would arise only if the school is first held entitled to charge development fee. The Hon'ble Supreme Court in the case of Modern School (supra) 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*

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*schools should be permitted to charge development fee not exceeding 15% of the total annual tuition fee."* 000076

Thus the treatment of development fee as a capital receipt to create a development fund and maintenance of a depreciation reserve fund are sine qua non for collection of development fee. Admittedly, the school was treating development fee as a revenue receipt and a necessary corollary of that is that it was not maintaining a development fund account. The same is also apparent from the audited balance sheets of the school. Further, though the school claims to have been maintaining a depreciation reserve fund account with Canara Bank, the Committee observed that the balance of this account as on 31.3.2011 was Nil. The argument of the school that it was Nil since the entire development fee had been utilised is self contradictory as the school itself stated that only a sum of Rs. 53,48,602 was utilised out of a total sum of Rs. 1,26,66,403 recovered by it in 2009-10 and 2010-11 and the balance remained unutilised. Even if theoretically, the entire development fee was utilised, the accumulated depreciation on the assets acquired out of development fee would never be zero.

Thus, the Committee is of the view that the school was maintaining a separate depreciation reserve account only in namesake. Maintenance of an account without maintaining any balance therein is meaningless. The Committee therefore, holds that the school was not entitled to charge any development fee from the students and in pursuance of order dated 11/02/2009, which also

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contained the pre conditions for charging development fee in para 14, the school collected a sum of Rs. 1,26,66,403 in 2009-10 and 2010-11 and the same was wholly unjustified. There is no substance in the argument of the school that the development fee collected in 2010-11 ought not be considered at all.

The argument that the sum of Rs. 43,44,300 which was reflected as an advance in the current assets of the school should not be considered as part of funds available for the reason that these were payments against building construction, cannot be countenanced in view of the fact that admittedly, these represented capital expenditure, which too in the light of the judgment of the Hon'ble Supreme Court in the case of Modern School (supra) cannot absolve of the irregular fee charged from the students.

The last argument with regard to maintenance of a reasonable reserve fund equivalent to 10% is misconceived as the Committee had already factored in a sum of Rs. 1,15,26,352 as a reasonable reserve as against the claim of the school which amounts to only Rs. 69,44,961. If anything, the argument is self destructive.

**Resultantly, the Committee is of the view that the school ought to refund a sum of Rs. 1,26,66,403 recovered by it as development fee in the years 2009-10 and 2010-11 pursuant to order dated 11/02/2009 issued by the Director of Education, without fulfilling the pre conditions laid down by the Hon'ble Supreme Court in the case of Modern School (supra) as well as**

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clause 14 of the order dated 11/02/2009 itself. However, the school may not refund the entire amount of Rs. 1,26,66,403 as aforesaid. It may set off the notional deficit of Rs. 1,17,96,151 which the school incurred on implementation of the recommendations of VI Pay Commission.

The balance amount of Rs. 8,70,252 ought to be refunded along with interest @ 9% per annum from the date of collection to the date of refund.

Ordered accordingly.

Justice Anil Kumar (R)  
(Chairperson)

CA J.S. Kochar  
(Member)

Dr. R.K. Sharma  
(Member)

Dated: 29/05/2019

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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:**

**VSPK INTERNATIONAL SCHOOL, (B-602)  
SECTOR 13, ROHINI  
NEW DELHI 110085.**

**And in the matter of:**

**Application for review dated  
22<sup>nd</sup> November, 2018  
seeking review of  
recommendations /Order  
dated 17<sup>TH</sup> April,2018 in the  
matter of school (B-602).**

**ORDER**

29.05.2019

Present : Mr. Ravi Sikri, Sr. Advocate with Shri  
S.K.Gupta Chairman, Shri Virender  
Gupta CA.

**ORDER ON APPLICATION DATED 22<sup>nd</sup>  
November, 2018 seeking review of order/  
recommendation dated 17<sup>th</sup> April, 2018.**

1. VSPK International School, Sector-13, Rohini, New Delhi  
110085 (B-602), hereinafter referred as 'The School' has sought review

Application for Review dt.22.11.2018 VSPK International (B-602)

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of order dated 17<sup>th</sup> April, 2019 by present application for review dated 22<sup>nd</sup> November, 2018

2. 'The School' has sought review of order dated 17<sup>th</sup> April, 2019 passed by the Committee inter-alia on the grounds as stated hereinafter:

" That the Committee has not inferred correctly that the entire infrastructure i.e is the fixed assets of the school were financed out of the fee received from the students over the period of years. According to the applicant/'The School' that no assets had been purchased from the fee from the students as no Capital Expenditure of Fixed Assets had been charged to Income and Expenditure account of the school. Rather it has been capitalised under the head Fixed Assets. Thus, any capital expenditure incurred by 'The School' has not formed part of the fee structure of the school. It has also been contended that 'The School' has not made any repayment of unsecured loans in totality. Rather the unsecured loans had risen from Rs. 6,77,62,227 to ₹ 2 crore 47,17,216. According to 'The School' as per generally accepted accounting practices, interest payment on the loans are considered as revenue expenses once the asset purchased have been put to use and not as expense of Capital nature. Referring to accounting standard and the provision of Income Tax Act it is emphasized that payment of interest should not be considered as part of capital expenditure. 'The School' has also contended that the Corpus contributed by the Society as it has been considered in the negative zone and in these circumstances 'The School' seeks review of recommendations/order dated 17<sup>th</sup> April, 2018. 'The School' has also challenged the statement prepared and relied by the committee holding that 'The School' has diverted the fee revenue of the students towards capital expenditure. The review has been sought by 'The School' on the ground that statement was prepared on the basis of Audited Financial statements which only reflects a summary of the transactions but in which the detailed transactions are not available. The Receipt and Payment made by the school do not reflect the expenses incurred directly by the Society. 'The School' has given the details of payments made by the Society directly. The recommendations/order of the Committee is also challenged on the ground that school was not providing any transport facility to the students till Financial Year 2007 - 2008 and there was no income from the transport fee accruing to the school. The Review is also sought on the ground that the

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Committee has not considered an amount of ₹ 760,000 received against the sale of a vehicle. On the basis of some of these facts, 'The School' seeks fresh calculations of long-term funds raised and the revised availability of funds. The plea has also been raised not to consider the amounts payment of which was made in relation to acquisition of vehicles for providing transport facility to the students. In the circumstances it is contended that the school has not repay the amount of unsecured loans and the balance of the society was not overdrawn. 'The School' has given detailed calculations in the application for review and seeks review of order dated 17<sup>th</sup> April, 2018 taking into consideration is the facts and figures given in the application for review dated 22<sup>nd</sup> November, 2018. Increase of tuition fee received by 'The School' is also challenged on the ground that it was not only on account of increase of fees but was also on account of increase in number of students. This the order dated 17<sup>th</sup> April, 2018 is also challenged on the ground that the expenditure of revenue nature concerning curricular activities should also have been considered. 'The School' has also challenged the observation of 'The School' that fabricated financial statements were submitted. It is contended that it was on account of treating the development fee differently, revised set of financial were prepared by the auditors. Various other observations and directions made by the committee are also challenged on merit 's by the applicant/'The School'.

