Justice Anil Dev Singh Committee

For

Review of School Fee

3rd Interim Report

August 29, 2013

JUSTICE
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COMMITTEE
For Review of School Fee

JUSTICE ANIL DEV SINGH COMMITTEE FOR REVIEW OF FEE HIKE

3rd INTERIM REPORT

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Chapter-1

PREFACE

1. Task in hand

1.1 The Committee follows a two stage process in making the final determination in the case of each school. Stage-I involves the examination of the financials of the school submitted under Rule 180 of Delhi School Education Rules, 1973 and such further information as is called from the schools for accomplishing the work assigned to the Committee. For this purpose, the Committee has divided the schools in four categories depending upon the result of prima facie examination of their financials and the information submitted by the schools on specific points. The categorization has been made in order to assign the task of verification of financials to the in house accounts personnel and to a firm of Chartered Accountants which has been detailed with the Committee to assist it in its task. The task of examination of records of the schools which appear not to have implemented the VI Pay Commission Report, is assigned to the in house accounts personnel while the task of making preliminary calculations in respect of the schools which have implemented the VI Pay Commission Report is assigned to the firm of Chartered Accountants. After the verification of records, preliminary calculations are made, the Committee examines them and gives the schools an opportunity to justify the fee hike effected by them. After

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considering the submissions made by the school, the final recommendations are made by the Committee.

1.2 So far the Committee has made determination in respect of 422 schools. Besides, the Committee has concluded the examination of financials of 104 more schools. In respect of these schools, final recommendations are being deliberated upon by the Committee. The work assigned to the Committee in respect of 526 schools out of a total of 1272 schools will be over in a couple of months. That apart, hearing of 19 schools is also currently in progress. Simultaneously the accounts personnel and the Chartered Accountants are on their respective jobs.

1.3 <u>Proceedings of the Committee:</u>

The Committee has so far held 168 sittings. Minutes of the sittings upto 08.03.2013 have already been filed in the Hon'ble High Court by the Committee and the minutes of the sittings held from 11.03.2013 to 28.08.2013 are being separately filed.

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CHAPTER -2

Determinations

2.1 This Interim Report deals with 74 schools, out of which 17 schools are in Category 'A', 37 schools are in Category "B" and 20 schools are in Category "C".

2.2. The Committee is now, inter alia, dealing with larger number of category 'B' schools in comparison to those dealt with in the first two Interim Reports. Finalising recommendations of category "B" schools is a very time consuming exercise due to the enormity of their financial records and necessity to make calculations which are often complicated. The Committee also refers to **para 1.21 of its second Interim Report dated 11/03/2013**, which embodies the reasons which contribute to the prolongation of the work of the Committee.

2.3 Out of the 74 schools for which the recommendations are made in this report, the Committee has determined that the hike in fee effected by 47 schools was not fully or partially justified. In respect of 14 schools, the Committee has found no reason to interfere in the matter of fee either because the schools did not hike the fee in pursuance of the order dated 11/02/2009 of the Director of Education or the fee hiked by the schools was within the tolerance limit of 10%. In respect of the remaining 13 schools, the Committee has not been able to arrive at any definite conclusions, either because the schools did not produce the required records when they were called upon to do so or the records produced by them were found to be unreliable.

2.4 <u>Schools in respect of which the Committee has recommended refund of fee.</u>

The Committee has recommended refund of fee unjustly hiked by 47 schools. Among them are 2 schools, where the Committee, besides recommending the refund, has also recommended special inspection to be carried out by the Director of Education.

2.4.1 In respect of **45** schools out of 47 schools, the Committee has found that the fee hike effected by them in pursuance of the order dated 11/02/2009 issued by the Director of Education was either wholly or partially unjustified as, either:

(a) the schools had hiked the fee taking undue advantage of the aforesaid order as they had no requirement for additional funds since they were found not to have implemented the recommendations of the VI Pay Commission, for which purpose the schools were permitted to hike the fee, or

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(b) the schools had sufficient funds at their disposal out of which the additional burden imposed by the implementation of VI Pay Commission could have been absorbed, or the additional revenue generated on account of fee hike effected by the schools was more than what was required to fully absorb the impact of implementation of VI Pay Commission report, or

(c) the development fee being charged by the schools was not in accordance with the criteria laid down by the Duggal Committee which was upheld by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583.

The detailed reasoning and calculations are given in the recommendations made in respect of each individual school which have been made a part of this report and are annexed herewith. The Committee has recommended that the unjustified or unauthorised fee charged by the schools be refunded by them alongwith interest @ 9% per annum as mandated by the decision of the Hon'ble Delhi High Court in Delhi Abhibhavak Mahasangh vs. Directorate of Education & ors. in WP(C) 7777 of 2009.

The list of these **45** schools where the Committee has recommended refund is as follows: -

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S.N.	Category No.	Name & Address of School	Recommendations at page number
1	A-43	Ch. Khushi Ram Model School, Inder Enclave, Nangloi	22-24
2	A-58	Prince Public School, Mehrauli	25-27
3	A-102	Vani Public School, Uttam Nagar	28-30
4	A-107	Minerva Academy, Najafgarh	31-33
5	A-110	Oxford Foundation School, Najafgarh	34-36
6	A-112	Rachna Public School, Village Ghuman Hera	37-39
7	A-114	Murti Devi Public School, Village Nithari	40-42
8	A-123	Dayanand Adarsh Vidyalaya, Tilak Nagar	43-45
9	A-124	Mukand Lal Katyal S.D. Sec. School, Ashok Nagar	46-48
10	A-126	Shri Geeta Bhawan Model School, Tilak Nagar	49-51
11	A-129	Rao Balram Public School, Najafgarh	52-54
12	A-149	Dashmesh Public School, Mayur Vihar Phase-III	55-57
13	B-2	D.A.V. Public School, Shreshtha Vihar	58-63
14	B-7	Bal Bhavan Public School, Mayur Vihar Phase-II	64-75
15	B-20	Mahavir Senior Model School, G.T. Karnal Road	76-104
16	B-38	KIIT World School, Suvidha Kunj, Pitampura	105-114
17	B-54	Abhinav Public Sr. Sec. School, Sector-3, Rohini	115-122
18	B-71	N.C. Jindal Public School, Punjabi Bagh,	123-137
19	B-76	Doon Public School, Paschim Vihar	138-147
20	B-78	Raghubir Singh Modern School, Mohan Garden	148-150
21	B-83	Holy Innocents Public School, C-Block, Vikas Puri	151-161