3. The observations and inferences drawn by the Committee and the order/recommendations passed was after giving adequate reasonable opportunity to 'The School' and after observing as under:

"The reply furnished by the school was cross checked with the fee schedules filed by the school as part of its annual returns filed under Rule 180 of the Delhi School Education Rules, 1973 as well as its audited financials.

The Committee observed that the school was economical with the truth and had in fact blatantly resorted to falsehood as well as fabrication of documents.

Contrary to its averment that the development fee was treated as a capital receipt, the Committee found that it had been treated as a revenue receipt in all the five years for which the information was called for. Further, in order to cover up the falsity, the school filed a fresh set of its audited financials for the year 2007-08, which were different from the audited financials filed by

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the school along with its annual return under Rule 180. In the fresh set of financials, the school not only showed the development fee as a capital receipt but also different figures of expenditure.

As per the financials originally filed by the school, the school earned a net income of Rs. 4,81,679.78 but as per the fresh set of financials, the same figure was converted into a loss of Rs. 96,741.22. Surprisingly, both the original as well as the revised financials carry the audit report of the same auditors M/s. Surinder Verma Associates, Chartered Accountants with the same date i.e. 30<sup>th</sup> June 2008. In the original report, the auditors stated as follows:

*"In our opinion and to the best of our information and according to the explanation given to us, the said accounts give a true and fair view..... In case of Income & Expenditure Account, of the **excess of income over expenditure** for the year ended on that date"*

In the second report of the same date, the auditors have stated as follows:

*"In our opinion and to the best of our information and according to the explanation given to us, the said accounts give a true and fair view..... In case of Income & Expenditure Account, of the **excess of expenditure over income** for the year ended on that date"*

It is obvious that the school has tried to mislead this Committee by furnishing fabricated financials, apparently in collusion with its auditors.

Moreover, the fee schedules filed by the school as part of its returns filed under Rule 180 which are basically copies of the fee statements filed by the school with the Director of Education under Section 17(3) of the Delhi School Education Act, 1973 before the start of the academic session, do not show that the school was charging any development fee. It appears that the information regarding charging of development fee was also concealed from the Directorate of Education.

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While the development fee charged by the school in the years 2006-07 to 2008-09 and again in 2010-11 was a small amount of around Rs. 7 to 8 lacs, presumably from the new students only, the school recovered a whopping sum of Rs. 50,76,349 in the year 2009-10. As observed supra, the fee schedules filed by the school for the year 2009-10 with the Directorate of Education, did not show any development fee nor the circular dated 19<sup>th</sup>

February 2009 issued to the parents pursuant to order dated 11/02/2009 gave any indication of the charge of the development fee in 2009-10.

The Committee is of the view that the development fee charged by the school in 2009-10 and 2010-11, the years with which this Committee is concerned, was not just irregular on account of the school not fulfilling even the basic pre condition of treating it as a capital receipt and utilizing it for purchase or upgradation of furniture and fixture but also for the reason that the school surreptitiously recovered the same without specifically informing the parents or the Director of Education, who has the power to regulate the fee to prevent commercialization.

Section 17(3) of the Delhi School Education Act, 1973, reads as follows:

*(3) The manager of every recognised school shall, before the commencement of each academic session, file with the Director a full amount of the fees to be levied by such school during the ensuing academic session, and except with the prior approval of the Director, no such school shall charge, during that academic session, any fee in excess of the fee specified by its manager in the said statement.*

4. Regarding the fee hiked by "The School" the Committee had held as under:

"The documents furnished by the school from time to time were examined by the Committee and the authorized representatives appearing for the school have been heard. The Committee has examined copy of the circular dated 30/03/2009, purportedly issued to the parents regarding fee hike in pursuance of order of dated 11/02/2009 issued by the Director of Education. As per the circular, the school increased tuition fee by Rs. 200 per month in 2009-10 for all the classes. The amount by which the fee was increased is not mentioned in the circular. Further no mention is made regarding recovery of any arrear fee from the students.

As stated supra, the school had given a certificate dated 30/01/2012 signed by its Principal which stated that no fee was increased including arrears by the school after implementation of VI Pay Commission report and no circular was issued to the student/parents demanding the increased fee. The authorized representatives appearing for the school are unable to clarify the two conflicting stands taken by the school. They submit that the tuition fee was indeed increased by Rs. 200 per month w.e.f. 01/04/2009.

Further in response to a communication dated 20/10/2015 sent by the committee, the school filed a statement giving the mode of payment of

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salaries to the staff in the years 2008-09, 2009-10, the school submitted that it was paying salary to all the teachers/staff by individual account payee cheques in both the years. The Committee examined the bank statements produced by the school and finds that all the cheques of salary are being en-cashed together from the bank on the same date and this phenomena appears month after month. Had the salary been paid by account payee cheques to entire staff which numbers 16 to 18 in the year 2009-10, it would be a too big coincidence that all the cheques are being put through clearing on the same date. More likely is the position that the cheques would be bearer in nature and some representative from the school would be getting them en-cashed together on the same date. When asked to explain this position, the authorized representatives of the school concede that the salary cheques issued to staff were indeed bearer cheques and not crossed payee cheques.

The Committee has also examined the balance sheet of the school as on 31/03/2009 and 31/03/2010 and observes that the school had taken loans for the purchase of buses and school lands, which were serviced out the fee receipt of the students.

Further the total liquid funds available with the school also increased by Rs. 6,51,779 as on 31/03/2010 as compared to 31/03/2009. The total additional fee collected by the school by way of fee hike in the year 2009-10 was 8,06,400. This only shows that the fee hike was utilized by the school to build up its own reserves. Moreover, the Committee is of the view that in view of the vacillating position taken by the school with regard to fee hike, issuance of circular to the parents and the mode of payment of salary to the staff, the school is not coming clean and has not implemented the recommendations of VI Pay Commission for which it increased the fee by Rs. 200 per month w.e.f. 01/04/2009.

5. The Committee also referred to the judgment of the Supreme Court which are as under:

"\_In the case of Modern School vs. Union of India (2004) 5 SCC 583, which this Committee is bound to follow by the mandate given to it by the Hon'ble Delhi High Court, the first issue that was admitted by the Hon'ble Supreme Court was as follows:

(a) *Whether the Director of Education has the authority to regulate the quantum of fees charged by un-aided schools under section 17(3) of Delhi School Education Act, 1973?*

The finding of the Hon'ble Supreme Court is given in para 17 of the judgment, which reads as follows:

17. In the light of the judgment of this Court in the case of Islamic Academy of Education (supra) the provisions of 1973 Act and the rules framed thereunder may be seen. The object of the said Act is to provide better organization and development of school education in Delhi and for matters connected thereto. Section 18(3) of the Act states that in every recognized unaided school, there shall be a fund, to be called as Recognized Unaided School Fund consisting of income accruing to the school by way of fees, charges and contributions. Section 18(4)(a) states that income derived by unaided schools by way of fees shall be utilized only for the educational purposes as may be prescribed by the rules. Rule 172(1) states that no fee shall be collected from any student by the trust/society running any recognized school; whether aided or unaided. That under rule 172(2), every fee collected from any student by a recognized school, whether aided or not, shall be collected in the name of the school. Rule 173(4) inter alia states that every Recognized Unaided School Fund shall be deposited in a nationalized bank. Under rule 175, the accounts of Recognized Unaided School Fund shall clearly indicate the income accruing to the school by way of fees, fine, income from rent, income by way of interest, income by way of development fees etc. Rule 177 refers to utilization of fees realized by unaided recognized school. Therefore, rule 175 indicates accrual of income whereas rule 177 indicates utilization of that income. Therefore, reading section 18(4) with rules 172, 173, 174, 175 and 177 on one hand and section 17(3) on the other hand, it is clear that under the Act, the Director is authorized to regulate the fees and other charges to prevent commercialization of education. Under section 17(3), the school has to furnish a full statement of fees in advance before the commencement of the academic session. Reading section 17(3) with section 18(3)&(4) of the Act and the rules quoted above, it is clear that the Director has the authority to regulate the fees under section 17(3) of the Act.

The Hon'ble Supreme Court further went on to give specific directions to the Director of Education to examine the fee statements filed by the schools in order to see whether the schools were resorting to commercialization of Education. Such direction is contained in para 21 of the judgment and the same reads as follows:

*"..... It is for this reason that under Section 17(3) of the Act, every school is required to file a statement of fees which they would like to charge during the ensuing academic year with the Director. In the light of the analysis mentioned above, we are directing the Director to analyse such statements under section 17(3) of the Act and to apply the above principles in each case. This direction is required to be given as we have gone through the balance- sheets and profit and loss accounts of two schools and prima facie, we find that schools are being run on profit basis and that their accounts are being maintained as if they are corporate bodies. Their accounts are not maintained on the principles of accounting applicable to non-business organizations/not-for-profit organizations."*



It is clear from a combined reading of section 17(3) and the judgment of the Hon'ble Supreme Court that the school cannot recover any fee which is not mentioned in the statement of fee filed by the school with the Director of Education before the start of academic session. As mentioned above, the school did not include the development fee charged by it in the fee statement in any of the years. However, since the mandate of this Committee is to examine the fee charged by the school in pursuance of the order dated 11/02/2009 issued by the Director of Education, it is restricting its recommendations in respect of the development fee charged by the school in the years 2009-10 and 2010-11 only. The Director of Education may take an appropriate view in the matter in respect of the remaining years.


In view of the above discussion, the school ought to refund the development fee of Rs. 50,76,349 charged in 2009-10 and Rs. 7,02,388 charged in 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

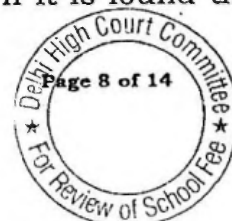
6. In these circumstances and with this background the Committee has recommended/ordered as under:

"In view of the above reasons, the Committee is of the view that the school did not need to hike any fee or recover any arrear fee for implementing the recommendations of VI Pay Commission. Instead it ought to have recovered the required amount from its parent society. Consequently, the Committee is of the view that the school ought to refund the entire amount of arrear fee amounting to Rs. 18,95,520 and the incremental fee for the year 2009-10 amounting to Rs. 92,79,538, besides the development fee charged by it in 2009-10 and 2010-11 amounting to Rs. 57,78,737, along with interest @ 9% per annum from the date of collection to the date of refund.

7. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order, further, it must be established that the applicant had acted with due diligence and that the existence of the evidence, which he has now discovered, was not within his knowledge when the order was passed. If it is found that

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the petitioner has not acted with due diligence then it is not open to the Tribunal to admit evidence on the ground of sufficient cause. The party seeking a review should prove strictly the diligence he claims to have exercised. In a review application a party cannot be allowed to introduce fresh documents merely to supplement evidence which might possibly have had some effect on the result. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.

8. **In any case before deciding the application of review of the 'school' on merits, the committee has to consider and decide whether it has power to review its own orders.** Hon'ble Supreme Court has held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. 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/order, Therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendation/order. 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."

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The Hon'ble High 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"

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. the Hon'ble Supreme Court had held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected 'ex debit a justitiae' to prevent the abuse of its process, and such power inheres in every Court or Tribunal. 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

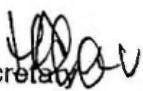


where a decision is rendered by the Court or Quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the 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.
12. 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

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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.

13. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 17<sup>th</sup> April, 2018 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 in the application for review dated 22<sup>nd</sup> November, 2018 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 order of the Hon'ble Court authorizing review of its orders/recommendations either expressly or by necessary implication.

14. It is also to be noted 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

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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 (6th Edn., p 673) gives the meaning of functus officio as follows:

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

Consequently after the Committee had made its recommendation 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.

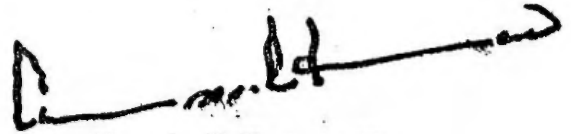
15. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except 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. The 'school' is seeking that the order of the Committee directing the 'school' to refund fee hiked with interest @ 9% per annum to the students be reviewed. Apparently the Committee does not have such powers as has been invoked by the 'school'.

16. In the circumstances the application of the applicant dated 22<sup>nd</sup> November, 2018. seeking review is not maintainable and is disposed of as not maintainable and the said application for review dated 22<sup>nd</sup>



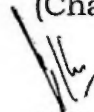
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November, 2018. seeking review of order dated 17<sup>th</sup> April, 2018 is therefore, dismissed.



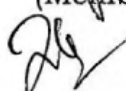
**Justice Anil Kumar (R)**

(Chairperson)



**J.S. Kochar**

(Member)



**R.K. Sharma**

(Member)

29.05.2019

**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, (B-541)  
NIRANKARI COLONY  
DELHI 110009.**

**And in the matter of:**

**Application for review dated  
20<sup>TH</sup> AUGUST, 2018 seeking  
review of recommendations  
/Order dated 21<sup>st</sup> March,  
2018 in the matter of  
school (B-541).**

**ORDER**

29.05.2019

Present : Shri Vijay Batra, Member CMC, Ms.  
Madhu Manoch, UDC and Ms. Sonia, LDC of the  
School

**ORDER ON APPLICATION DATED 20<sup>TH</sup>  
AUGUST, 2018 SEEKING REVIEW OF  
RECOMMENDATIONS /ORDER DATED  
21<sup>ST</sup> MARCH, 2018 IN THE MATTER OF  
SCHOOL (B-541).**

1. Sant Nirankari Public School, Sant Nirankari Colony, Delhi-11009 (B-541642), hereinafter referred as 'The School' has sought review of order dated 21<sup>st</sup> March, 2018 by application for review dated 20<sup>th</sup> August, 2018.