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22	B-88	Bhatnagar International School,. Vasant Kunj	162-172
23	B-98	Midfields Sr. Sec. School, Jaffarpur Kalan, Najafgarh	173-175
24	B-125	Guru Teg Bahadur 3rd Centenary Public School, Mansarover Garden	176-183
25	B-127	Modern School, Vasant Vihar	184-199
26	B-131	Good Samaritan School, Jasola	200-209
27	B-133	Adarsh Public School, Bali Nagar	210-221
28	B-144	Jhabban Lal DAV Sr. Sec. Public School, Paschim Vihar	222-234
29	B-155	Birla Vidya Niketan, Pushp Vihar-IV	235-247
30	B-182	Amity International School, Saket	248-257
31	B-201	Heera Public School, Samalka	258-259
32	B-207	Good Luck Public School, Begumpur Extn.	260-264
33	B-213	Puneet Public School, Vishwas Nagar	265-269
34	B-218	Jeewan Public School, Sect.5, Dwarka	270-272
35	B-254	New Holy Public School, Uttam Nagar	273-275
36	B-263	Ramakrishana Senior Secondary School, Vikas Puri	276-289
37	B-265	Kamal Public School, Vikas Puri	290-302
38	B-268	Angel Public School, Om Vihar, Utaam Nagar	303-305
39	B-325	Bhagirathi Bal Shiksha Sadan Sec. School, Dayalpur Ext.	306-310
40	B-362	Adarsh Public School, C-Block, Vikas Puri	311-328
41	B-636	Shri Sanatan Dharam Sec. School, Krishna nagar, Gondli	329-332

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42	C-98	Guru Angad Public School, Ashok Vihar Phase-I	333-336
43	C-242	Green Land Model School, Shastri Park	337-340
44	C-281	Mata Kasturi Sr. Sec. Public School, Najafgarh	341-344
45	C-301	Pioneer.Kamal Convent Sec. School, Hastsal	345-353

2.4.2. In respect of the remaining **2** schools, the Committee found that the schools had increased the fee in pursuance of the order dated 11/02/2009 of the Director of Education but had not implemented the VI Pay Commission Report. At the same time, the financials of the schools did not inspire any confidence for a variety of reasons, which have been discussed in the recommendations in respect of each school separately. As such the Committee has not only recommended the refund of the fee hiked along with interest @ 9% per annum but has also recommended special inspection of the schools to be carried out by the Director of Education. The recommendations of the individual schools have been made a part of this report and are annexed herewith. The list of the aforesaid **2** schools is given below: -

S.N.	**Category No.**	**Name & Address of School**	**Recommendations at page number**
1	B-259	Prerana Public School, Vikas Puri	354-356
2	B-644	Rajdhani Public School, Devli	357-361

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2.5 Schools in respect of which the Committee has not been able to take a view:

In respect of **13** schools, the Committee has not been able to take a categorical view as, in the case of some schools, complete records were not produced by them for examination by the Committee and in the case of others, the records produced did not inspire any confidence for reasons which are discussed in the case of each individual school. In some cases, even the records appeared to have been fabricated. Since, the Committee does not have any power to compel the schools to comply with its directions, the Committee has recommended special inspection to be carried out by the Director of Education. The recommendations of the Committee in respect of these schools have been made a part of this report and are annexed herewith. The list of these **13** schools is as given below: -

S.N.	Category No.	Name & Address of School	Recommendations at page number
1	A-51	D.V. Public School, Vijay Vihar, Rohini	362-364
2	A-60	Rajiv Gandhi Memorial Public School, Vikas Nagar, Hastsal	365-367
3	A-74	Jai Bharti Public School, Shivpuri, West Sagarpur	368-369
4	B-225	Sardar Patel Public School, Karawal Nagar	370-373

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5	C-103	Guru Nanak Public School, Moti Nagar	374-376
6	C-143	Green Venus Public School, Joharipur Extension	377-379
7	C-154	Friends Public School, Bhagirathi Vihar	380-382
8	C-182	New Krishna Public School, Karawal Nagar	383-385
9	C-188	Babarpur Model Public School, Kabir Nagar, Shahdara	386-388
10	C-199	New Modern Public School, East Gorakh Park, Shahdara	389-391
11	C-251	Kalawati Vidhya Bharti Public School, New Patel Nagar	392-394
12	C-265	Johney Public School, Prem Nagar-II, Nangloi	395-398
13	C-279	Sunita Gyan Niketan Public School, New Roshanpura, Najafgarh	399-401

2.6 Schools in respect of which the Committee found no reason to interfere.

In respect of **14** schools, the Committee has not recommended any intervention as the schools were found to have either not hiked, the fee in pursuance of the order dated 11/02/2009 issued by the Director of Education or the fee hiked was found to be within or near about the tolerance limit of 10% or the fee hike was found to be justified, considering the additional burden on account of implementation of Sixth Pay Commission report. Following is the list of the aforesaid **14** schools:

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S.NO.	Category No.	Name & Address of School	Recommendations at page number
1	A-55	Shri Tula Ram Public School, Sector-2, Rohini	402-404
2	A-100	Moon Light Public School, Uttam Nagar	405-407
3	B-68	Holy Child Sr. Sec. School, Tagore Garden	408-415
4	B-97	Basava International School, Dwarka	416-424
5	B-114	Rabea Girls Public School, Ballimaran	425-435
6	B-158	Oxford Sr. Secondary School, Vikas Puri	436-460
7	B-165	A.S.N. Sr. Sec. Public School, Mayur Vihar-I	461-478
8	C-137	Kanhaiya Public School, West Karawal Nagar	479-481
9	C-192	Dev Public School, Hardev Puri, Shahdara	482-484
10	C-220	Dev Public School, East Rohtash Nagar, Shahdara	485-486
11	C-239	M.M.A. Public School, Old Mustafabad	487-488
12	C-241	Maulana Azad Public School, Chauhan Bangar	489-491
13	C-260	Vidyadeep Public School, Karawal Nagar	492-494
14	C-277	Daulat Ram Public School, West Sagarpur	495-497

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2.7 In respect of the following **104** schools, the Committee has concluded the examination of financials and the final recommendations are being deliberated upon. The recommendations in respect of these schools will be incorporated in the next report.