2. 'The School' has sought review of order dated 21<sup>st</sup> March, 2018 passed by the Committee inter-alia on the grounds as stated hereinafter:

"That the school is ready to pay Revised salary to staff as per 6<sup>th</sup> pay commission with effect from 01. 04. 2008 as per affidavit of April, 2010 already allegedly submitted to the Committee which was filed by 'the school' before the Hon'ble High Court in CWP 135 of 2009. 'The school' has contended that the benefit of the order dated 11<sup>th</sup> February, 2009 we allow to the school instead of 10% increment in fees. Otherwise 'the school' will have to incur huge additional expenditure on account of payment of arrears and it will be forced against its wishes to recover additional amount from the students in the year of payment. The Review is also sought on the ground in the financial year 2009 - 2010 ₹ 1,333,870 was capitalized and the amount spent on furniture was ₹ 561,923 and ₹ 227,599 in the financial year 2010 - 2011. Referring to a copy of balance sheet now filed it is alleged that the capitalized amount will be ₹ 2,107,833 instead of ₹ 2,897,355. 'The school' has also sought waiver of interest on the ground that the order/recommendation was pending from 15 December, 2016 to 21<sup>st</sup> March, 2018. According to 'the school' the last hearing before the Committee was held on 28 November, 2016 and the order dated 15 December, 2016 stipulating that 'arguments heard, recommendations reserved'. In the order dated 15 December, 2016 it was not mentioned that interest at the rate of 9% shall be payable. According to 'the school' interest should be made payable only after 15 December, 2016 to the date of actual payment. The review of the recommendations/order dated 21<sup>st</sup> March, 2018 is also sought on the ground that the original order has not yet been received by 'the school'. While seeking review of recommendations/order dated 21<sup>st</sup> March, 2018 it is also charged that 'the school' be allowed reasonable time to implement the order after receipt of original order. Thus, while seeking review of order/recommendation dated 21 March 2018 it is contended that 'the school' be allowed to implement the order of DoE dated 11<sup>th</sup> February, 2008; an amount of ₹ 2,107,833 be allowed to be refunded as development fee instead of ₹ 2,897,355; interest be waived from 15 December, 2016 till date and implementing of DoE order dated 20<sup>th</sup> October, 2015 be allowed.

3. After filing the review application dated 20<sup>st</sup> August, 2018 by the school it was taken up for hearing on 12<sup>th</sup> September, 2018. The adjournment was sought by the school and the matter was listed on 4<sup>th</sup> October, 2018. Again adjournment was sought by the school on the ground that it is consulting its counsel in the matter and require more time. The hearing of the review application was therefore adjourned to 22<sup>nd</sup> October, 2018. On the adjourned date, 22<sup>nd</sup> October,

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2018 it was contended by the school that it is in process of working out the exact amount which would be refundable to the students and consequently the hearing of the review application was adjourned to 28 November, 2018. Instead of disclosing as to how much amount is payable by the school to the students, on the adjourned date 28 November 2018, again adjournment was sought by the school which was declined and the matter was reserved for the order on the application of the school for review of order/recommendation dated 21<sup>st</sup> March, 2018 of the Committee.

4. The Order/recommendation dated 21<sup>st</sup> March, 2018 was passed by the Committee after giving adequate opportunity to the school. In its order/recommendation dated 21<sup>st</sup> March, 2018 the Committee had held as under:

"The Committee had observed that the school stated that it had not recovered any arrear fee for the period prior to 01/04/2009, the only issue that the Committee was required to examine, besides the issue of charging development fee, was to see whether the regular fee hike effected by the school pursuant to order dated 11/02/2009 issued by the Director of Education was justified to meet the increased burden of salary that arose on account of prospective implementation of the recommendations of VI Pay Commission.

Here also, it is apparent from the reply submitted by the school to the questionnaire issued by the Committee that there was ostensibly no additional burden on the school in the year 2009-10 on prospective implementation of the recommendations of VI Pay Commission as the school itself admitted that it had increased the salaries in accordance with the recommendations of VI Pay Commission w.e.f. 01/04/2010 only. However, the school also stated that it had not increased any fee w.e.f. 01/04/2009 pursuant to order dated 11/02/2009 issued by the Director of Education.

Thus the exercise which the Committee was required to undertake was to examine whether the statement of the school to the effect that it had not recovered any arrear fee and that it had not increased its regular fee pursuant to order dated 11/02/2009 was correct or not. For this purpose, the Committee issued a notice dated 25/05/2015 seeking information about the aggregate amounts of regular tuition fee, arrear fee recovered in pursuance of order dated 11/02/2009 issued by the Director of Education, regular salary and arrear salary paid on acceptance of the recommendations of VI Pay Commission. The information was sought in a format devised by the Committee to facilitate the calculations regarding justifiability of the fee

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hike effected by the school in pursuance of the aforesaid order dated 11/02/2009. Besides, the school was also required to furnish copies of bank statements in evidence of the payment of arrear salary, statement of the parent trust/society running the school, as appearing in the books of the accounts of the school for the period 01/04/2006 to 31/03/2011, details of the accrued liabilities of the school for gratuity and leave encashment, copy of the circular issued by the school to the parents regarding fee hike.

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In order to provide an opportunity to the school to justify the fee hike effected by it, a notice dated 20/09/2016 was issued to the school requiring it to appear before the Committee on 07/10/2016 and to produce its books of accounts and other relevant records for verification by the Committee.

On 07/10/2016, Ms. Poonam Syal, the Principal of the school appeared along with others and conceded that the school had in fact hiked the fee w.e.f. 01/04/2009 in terms of order dated 11/02/2009 issued by the Director of Education but such hike was effected after getting it approved in the meeting of Parent Teacher Association. She also conceded that the school implemented the recommendations of VI Pay Commission only w.e.f. 01/04/2010. However, she submitted that about 11 teachers of the school had filed a writ petition in the High Court of Delhi, by which they were claiming arrears arising on account of implementation of Sixth Pay Commission. She further submitted that in the subsequent years the fee hike was restricted to 10% over the fee charged in the previous years, and the school was facing a huge liability on account of the arrears which would be payable to the staff. She submitted that the school was contesting the claim on account of paucity of funds available with the school. However, the school was willing to pay the arrears w.e.f. 01/04/2008. The case had been listed in the regular category and has not come for final hearing.

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From above it is apparent that the school hiked the fee in 2009-10 even beyond the maximum hike permitted vide order dated 11/02/2009 issued by the Director of Education in respect of classes pre primary, 1st, 2nd, 6th, 7th & 8th. However, since the school admittedly did not implement the recommendations of 6th pay commission in 2009-10, it was not entitled to hike the fee even in accordance with the order dated 11/02/2009 as the fee hike that was permitted to the school was contingent upon the school implementing the recommendations of VI Pay Commission. Since the school did not implement the recommendations of VI Pay Commission in the year 2009-10, it would at best have hiked the fee by 10% to cover the routine normal incremental salary and increase in other expenses.

The argument of the school that some teachers have filed a case in the High Court claiming arrears and for this reason, the school was justified in hiking the fee, is speculative in nature. The school cannot predict the outcome of the case and keep funds in reserve for an eventuality which may or may not arise. If and when the school is made to incur additional

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expenditure on account of payment of arrears to the litigating staff, the school may consider recovering additional fee in that year.

For the foregoing reasons, the Committee is of the view that the school ought to refund the hiked tuition fee and other activity fee for the year 2009-10, which was in excess of 10% over the corresponding fee charged by it in the year 2008-09, along with interest @ 9% per annum.

Development Fee:

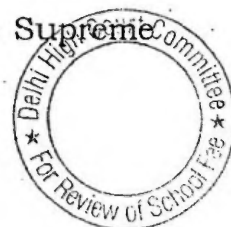
The development fee charged by the school in 2009-10 & 2010-11 was Rs.13,33,870 and Rs. 15,63,485 respectively.

We have already discussed above that the school was concededly not fulfilling any of the pre conditions laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School (supra). The Committee is therefore of the view that the school ought to refund the development fee amounting to Rs. 28,97,355 which it recovered from the students in the years 2009-10 and 2010-11, along with interest @ 9% per annum from the date of collection to the date of refund.

5. A review of an order/recommendation is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake of like grave error has crept in earlier judicial fallibility. The review cannot be allowed on the ground that in some other matters the Tribunal had taken a different view. The discovery of new evidence or material by itself is not sufficient to entitle a party for review of an order. A review is permissible on the ground of discovery of new evidence only when such an evidence is relevant and of such a character that if it had been produced earlier it might possibly have altered the order. A review cannot be sought merely for fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stays in the face without any elaborate argument being needed for establishing it.

6. **In any case before deciding the application of review of the 'school' on merits, the committee has to consider and decide whether it has power to review its own orders. Hon'ble Supreme**

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Court has held that no review lies on merits unless a statute specifically provides for it. No provision of law or any precedent has been cited before this Committee from which it can be inferred that it has powers to review its own orders. 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/order, Therefore, the Committee by communication dated 12th February, 2014 addressed to the Registrar had sought permission to rectify errors in its recommendation/order. 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 High 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"

7. 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

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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. 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.

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

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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.

9. 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.

10. Perusal of the pleas and contentions of 'The School' show unequivocally that 'The School' is seeking review on merits and it cannot be termed as 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 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.

11. The Applicant in the present case seeks recall/review of the order passed by the Committee dated 21<sup>st</sup> March, 2018 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 in the application for review dated 20<sup>th</sup> August, 2018 are that the school is ready to pay Revised salary to staff as per 6<sup>th</sup> pay commission with effect from 01. 04. 2008 as per affidavit of April, 2010 already allegedly submitted to the Committee which was filed by 'the school' before the Hon'ble High Court in CWP 135 of 2009 and the benefit of the order dated 11<sup>th</sup> February, 2009 be allowed to the school instead of 10% increment in fees. Otherwise, 'the school' will have to incur huge additional expenditure on account of payment of arrears and it will be forced against its wishes to recover additional amount from the students in the year of payment. The Review is also sought on the ground in the financial year 2009 - 2010 ₹ 1,333,870 was capitalized and the amount spent on furniture was ₹ 561,923 and ₹ 227,599 in the financial year 2010 - 2011. 'The school' has also sought waiver of interest on the ground that the order/recommendation was pending from 15 December, 2016 to 21<sup>st</sup> March, 2018 and in the order dated 15 December, 2016 it was not mentioned that interest at the rate of 9% shall be payable and therefore, after 15 December, 2016 to the date of actual payment the interest will not be payable. Review is also sought on the ground that the original order has not yet been received by 'the school' and the school be allowed reasonable time to implement the order after receipt of original order.

12. It is also to be noted 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 recommendation 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.

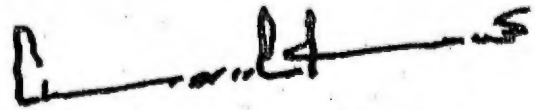
13. From the above it is apparent that the Committee does not have the powers to review its own orders. Though the Committee had sought permission to review orders having errors, if any, on the face of the record in case of other schools, however, no general permission was granted to the Committee except 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. The 'school' is seeking that the order of the Committee directing the 'school' to refund fee hiked with interest @ 9% per annum to the students be reviewed. Apparently the Committee does not have such powers as has been invoked by the 'school' .

14. In the circumstances the applications of the applicant dated 20<sup>th</sup> August,2018.seeking review is not maintainable and is disposed

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of as not maintainable and the said applications for review dated 20<sup>th</sup> August, 2018 seeking review of order dated 21<sup>st</sup> March, 2018 is therefore, dismissed.



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



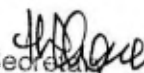
**J.S. Kochar**  
(Member)



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

29.05.2019

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Secretary





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

**CAUSE LIST FOR MAY 2019**

**Cause List for Monday, 13th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-286	Mount Abu Public School, Sect.5, Rohini
2	B-414	Jindal Public School, Dashrathpuri
3	B-151	G D Goenka Public School, Vasant Kunj
4	B-290	Kasturi Ram International School, Narela
5	B-424	Pragati Public School, Dwarka

**Cause List for Tuesday, 14th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-302	Bharti Public School, Swasthya Vihar
2	B-389	BGS International School, Dwarka
3	B-202	St. Gregorious School, Dwarka
4	B-148	Venkateshwar International School, Dwarka
5	B-614	Holy Cross School, Najafgarh

**Cause List for Wednesday, 15th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-602	Review - VSPK International School, Sect.13, Rohini
2	B-642	Review - Apeejay School, Sainik Vihar, Pitampura
3	B-120	The Heritage School, Vasant Kunj
4	B-60	The Heritage School, Sector-23, Rohini

**Cause List for Friday, 17th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-49	Sachdeva Public School, Sect.13, Rohini

**Cause List for Friday, 24th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-49	Sachdeva Public School, Sect.13, Rohini
2	B-347	Evergreen Public School, Vasundhara Enclave

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*[Signature]*  
Secretary



**Cause List for Monday, 27th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-6	Ahlcon Public School, Mayur Vihar, Phase-I

**Cause List for Tuesday, 28th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-424	Pragati Public School, Dwarka
2	B-308	Darshan Academy, Kripal Bagh
3	B-642	Review - Apeejay School, Sainik Vihar, Pitampura