S. No.	Cat. No	School Name	Address
1	A-42	Nav Jyoti Public School	Sultanpuri
2	A-44	Deep Modern Public School	Nangloi
3	A-52	Yuva Shakti Model School	Budh Vihar
4	A-54	Rose Convent School	Pooth Kalan
5	A-59	Rama Krishna Public School	Karawal Nagar
6	A-68	S.D. Public School	Bhajanpura
7	A-69	Nav Jeevan Adarsh Public School	Mustafabad
8	A-72	Triveni Bal upvan	West Sagarpur
9	A-82	S.D.M. Model School	Nilothi Extn.
10	A-83	Kasturi Model School	Nangloi
11	A-85	Vivekanand Model Shcool	Nangloi
12	A-87	Oxford Convent School	Uttam Nagar
13	A-88	Sehgal Care Convent School	Hastsal
14	A-90	MDH International School	Janakpuri
15	A-91	Jain Bharti Public School	Uttam Nagar
16	A-93	Arya Vidya Mandir	Keshav Puram
17	A-95	Swami Ram Tirath Public School	Rithala
18	A-111	Mata Chadro Devi Model School	Najafgarh
19	A-132	Jai Deep Public School	Najafgarh
20	A-133	Roop Krishan Public School	Shahabad Dairy
21	A-135	Usha Bal Seva Sadan	Brahmpuri
22	A-136	Pooja Public School	Brahmpuri
23	A-139	Bal Convent Public School	Old Seemapuri
24	A-145	Arya Model School	Adarsh Nagar
25	A-150	Nutan Vidya Mandir	Gandhi Nagar
26	A-151	Bal Niketan Public School	Laxmi Nagar
27	A-152	C.P.M. Public School	Sultanpuri
28	A-158	New Divya Jyoti Public School	Shahadara
29	A-160	Sanwal Dass Memorial Public School	Kotla Mubarakpur
30	A-163	Kataria International School	Hastsal
31	A-164	Mirambika Free Progress School	Sri Aurobindo Marg
32	B-21	Prabhu Dayal Public School	Shalimar Bagh

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33	B-37	Rukmani Devi Public School	Pitampura
34	B-40	Kulachi Hansraj Model School	Ashok Vihar
35	B-41	Bal Bharti Public School	Pitampura
36	B-64	New Era Public School	Maya Puri
37	B-118	Manav Sthali School	New Rajindra Nagar
38	B-121	Laxmi Public School	Karkardooma
39	B-147	N.K. Bagrodia Public School	Dwarka
40	B-150	Neo Convent Sr. Sec. School	Paschim Vihar
41	B-159	Faith Academy	Prasad Nagar
42	B-191	Little Fairy Public School	Kingsway Camp
43	B-198	Little Fairy Public School	Ashok Vihar
44	B-223	Shanti Devi Public School	Narela
45	B-234	Montfort School	Ashok Vihar
46	B-240	Shaheed Bishan Singh Memorial Public School	Mansarover Garden
47	B-247	St. Sophia's Sr. Sec. School	Paschim Vihar
48	B-254	Anu Public School	Shanti Mohalla
49	B-276	Abhinav Model School	Dilshad Garden
50	B-280	Sonia Public School	Durgapuri
51	B-298	Muni Maya Ram Jain Public School	Pitampura
52	B-322	Ostel Public School	Bhajanpura
53	B-343	Mother's Convent School	Mandawali, Fazalpur
54	B-349	Bal Mandir Public School	Kailash Nagar
55	B-353	Bhandari Public School	Brahmpuri
56	B-363	Arwachin Bharti Bhawan Sr. Sec. School	Balbir Nagar
57	B-366	G.C. Public School	New Ashok Nagar
58	B-383	Delhi Jain Public School	Palam
59	B-610	Nehru Academy	Vashistha Park
60	B-675	Nutan Bal Vidyalaya	West Sagarpur
61	B-676	Indian Modern School	Chattarpur Enclave
62	B-682	Bal Vaishali Public School	Harkesh Nagar
63	C-191	Shri Saraswati Vidya Niketan Public School	Shahadara
64	C-198	St. Lawrence Convent	Geeta Colony
65	C-203	Akash Model School	Nithari
66	C-204	Brahma Shakti Public School	Begumpur
67	C-217	Samrat Public School	Shanti Nagar
68	C-226	Bhagat Vihar Public School	Karawal Nagar
69	C-249	New Convent Model Sec. School	Tukhmirpur
70	C-250	Jeewan Jyoti Bal Vidyalaya	Sadatpur Extn.
71	C-258	Saifi Public School	Jamia Nagar

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72	C-259	Ramnath Model School	Sonia Vihar
73	C-261	Nav Jeewan Adarsh Public School	Yamuna Vihar
74	C-262	Eminent Public School	BadarPur
75	C-263	Maharana Pratap Model Public School	Harsh Vihar
76	C-266	Akhil Bal Vidyalaya	Nangloi
77	C-267	New Bal Bharti Public School	Rohini
78	C-269	Baldeep Public School	Rohini
79	C-270	C.M. Model School	Budh Vihar
80	C-271	Delhi English Academy	Bharthal
81	C-280	Gyan Deep Vidya Mandir	Kair
82	C-283	Sant Nirankari Public School	Avtar Enclave
83	C-286	Bharti Model School	Navada
84	C-287	Education Point Convent School	Janakpuri
85	C-289	The Lawrence Public School	Janakpuri
86	C-290	Muni International School	Uttam Nagar
87	C-291	New Bal Vikas Public School	Tikri Kalan
88	C-298	Continental Public School	Naraina
89	C-300	New India Public School	Nangloi
90	C-303	Dasmesh Public School	Naraina
91	C-304	Divya Public School	Budh Vihar
92	C-305	Nav Durga Adarsh Vidyalaya	Budh Vihar
93	C-306	New Rural Delhi Public School	Karala
94	C-310	S. Jassa Singh Ram Garhia Public School	Chand Nagar
95	C-313	Gyanodaya Public School	Najafgarh
96	C-315	Green Gold Model School	Najafgarh
97	C-316	Anand Public School	Pandav Nagar
98	C-317	Shishu Bharti Public School	Mustafabad
99	C-318	Brahmapuri Public School	Brahmpuri
100	C-323	M.P. Model Public School	Karawal Nagar
101	C-337	Rockvale Public School	Naraina
102	C-338	New Gian Public School	West Sagarpur
103	C-340	Herra Public School	Near- LNJP Hospital
104	C-403	Guru Harkishan Public School	Fateh Nagar

2.8 Tolerance level

In the first and the second Interim Reports, the Committee had taken a view that where full refund of fee hiked by the schools, pursuant to the order of the Director of

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Education dated 11/02/2009, was recommended by the Committee, the schools may be allowed to retain fee hike upto 10% over the fee of the previous year to meet the increased expenditure on account of inflation, particularly as the Directorate of Education did not object to the fee hike to that extent.

However, the Committee has noted that while issuing show cause notices to the schools as a follow up of the Ist Interim Report, the Directorate of Education did not refer to our recommendations relating to the tolerance limit and required the schools to refund the full fee hike. This was brought to the notice of the Director of Education in a meeting with him on 15/07/2013 (minutes of the meeting are annexed herewith, marked as **Annexure-A**). With a view to avoiding any confusion, the Committee has started referring to the tolerance limit in its the recommendations relating to each school.

The tolerance limit applies to all the schools who were found, not to have implemented the recommendations of the VI Pay Commission, irrespective of the categories in which they have been placed by the Committee. However, in respect of the rest of the schools which are relatively bigger and also charge relatively higher fee and have implemented the Sixth Pay Commission Report but the Committee has found that the fee was unjustifiably hiked, the Committee is of the view that they

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may not be given the benefit of the tolerance limit, as they have been found to be in possession of surplus funds and the Committee also has recommended that they may be permitted to retain a reserve equivalent to four months' salary to meet the future contingencies.

Justice Anil Dev Singh (Retd)
Chairperson

CA J.S. Kochar
Member

Dr. R.K. Sharma
Member

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Aneexure A

Justice Anil Dev Singh Committee for Review of School Fee

Minutes of the meeting of the Committee held with the officials of the Directorate of Education, Delhi on 15.07.2013 at 10.00 A.M. at Vikas Bhawan-II, Civil Lines, Delhi.

CORAM:

• **Justice Anil Dev Singh**	**Chairperson**
• **Dr. R.K. Sharma**	**Member**
• **Sh. J.S. Kochar**	**Member**

The following officials of the Directorate of Education attended the meeting: -

a) Shri Amit Singla, Director
b) Dr. Madhu Teotia, Additional Director (Act branch)
c) Mrs. P. Lata Tara, Assistant Director (Act branch)
d) Shri Anil Kumar, DEO(Act branch)

The following issues came up for discussion: -

1. Re.: Quorum of the Committee and its functioning

(a) The Committee pointed out to the Director of Education that it had passed a resolution dated September 3, 2012 fixing quorum of the Committee so that the work of the Committee does not suffer in the event of a member being absent on the date of the meeting for conducting the proceedings of the committee. It was also pointed out that vide letter of the Committee dated 11.10.2012, a copy of the aforesaid resolution was forwarded to the Directorate of Education for information. A copy of the said resolution has been again handed over to the Director so that it is not represented under a misapprehension that Committee was non-functional at any point of time due to absence of Chairman or a member of the committee.

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The Director mentioned that queries were raised by the Finance department on the issue of quorum and the opinion of the Govt. counsel had been sought on the issue.

(b) The Director informed the Committee that in its reply to CM No. 3168/2013 in WP(C) 7777/2009, the Directorate of Education has made a prayer to fix a time frame for completion of work by the Committee and another prayer to treat the reports submitted/to be submitted by the Committee as final and the schools ought to take appropriate action based on its recommendations.

(c) Regarding the time period for completion of the work, it was pointed out by the Committee that in view of the nature of the task, it is difficult to specify the time frame for completion of work, with exactitude. It was also pointed out that, besides hearing the schools, the Committee was required to examine their voluminous financial records. Considering that the Committee has to examine the records of hundreds of schools, any prognosis about the time frame may be a mere conjecture, in view of the gigantic nature of task. Though, it would be difficult to set an exact time frame, the Committee is making an earnest endeavour to complete the work in a year's time.

The Director informed that the Directorate of Education can extend further support, if required, so that the work of the Committee is completed at the earliest.

(d) The Committee pointed out that w.e.f. July, 2012, under a self-imposed cap, the members of the committee are charging fee for not more than 8 sittings in a month, though, many a times the actual sittings held exceed the cap. Apart from the sittings held for the hearings, sittings also take place to examine the financials of the schools before hearings and for discussions and preparation of

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recommendations in respect of individual schools, compilation of reports for submission to the Hon'ble Delhi High court and for overseeing the work of Audit Officers and Chartered Accountants, who have been assigned specific tasks by the Committee. Since these sittings do not get reflected in the fee invoices of the members, they do not get recorded.

. The Director desired to know whether the committee can increase its sittings and withdraw the self imposed cap. The committee observed that though, it may be difficult but it will try to fix more than eight days in a month for hearings.

2. Re.: Fee paid to the members of the Committee

The Committee pointed out that the information provided by the Directorate of Education under the provisions of RTI Act with regard to the payment of fee to the Committee members was not accurate. The Committee reminded the officials present that a sum of Rs. 19 lacs was refunded to the department out of the fee paid to them.

Sh. Anil Kumar, DEO informed that the information was supplied strictly as per information sought. The Committee was of the view that the Department, while providing the information, ought to have taken into consideration the refund of Rs.19 lacs to depict the correct position about the amount actually expended by the Directorate. The Director assured that, care would be taken in future.