**Cause List for Wednesday, 29th May 2019**

S. No.	Cat. No.	School Name & Address
1	B-286	Mount Abu Public School, Sect.5, Rohini
2	B-290	Kasturi Ram International School, Narela
3	B-674	Universal Public School, Mahavir Enclave
4	B-539	Rosary Sr. Sec. School, Kingsway Camp
5	B-602	Review - VSPK International School, Sect.13, Rohini
6	B-541	Review - Sant Nirankari Public School, Nirankari Colony

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13/05/2019

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B-286

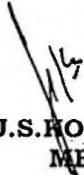
Mount Abu Public School, Rohini, Delhi

Present:None

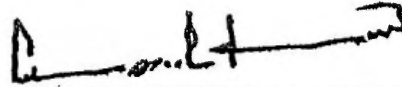
It appears from the speed post tracking report that the notice of hearing dated 24/04/2019 which was sent by speed post has not been delivered to the school. A fresh notice may be sent for 23/05/2019 for hearing.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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13/05/2019

000107

B-414

Jindal Public School, Dashrathpuri, Delhi

Present: Sh. Banne Singh, UDC of the School.

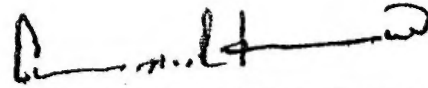
The school has filed its written submissions controverted the revised calculation sheet prepared by the Committee and has also filed its own calculation sheet as per which the school claims that it was in deficit after implementation of the recommendations of VI Pay Commission despite the increase in fee. The school has also requested for the adjournment of hearing on the ground that its Chartered Accountant is in not well. The written submission has taken on record and the matter is adjourned for 3<sup>rd</sup> June 2019 at 11.00 a.m for hearing.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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13/05/2019

000108

B-151

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

Present: Sh. Kamal Gupta, Lawyer along with Sh. Birender Singh, Accounts Officer and Sh. Jitendra Singh, Sr. Accountant of the school.

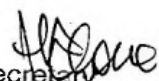
The Ld. Counsel appearing for the school relies on the judgment dated 15/03/2019 in WP(C) 4374/2018 in the case of Action Committee Unaided Recognised Pvt. Schools vs. Directorate of Education and after arguing some time, he submits that the appeal against the aforesaid judgment is coming up for hearing before the Division Bench on 20/05/2019 and request that the matter be heard by the Committee in a month of June by which time the judgment of the Division Bench may be available. Accordingly the matter is adjourned to 17/06/2019 for further hearing.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



13/05/2019

000109

B-290

Kasturi Ram Internation School, Narela, Delhi

Present: None.

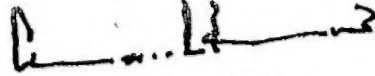
No body appears on behalf of the school despite service of notice of hearing to the school. However in the interest of justice, no adverse view has been taken. A fresh notice of hearing for 23/05/2019 may be issued.



Dr. R.K. SHARMA  
MEMBER



J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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13/05/2019

000110

B-424

Pragati Public School, Dwarka, Delhi

Present: Sh. Rajiv Malik, Chartered Accountant along with Sh. Inder Pal Singh, Accounts Incharge of the school.

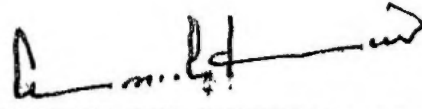
The school has today filed the Receipt and Payment Accounts for the years 2006-07 to 2010-11. The same has been taken on record. The calculation sheet prepared by the committee may have to revise after taking into account the Receipt and Payment Accounts. Accordingly the matter is adjourned to 28/05/2019.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

Bharti Public School, Swasthya Vihar, Delhi

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

The Ld counsel of the school has filed the copies of TDS return for the IV quarter in respect of salary paid to the employees as well as tax computation statement of all the employees. He has pointedly drawn the attention of the Committee to the fact that even where the payment of arrears were made by the bearer cheque, tax was deducted at source and deposited in the govt. account. In respect of 8 or 9 employees, where tax was not deducted, he submits that the total income from salary for the financial year in which the TDS were paid did not exceed the threshold tax limit. Copies of tax computation statements in respect of these employees have been filed. He submits that this shows that the payments although made by bearer cheques are genuine and ought to be taken into the relevant calculations made by the Committee. Accordingly, he submits that the full amount of arrears paid amounting to Rs. 1,13,74,657 ought to be taken into consideration instead of Rs. 79,65,263 taken by the Committee in the provisional calculation sheet.

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

The school is required to file the balance sheet as on 31/03/2019 as the earmarked FDRs against development/depreciation reserve fund have been made in the year 2018-19. The same be done on or before next date of hearing. Matter is adjourned to 18/06/2019.

Dr. R.K. SHARMA  
MEMBER

J.S. KOCHAR  
MEMBER

JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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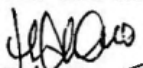
BGS International School, Dwarka, Delhi

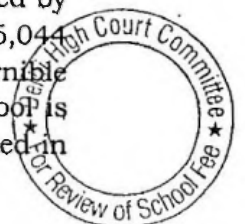
Present: Sh. Boregowda G.D., Accountant of the school.

The school has filed rebuttal to the calculation sheet vide which the calculations have been disputed. The points of dispute raised by the school are as follows:

1. The capital expenditure on purchase of fixed assets amounted to Rs. 2,27,51,903 ought not be considered as part of the funds available since any expansion or improvement to the infrastructure of the school has been borne out of the fees recovered from the students. The responsibility of the parent society ceases once it has constructed the school building with the initial infrastructure and handed over the same to the Managing Committee of the school. It is also contested that Rule 177 (2) allows for expansion of the school or any expenditure of development nature.
2. The annual charges amounting to Rs. 13,44,000 which were introduced in the fee structure for the first time in 2009-10 ought not be considered as increase in fee merely for the reason that no such charges were recovered in the year 2008-09. It is further contested that only the increase in tuition fee ought to be considered ascertaining the funds required for implementation of recommendation of VI Pay Commission.
3. Without prejudice to the claim, it is stated that the calculation of amount utilized for capital expenditure amounting to Rs. 2,94,15,079 which has been taken by the Committee would actually be Rs. 65,71,113 if the purchase of fixed assets allowed as per Rule 177 (2), the requirement of keeping 10% reserve fund out of savings from tuition fee as per Rule 177(2)(e) and the surplus generated by the school out of transport fee, which has been utilized for repayment of vehicle loan and interest thereon are factored in.
4. Lastly it is submitted that the development fee charged from the students in 2010-11 amounting to Rs. 44,06,044 ought not be ordered to be refunded as the same has been spent by the school on capital expenditure.

The school has also filed its own calculation sheet as per which it has determined a surplus of Rs. 5,64,859 generated by it out of the fee hike effected in terms of order dated 11/02/2009 as against the Committee's provisional determination of Rs. 2,47,42,825. The Committee notices that although in reply to the questionnaire issued by it, the school has submitted that it recovered the sum of Rs. 44,06,044 on account of development fee in 2010-11, the same is not discernible from the audited financials of the school for that period. The school is required to explain as to how the development fee has been reflected in

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14/05/2019

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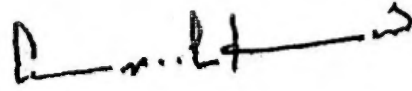
the audited financial year of 2010-11 and how it has been utilized. The school will also produce books of accounts for the year 2010-11 in a laptop/hard copies on the next date of hearing. The matter will come up for further hearing on 14/06/2019.



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

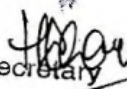


**J.S. KOCHAR**  
**MEMBER**



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

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Secretary



14/05/2019

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B-202

St. Gregorious School, Dwarka, Delhi

Present: Sh. Cyril K. Philip, Accountant, Sh. K.K. Khanna, Auditor and Sh. Sameep Khanna, Auditor of the school.

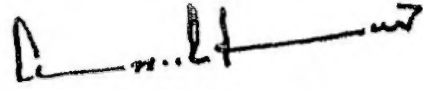
The school has filed copies of Receipt and Payment Accounts for the years 2006-07 to 2010-11. The same are taken on record. A revised calculation sheet will be prepared to incorporate the information emanating from the Receipt and Payment Accounts. The matter is adjourned to 04/06/2019.



Dr. R.K. SHARMA  
MEMBER

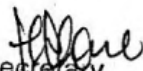
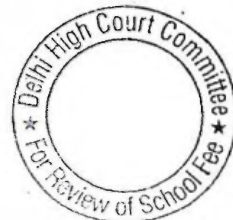


J.S.KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

14/05/2019

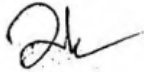
000115

B-148

Venkateshwar International School, Dwarka, Delhi

Present: Sh. Kamal Solanki, Director, Sh. Harish Sharma, Admn. Officer and Sh. Gauri Shankar, Accounts Officer of the school.

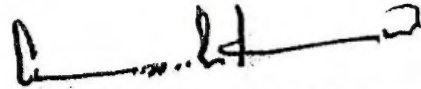
The school has filed the Receipt and Payment Accounts for the year 2006-07 to 2010-11 showing the actual cash inflows and outflows. The calculation sheet prepared by the Committee may have to be revised in the light of information thrown up by these accounts. Accordingly the matter is adjourned to 11/06/2019.



Dr. R.K. SHARMA  
MEMBER

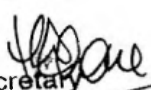


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



14/05/2019

000116

B-614

Holy Cross School, Najafgarh, Delhi

Present: Sh. Veronica Fernandes, Principal and Sh. Vikesh Kumar Pal, Accountant of the school.

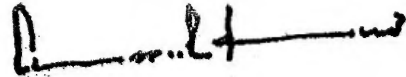
The school has filed copies of Receipt and Payment Accounts for the years 2006-07 to 2010-11. The same are taken on record. A revised calculation sheet will be prepared to incorporate the information emanating from the Receipt and Payment Accounts. The matter is adjourned to 03/06/2019.



Dr. R.K. SHARMA  
MEMBER

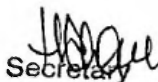


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary

15/05/2019

000117

**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**

VSPK International School,  
Rohini, Delhi (B-602)

**And in the matter of**

Application dated 22.11.2018 for  
reconsideration / review of  
recommendations dated 17.04.2018  
in the matter of school.

Present :Sh. S.K. Gupta, Chairman, Sh. Varinder Gupta, CA and Sh.  
Ravi Sikri, Senior Advocate 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



15/05/2019

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

000118

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

**In the matter of**

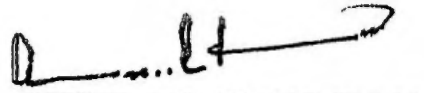
Apeejay School,  
Pitampura Delhi (B-642)

**And in the matter of**

Application dated 09/05/2019 for  
reconsideration / review of  
recommendations dated 21/08/2018  
in the matter of school.

Present : Mrs. Veena Goel, Principal and Sh. S.K. Murgai, Financial  
Advisor and Sh. Bharat Bhushan, General Manager of the school.


Arguments heard. Order Reserved.



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

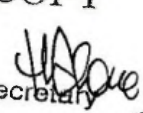


**J.S. KOCHAR  
MEMBER**



**R.K. SHARMA  
MEMBER**

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Secretary



15/05/2019

B-120

000119

The Heritage School, Vasant Kunj, Delhi

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

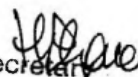
At the specific request of the Ld. Counsel appearing for the school, the matter is adjourned to 16<sup>th</sup> July 2019 for hearing.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary





15/05/2019

000120

B-60

The Heritage School, Rohini, Delhi

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

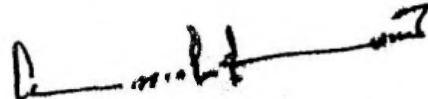
At the specific request of the Ld. Counsel appearing for the school, the matter is adjourned to 16<sup>th</sup> July 2019 for hearing.



Dr. R.K. SHARMA  
MEMBER




J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



Sachdeva Public School, Rohini, Delhi

Present: Sh. Anup Mehrotra and Sh. Rakesh Goel, A.O. of the school.

The matter was fixed for rehearing as the school had filed written submissions dated 12/06/2018 after the conclusion of hearing. Today the school has filed fresh written submissions in which the issues raised by the school earlier have been reiterated. All the issues which the school have raised, had been raised earlier also and the same had been duly recorded in the order sheet dated 18/12/2017. Only one fresh issue has been raised by the school with regard to incremental tuition fee in the year 2009-10. It is submitted that the Committee, in its calculations has taken the incremental tuition fee to be Rs. 3,40,86,690 for the year 2009-10 which is not correct as a sum of Rs. 1,22,73,670 included in the incremental tuition fee pertains to the period 01/09/2008 to 31/03/2009 and as such ought to have been included in the tuition fee for that year. It is thus submitted that the incremental tuition fee for the year 2009-10, as was taken earlier by the Committee, is excessive to that extent.

2 The Committee has gone through the calculation sheet as well as audited financials of the school and the information furnished by the school regarding break up of regular fee and arrear fee for the year 2008-09 and 2009-10. The Committee finds no infirmity in its calculation on this particular aspect as the same is based on the audited financial of the school as well as detailed information furnished by the school vide its letter dated 23/01/2015. The incremental tuition fee for the year 2009-10 has to be calculated by taking the tuition fee for the year 2008-09 at pre revised rates and that for 2009-10 at the post revised rates, which the committee has taken. The incremental tuition<sup>fee</sup> for the period 01/09/2008 to 31/03/2009 amounting to Rs. 1,22,73,670 has been taken by the Committee separately as arrear fee. The information furnished by the school is duly reconciled with its audited financials and calls for no correction as contended by the school.