3. Re.: Fees of the C.A. Firm

It was pointed out by the Committee that the CA firm deployed with the Committee had returned more than 100 files of the school without making the required calculations as the information in respect of such schools was not complete.

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4. Re.: Tolerance Limit in respect of fee hikes

The committee apprised the Director that in cases where the schools had not implemented the recommendations of the sixth pay commission, the fee hike upto 10% is being ignored by the committee and recommendations were made only for refund of fee over and above 10%. The committee in its first and second interim reports has observed that fee hike upto 10 per cent in a year falls within the tolerance limit and can be permitted as such a relief is based on the practice which is followed by the Directorate of Education itself. The following recommendation in the second interim report has been brought to the notice of the Director during the meeting:-

> "In the first Interim Report, the Committee had taken a view that where full refund of fee hiked by the schools, pursuant to the order dated 11/2/2009 of Director of Education, was recommended by the Committee, the schools may be allowed to retain fee hike upto 10% over the fee of the previous year. to meet the increased expenditure on account of inflation, particularly as the Directorate of Education did not object to the fee hike to that extent. This recommendation was made in the context of schools in Category 'A' and 'C' as the first Interim Report mainly dealt with the schools in those categories. The Committee would like to repeat the same recommendation in respect of the schools falling in these two categories which are dealt with in this 2nd Interim Report. Further, during the course of hearings before the Committee, a number of schools failing Category 'B', were found to have wrongly claimed that they had implemented the recommendations of the VI Pay Commission in order to justify the fee hiked by them, when in actual fact they had not done so. The Committee is of the view that such schools should be treated at par with the schools in Categories 'A' and 'C' for the purpose of tolerance limit."

It was informed to the officials of the Directorate that the department ought to take the aforesaid observations into consideration while directing the schools to refund the excess fee, if any. This may reduce the unnecessary litigation.

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The Director mentioned that, it would be convenient if the Committee made such an observation in the recommendations of individual schools.

5. Re.: Litigation on account of Current Fee Hike

Attention of the officials of the Directorate was also drawn to the litigation that is being resorted to by many schools relating to the current year's fee hike. In such matters, the Directorate of Education has been taking a stand that the issue is under the consideration of the Committee. It was pointed out that these matters fall outside the order of the Hon'ble Delhi High Court dated August 12, 2011.

The Director assured that care shall be taken to place this aspect before the forums in which such matters may be pending. He also mentioned that while entertaining the objections regarding current year's fee, he has to base his decision on the recommendations of the Committee regarding the fee hiked after 2008-09.

Sd/-	Sd/-	Sd/-
Justice Anil Dev Singh Chairman	J.S. Kochar Member	Dr. R.K. Sharma Member

JUSTICE
ANIL DEV SINGH
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Ch. Khushi Ram Model School, Inder Enclave, Nangloi, Delhi - 41

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. However, the returns of the school under rule 180 of the Delhi School Education Rules, 1973 were received from the Office of the Deputy Director of Education District West-B of the Directorate of Education. On preliminary examination of the records, it appeared that the school had hiked the fee but recommendations of the 6th Pay Commission had not been implemented. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.16.07.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 25.07.2012. In response to the notice, the school vide letter dated 25.07.2012, requested for some more time to present the school financials. The school was directed to appear on 08.08.2012, along with all the relevant record.

On the scheduled date Sh. Joginder Singh Manager of the school appeared and produced the records. Reply to questionnaire was also filed. According to the reply, the school claimed that it had neither hiked the fee in terms of order dt.11-02-2009 of the Director of Education nor had implemented the recommendations of the 6th. Pay commission. The records produced by the school were examined by Sh. A.D. Bhateja, Audit Officer of the Committee. He observed that

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the school had hiked the tuition fee by 10% in 2009-10, but the hike in fee in 2010-11 was to the tune of Rs.100 per month, the maximum amount as per the order dt.11.02.2009 of the Director of Education. The school admittedly had not implemented the 6th Pay Commission report.

In order to provide an opportunity of hearing to the school, vide notice dated 25.04.2013, the school was directed to appear before the Committee on 14.05.2013 along with its fee and accounting records.

On the appointed date of hearing, Sh. Joginder Singh, Manager, Sh. P.K. Rastogi, Member M.C. and Sh. V.K. Saini, Member M.C. of the school appeared before the Committee. They were heard. The records of the school were also examined.

During the course of hearing, the representatives of the school claimed that the recommendation of the 6th Pay Commission had been implemented w.e.f. December 2012. It was also admitted that the school had hiked the fee in 2010-11, 2011-12 and 2012-13 by Rs.100/- per month, which was the maximum permissible hike as per order dt.11.02.2009 of the Director of Education.

The Committee finds that the school had hiked the fee in the following manner:

Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Tuition fee in 2010-11 (Monthly)	Fee hiked in 2010-11	Tuition fee in 2011-12	Fee hike in 2011-12
I -V	390	400	500	100	600	100
VI-VIII	500	550	650	100	750	100

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The Committee has examined the returns of the school, its reply to the questionnaire, the observations of the Audit Officer and the submission made during the course of hearing. Thus during 2010-11, the hike in fee effected by the school was 25% for classes I to V and 18.18% for classes VI to VIII. Again in 2011-12, the hike in fee was 20% for classes I to V and 15.38% for classes VI to VIII. Admittedly, the school had not implemented the 6th Pay Commission in these two years. In these circumstances, the Committee is of the view that even if the claim of the school of having implemented the 6th Pay Commission is accepted, the hike in fee in 2010-11 and 2011-12, which were made in excess of the tolerance limit of 10%, was unjustified and ought to be refunded. The Committee therefore recommends that the hike in the fee effected by the school in 2010-11 and 2011-12 in excess of 10% ought to be refunded along with interest @9% per annum.

Recommended accordingly.

DR. R.K. Sharma
Member

J.S. Kochar
Member

Dated : 01|8|2013

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I agree.
01|8|2013
JUSTICE
ANIL DEV SINGH
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Prince Public School, Mehrauli, New Delhi – 110 030

The school had not replied to the questionnaire sent by the Committee to it on 27/02/2012. However, the returns of the school under rule 180 of the Delhi Education Rules, 1973 were received in the office of the Committee.

On prima facie examination of the returns filed under Rule 180 of the Delhi School Education Rules, 1973, it appeared that the school had hiked the fee pursuant to the order dated.11.02.2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed, vide notice dt.16.07.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 27.07.2012.

On the scheduled date, Shri P.K. Dass, Administrator of the school appeared and submitted reply to the questionnaire. The school in its reply to the questionnaire had submitted that neither the school had implemented the 6th Pay Commission nor had hiked the fee.

Shri A.K. Bhalla, Audit Officer of the Committee examined the records of the school. He had observed that the school has hiked the fee, marginally, but in absence of the fee receipt books, the fee structure could not be verified.

The school representative stated that the fee receipts had been destroyed in an accident of fire. The school was directed to furnish

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whatever records were available with them, on 03-08-2012 for verification.

On 03.08.2012, Shri P.K. Dass, Administrator of the school appeared before the Audit Officer. Shri A.K. Bhalla, Audit Officer of the Committee, recorded that the school had not implemented 6th Pay Commission. The school claimed to have been disbursing salary to the staff in cash, as well as, through bank transactions, but the representative of the school, could not produce bank statements and ledger, therefore, the bank transactions could not be verified. The school had been charging development fee besides fee under the other head. Tuition Fee hiked was less than 10% in 2009-10 in most of the classes, as claimed by the school, which could not be verified in the absence of fee receipt books.

In order to provide an opportunity of hearing to the school, the school was directed to appear before the Committee on 17.05.2013, along with its fee and accounting records.

On the appointed date of hearing, Shri P.K. Dass, Administrative Officer of the school, appeared before the Committee. He contended that the school was not in a position to implement 6th Pay Commission Report. According to him fee was not hiked in accordance with the order dt.11.02.2009 of the Director of Education as the same was increased only to the extent of 10% in the year. The school did not produce its fee records, for the stated reason that the same were destroyed in a fire that broke out in the store room of the

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school on 08.07.2011, for which a report was lodged with the local police station on 09.07.2011.

On examination of the fee schedules, filed by the school, as part of the returns, under Rule 180 of the Delhi School Education Rules, 1973, it transpired that the school had charged development fee at the rate of Rs.1000.00 per annum in 2009-10. The same had been discontinued in 2010-11 onwards. On perusal of the balance sheet of the school, it was noticed that the development fee was neither treated as capital receipt nor separate development fund and depreciation reserve fund was maintained by the school. There are essential pre-conditions for charging Development Fee as laid down by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. UOI and Ors.

In view of the foregoing facts, the Committee is of the view that so far as tuition fee is concerned, no intervention is required as the fee hike appears to be around the tolerance limit of 10%. However, as the school had charged development fee in 2009-10 to the tune of Rs.1,000 p.a. from its students, without fulfilling the essential pre-conditions, the same ought to be refunded along with interest @9% p.a. Recommended accordingly.

Sd/-	Sd/-	Sd/-
Justice Anil Dev Singh (Retd.) **Chairperson**	**Dr. R.K. Sharma** **Member**	**J.S. Kochar** **Member**

Dated: 10.07.2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Vani Public School, Uttam Nagfar, New Delhi-110059

The school had not submitted its reply to the questionnaire sent by the Committee on 27/02/2012. However, the returns of the school under rule 180 of the Delhi School Education Rules, 1973 were received from the Office of the Deputy Director, West-B District of the Directorate of Education. On prima facie examination of the returns, it appeared that the school had hiked the fee in terms of the order dt.11.02.2009 of the Directorate of Education but had not implemented the recommendation of the 6th Pay Commission. Accordingly, the school was placed in Category 'A'.

In order to verify the returns, the school, vide letter dt.07.08.2012 was directed to produce its fee and salary records and also to submit reply to the questionnaire. On 24.08.2012, Shri P.S. Singla, Manager of the school appeared and produced the records of the school. Reply to the questionnaire was also filed, as per which the school had neither implemented the recommendation of the 6th Pay Commission nor had increased the fee. The records produced were examined by Shri N.S. Batra, Audit Officer of the Committee. His observations were that the school had admittedly not implemented the recommendation of the 6th Pay Commission. However, contrary to the claim of the school that it had not hiked the fee in pursuance of the order dt.11.02.2009, the school had actually hiked the fee by Rs.100 per month across the board for all the classes in terms of the aforesaid order.

Notice of hearing dated 26/03/2013 was served to the school and it was directed to appear before the Committee on 08.04.2013 to provide its justification for hiking the fee.

On the appointed date of hearing, Mr. P.S. Singla, Manager and Shri Amit, Secretary of the school appeared before the committee. They were heard. The records of the school were also examined. During the course of hearing, the school representative admitted that the recommendations of the 6th Pay Commission had not been implemented. However, the fee was increased pursuant to the order of Director of Education dt.11-02-2009. The school had increased the fee by Rs.100/- during the year 2009-10. The school had not charged any development fee from the students.

On examination of the fee schedule and fee records, the Committee observes that the school had hiked the fee in the following manner:

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Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
I	385	485	100
II	415	515	100
III	440	540	100
IV	455	555	100
V	465	565	100
VI	485	585	100
VII	495	595	100
VIII	505	605	100

It is evident that the school hiked the fee to the maximum extent permitted by the order dt.11.02.2009 of the Directorate of Education, without implementing the 6th Pay Commission.

In view of the foregoing facts, the Committee is of the view that the fee hiked by the school to the tune of Rs.100 per month per student w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the fees increased w.e.f. 01.04.2009, ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson
Dated: 09.05.2013

DR. R.K.Sharma
Member

JUSTICE
ANIL DEV SINGH
COMMITTEE
For Review of School Fee
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Secretary

I agree

J.S. Kochar
Member

Minerva Academy, Najafgarh, New Delhi-110043

The school had not submitted reply to the questionnaire sent by the Committee on 27/02/2012. However, the returns of the school under rule 180 of the Delhi School Education Rules, 1973 were received from the Office of the Deputy Director, South West-B District of the Directorate of Education. On a prima facie examination of the returns, it appeared that the school had hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education without implementing the recommendation of the 6th Pay Commission. Accordingly, the school was placed in Category 'A'.