With regard to the contention of the school that certain capital receipts have not been taken into consideration while taking the amount diverted, the Committee had itself considered this aspect in its order dated 18/12/2017. A revised statement of funds diverted for capital expenditure out of fee revenue requires to be made.

The matter is adjourned, to 24/05/2019 when a revised calculation sheet limited to this particular issue, would be furnished to the school for rebuttal.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



24/05/2019

000122


B-49

Sachdeva Public School, Rohini, Delhi

Present: Sh. Anup Mehrotra and Sh. Rakesh Goel, A.O. of the school.

With regard to the submission of the school regarding calculation of the amount which the Committee has determined that the school has diverted towards repayment of loans to its parent society/other entity in the group, the matter has been discussed at length with the authorized representatives appearing for the school. The authorized representatives seek time to take instructions from the Management of the school in the matter and revert back to the Committee.

Accordingly the matter is adjourned to 06/06/2019 at 11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



24/05/2019

B-347 000123

**Evergreen Public School, Vasundhara Enclave, Delhi**

Present: Sh. Rahul Jain, Chartered Accountant of the school.

The Committee had observed that the sum of Rs. 11,64,130 which forms part of the arrear fee recovered by the school was not utilized for payment of arrear salary despite the fact that the school had not discharged its full liability of arrear salary. The aforesaid sum was appropriated by the school to its own revenue in the year 2013-14.

The authorized representative appearing for the school submits that the aforesaid sum of Rs. 11,64,130 has since been paid to the staff during the course of hearings and as such the amount may not be ordered to be refunded.

The Committee has examined the bank statements of the concerned staff members which have been filed by the school and is satisfied that the aforesaid sum of Rs. 11,64,130 has since been paid. The Committee is therefore of the view that no further intervention is required in the matter.

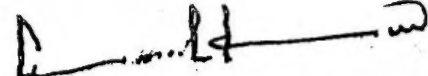
Detailed order to be passed separately.



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



**J.S. KOCHAR**  
MEMBER



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

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Secretary



**Ahlcon Public School, Mayur Vihar, Delhi**

Present: Ms. Neetu Sharma, Sr. Executive with Sh. Sanjay Kumar, UDC and Sh. Birender Singh, Accounts Assistants of the school.

In response to fresh notice of hearing, the authorized representatives of the school submit that at any rate the increased amount of development fee had only been utilized for meeting the additional salary on account of implementation of VI Pay Commission and despite this, the school was in deficit after implementation of the recommendations of VI Pay Commission. She further submits that since the school incurred a deficit of implementation of recommendations of VI Pay Commission, the apparent refund of Rs. 25,92,587 on account of recovery of excess amount of development fee for the year 2008-09 may not be ordered.

The calculations made by the Committee shows that the school incurred a deficit of Rs. 48,62,030 on implementation of recommendations of VI Commission and since the amount determined to be refundable is less than this amount, the Committee recommends no intervention in the matter of fee hike and recovery of arrear fee and development fee pursuant to order dated 11/02/2009 issued by the Director of education.

Detailed order to be passed separately.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S. KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



28/05/2019

000125


B-424

Pragati Public School, Dwarka, Delhi

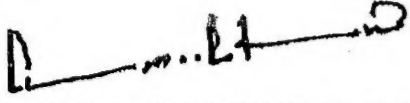
Present: Sh. Rajiv Malik, Chartered Accountant and Sh. Inder Pal Singh  
Accounts Incharge of the school.

While preparing the revised calculation sheet considering the submissions made by the school controverting the calculation sheet earlier prepared by the Committee, the Committee observed that the submissions made by the school with regard to transfer of funds to and from the society as mentioned by the school in its written submission does not match with the Receipt and Payment Accounts filed by the school. When the matter is put to the authorized representative appearing for the school, he submit that the school has resorted to vetting of the Receipt and Payments under certain heads and that is why the amounts transferred to and from the society are not distinctly reflected in the Receipt and Payment Accounts.

The submission made by the authorized representative indicates that the Receipt and Payment Accounts have not been prepared correctly as they ought to reflect the gross amount of inflow and outflow of funds. The authorized representative seeks some time to file the corrected Receipt and Payment Accounts. Accordingly the matter is adjourned to 10/06/2019 at 11.00 a.m.

  
Dr. R.K. SHARMA  
MEMBER

  
J.S.KOCHAR  
MEMBER

  
JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary



29/05/2019

B-286 000126

Mount Abu Public School, Rohini, Delhi

Present: Sh. Jasvinder Singh, Admn. Supervisor of the school.

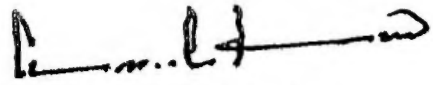
The school has filed a request for adjournment of hearing. It is requested that the matter may be adjourned to 17/06/2019 when his counsel Mr. Kamal Gupta is supposed to appear before the Committee in other matter also. As requested the matter is adjourned to 17/06/2019 at 11.00 a.m.



Dr. R.K. SHARMA  
MEMBER



J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary 



29/05/2019

000127

B-290

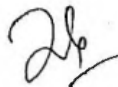
Kasturi Ram International School, Narela, Delhi

Present: Sh. Sunny Bansal, Manager of the school.

The school has filed sample copies of fee receipt for all quarters of 2008-09 to show that it did not recover any development fee in 2008-09 originally. However, the school has not produced its books of accounts for 2008-09 and 2009-10 which it was directed to produce vide order dated 12/12/2018. The authorized representative appearing for the school submits that there are certain issues with the accounting data of those years. However, he submits that the print outs of these accounts are available which can be produced before the Committee. The school is directed to produce the same on next date of hearing.

If the submission made by the authorized representative is correct, the school were not entitled to recover any arrears of incremental development fee for the period Sept. 2008 to March 2009 since the school was admittedly not charging any development fee in the year 2008-09 originally and consequently the question of incremental development fee after the issue of order dated 11/02/2009 does not arise. The order nowhere authorizes the school to start charging development fee or recover any arrears thereof w.e.f. Sept. 2008 where the school was not originally charging development fee.

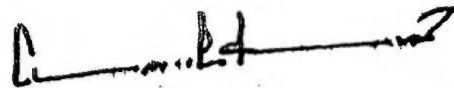
The matter is adjourned to 4<sup>th</sup> June 2019 at 11.00 a.m. which the school will produce the print outs, <sup>of</sup> cash book, bank book and ledgers for the year 2008-09 and 2009-10.



Dr. R.K. SHARMA  
MEMBER

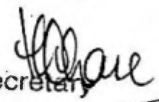


J.S. KOCHAR  
MEMBER



JUSTICE ANIL KUMAR (Retd.)  
CHAIRPERSON

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Secretary