The school was directed to produce its fee and salary records vide letter dt.07.08.2012 sent by the Committee. On 24.08.2012, Shri R.L. Dahiya, Manager and Smt. Manjeet Kaur, LDC of the school, appeared and produced the required records. Reply to the questionnaire was also filed, as per which, the school had neither implemented 6th Pay Commission, nor hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education. The records of the school were verified by Shri K.K. Bhateja, Audit Officer of the Committee. His observations were that the school had admittedly not implemented the recommendation of the 6th Pay

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Commission. However, contrary to its claim, the school had, in fact, hiked the fee by Rs.100 per month for all the Classes w.e.f.01.04.2009. The annual charges were also hiked from Rs.480 per annum to Rs.1,000 per annum.

In order to provide an opportunity of hearing to the school, the Committee, vide notice dated 26/03/2013, directed it to appear before the Committee on 08.04.2013.

On the appointed date of hearing, Mr. R.N. Dahiya, President and Ms. Manjeet Kaur, teacher of the school appeared before the Committee. They were heard. The records of the school were also examined. During the course of hearing, the school representatives admitted that the recommendations of the 6th Pay Commission had not been implemented. The actual hike in the fee for the year 2009-2010 by Rs.100/- was also admitted. The annual charges had also been admitted to have been increased from Rs.480/- to Rs.1000/- in 2009-10.

On examination of the records of the school, the Committe observed that the school had hiked the fee in the following manner:

Class	**Tuition fee in 2008-09 (Monthly)**	**Tuition fee in 2009-10 (Monthly)**	**Fee Increase in 2009-10 (Monthly)**
LKG & UKG	240	340	100
I	260	360	100
II	300	400	100
III to V	360	460	100
VI to VIII	400	500	100
Annual Charges	480	1000	520

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It is evident that during the year 2009-10 the fee for all the Classes fee had been increased to the maximum extent permitted by the order dated 11/02/2009, but the school has not implemented the recommendations of the 6th Pay Commissions.

In view of the foregoing facts, the Committee is of the view that the tuition fee hiked by the school to the tune of Rs.100 per month per student w.e.f. April 2009 was not justified as the school has not implemented the VI Pay Commission Report. Therefore, the tuition fee increased w.e.f. 01.04.2009, ought to the refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. With regard to increase in annual charges, the Committee is of the view that the same need not be refunded as the hike is not much. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. R.K.Sharma
Member

Dated: May 09, 2013

J. S. Kochar

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JUSTICE
ANIL DEV SINGH
COMMITTEE
For Review of School Fee

Secretary

Oxford Foundation School, Najafgarh, New Delhi-110043

The school had not submitted reply to the questionnaire sent by the Committee on 27/02/2012. However, the returns of the school under Rule 180 of the Delhi School Education Rules, 1973 were received from the Office of the Deputy Director, South West B District of the Directorate of Education. On a prima facie examination of these returns, it appeared that the school had hiked the fee as per order dt.11-02-2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, the school was placed in Category 'A'.

In order to verify the returns of the school, vide notice dated 07.08.2012, the school was directed to produce its fee and salary records in the office of the Committee on 24.08.2012 and also to submit reply to the questionnaire. On the appointing date Mrs. Anju and Mrs. Sushma, Assistant Teachers produced the required records. Reply to the questionnaire was also filed as per which, the school had neither implemented the 6th Pay Commission nor increased the fee in terms of the order dt.11.02.2009 of the Directorate of Education. The records produced by the school were examined by Shri A.D. Bhateja, Audit Officer of the Committee and his observations were that, contrary to the ~~reply~~ averment in the reply to the questionnaire, the school had increased the fee by Rs.100 to Rs.150 per month for different Classes in 2009-10. However, the hike in fee is 2010-11 was within 10%.

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A notice dt.26-03-2013 was served to the school to give it opportunity of being heard on 08-04-2013 and provide justification for the hike.

On the appointed date of hearing, Ms. Ritu Dhingra, Headmistress of the school appeared before the committee. She was heard. The records of the school were also examined.

During the course of hearing, the school representative admitted that the recommendation of the 6th Pay Commission had not been implemented. However, fee for the year 2009-10 for Class-I to V was hiked by Rs.100 while for Classes VI to VIII increase was by Rs.150 meaning thereby that the increase in the fee was in the range of 28.57% to 37.50%.

The school had hiked the fee in the following manner:

Class	**Tuition fee in 2008-09 (Monthly)**	**Tuition fee in 2009-10 (Monthly)**	**Fee Increase in 2009-10 (Monthly)**
I to V	350	450	100
VI to VIII	400	550	150

It is thus evident that the fee during the year 2009-10 for Classes I to V, had been increased in accordance with order dated 11/02/2009 but for Classes VI to VIII, the fee hike was even more than the limit permitted by the Director of Education vide the same order. The school had admittedly not implemented the recommendations of the 6th Pay Commission.

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In view of the foregoing facts, the Committee is of the view that the fee hiked by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the fee increased w.e.f. 01.04.2009 i.e. Rs.100 per month for Classes I to V and Rs.150 per month for Classes VI to VIII, ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. R.K.Sharma
Member

Dated: 17-05-2013

I agree

J.S. Kochar
Member

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Secretary

Rachna Public School, Village Ghuman Hera, New Delhi-110073

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. However, the returns of the school under Rule 180 of Delhi School Education Rules, 1973 were received from the Office of the Deputy Director, South West B District of the Directorate of Education. On a prima facie examination of these returns, it appeared that the school had hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.07.08.2012, to produce its fee and salary records and also to submit reply to the questionnaire. On 24.08.2012, a letter was received from the school requesting for another date for production of its records. The school was given a final opportunity to do the needful on 10.09.2012. On this date, Mrs. Anita Rani, Principal of the school appeared with Shri Ashok Yadav, General Secretary of the Society and produced the required records. Reply to questionnaire was also filed, in which it admitted having hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education but also claimed that it had implemented the 6th Pay Commission w.e.f. April 2009. It was stated that the monthly salary pre-implementation was

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Rs.2,26,280.00 while post implementation, it was Rs.2,43,375.00. With regard to arrears, it was stated that neither the fee arrears were recovered nor the salary arrears were paid.

The records produced by the school were examined by Shri A.D. Bhateja, Audit Officer of the Committee. His observations were that the school had implemented 6th Pay Commission for namesake only since no DA, HRA or other allowances were paid as per 6th Pay Commission.

In order to provide an opportunity of hearing to the school, vide notice dated 26/03/2013, the school was directed to appear before the Committee on 08.04.2013 along with its fee and accounting records.

On the appointed date of hearing, Ms. Anita Rani, Principal and Shri Ashok Yadav, General Secretary of the school appeared before the committee. They were heard. The records of the school were also examined.

During the course of hearing, the school representatives admitted that the recommendation of the 6th Pay Commission had been implemented partially. The salary to the staff was being paid in cash and no TDS had been deducted from their salaries. The fee had been hiked w.e.f. 01-04-2009 in pursuance to the order dated 11.02.2009 of the Director of Education. In the subsequent year i.e. 2010-11, the fee had been hiked within 10%.

The school had hiked the fee in the following manner:

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Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
I to III	360	460	100
IV to V	415	515	100
VI to VIII	450	550	100

It is thus evident that the fee during the year 2009-10 for all Classes had been increased in accordance with order dated 11/02/2009. As for implementation of the 6th Pay Commission, the Committee is of the view that the monthly hike in salary by Rs.17,095 (Rs.2,43,375 - Rs.2,26,280) is just about 7%. The claim of the school that it implemented can not be accepted.

In view of the foregoing facts, the Committee is of the view that the fee hiked by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the fees increased w.e.f. 01.04.2009 i.e. Rs.100 per month, ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. R.K.Sharma
Member

Dated: 17-05-2013.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

J.S. Kochar
17.5.2013

Murti Devi Public School, Village Nithari, New Delhi-110086

The school had not submitted reply to the questionnaire sent by the Committee on 27/02/2012. However, their returns under Rule 180 of the Delhi School Education Act Rules, 1973 were received from the Office of the Deputy Director North West B District of the Directorate of Education. On a prima facie examination of the returns, it appeared that the school had increased the fee as per order dt.11.02.2009 of the Directorate of Education, without implementing the 6th Pay Commission. Accordingly, the school was placed in Category 'A'.

In order to verify the returns of the school, the school was directed to produce its fee and salary records and also submit its reply to the questionnaire. On 27.08.2012, Headmistress of the school appeared and produced the required records. Reply to the questionnaire was also filed, as per which, the school admittedly having increased the tuition fee w.e.f.01.04.2009 in accordance with the order dt.11.02.2009 of the Directorate of Education but at the same time maintained that it had implemented the 6th Pay Commission w.e.f. April, 2012. The records produced were verified by Shri A.K. Vigh, Audit Officer of the Committee. His observations were that the school had admittedly hiked the fee by Rs.100 per month for all Classes w.e.f.01.04.2009 but had not implemented the 6th Pay Commission.

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In order to provide an opportunity of hearing to the school, notice dt.26.03.2013 was sent to the school for hearing on 08.04.2013.

On the appointed date, Sh. Vasudev Sharma, Accountant, Mrs. Nirmal Gaur, Headmistress and Mrs. Seema, Assistant Teacher of the school, appeared before the committee. They were heard. The records of the school were also examined.

During the course of hearing, the school filed copies of the pay bills for the month of July, 2012 and also written submissions dt.08.04.2013. It was contended that the recommendations of 6th Pay Commission have been implemented w.e.f.July, 2012. On a query from the Committee, it was stated that the salary to the staff was being paid in cash and no TDS had been deducted from the salary. It was admitted that the fee had been increased in the year 2009-10 for all the classes by Rs.100-00 pursuant to the order of the Director of Education dated 11.02-2009.

On examination of the records of the school, the Committee observed that the school had hiked the fee in the following manner:

Class	**Tuition fee in 2008-09 (Monthly)**	**Tuition fee in 2009-10 (Monthly)**	**Tuition Fee Increase in 2009-10 (Monthly)**
I to V	380	480	100
VI to VIII	450	550	100

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Position emerges from the audited balance sheet. The Committee is not convinced of the claim of the school asserted in its reply to the questionnaire that it implemented the 6th Pay Commission w.e.f. April, 2012. We are also not convinced with the subsequent contention of the school urged during the course of hearing that the 6th. Pay Commission report was implemented w.e.f. July, 2012. We can not rely upon stand of the school as the school has not deducted any TDS and the salary was being paid in cash. Moreover, in the written submission dt.08.04.2013, the school admitted that it was paying only the basic pay as per the 6th Pay Commission.

In view of the foregoing facts, the Committee is of the view that the tuition fee hiked by the school to the tune of Rs.100 per month per student w.e.f. April 2009 was not justified. The tuition fee increased w.e.f.01-04-2009, ought to the refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. R.K.Sharma
Member

Dated: 09.05.2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Secretary

(J.S. Kochar)
Member

Dayanand Adarsh Vidyalaya, Tilak Nagar New Delhi-110018

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. On examination of the records, it appeared that the school had hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.08.08.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 27.08.2012. On this date, Mrs. Maya Tiwari, Vice-Principal of the school appeared and produced the required records. Reply to questionnaire was also filed, in which it was admitted that the 6th Pay Commission had not been implemented by the school. With regard to fee hike, the school was evasive in its reply.

The records produced by the school were examined by Shri A.K. Bhalla, Audit Officer of the Committee. His observations were that the school had hiked the fee from 22.63% to 32.87% during 2009-10. However, in 2010-11, the hike in fee was within 10%.

In order to provide an opportunity of hearing to the school, vide notice dated 26/03/2013, the school was directed to appear before the Committee on 09.04.2013 along with its fee and accounting records.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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On the appointed date of hearing, Mrs. Maya Tiwari, Vice-Principal and Mrs. Neeru Kumar, PTT of the school appeared before the Committee. They were heard. The records of the school were also examined.

During the course of hearing, the school representatives admitted that the recommendation of the 6th Pay Commission had not been implemented. It was also admitted that the fee was hiked w.e.f. 01.04.2009, pursuant to the order dt.11.02.2009 of the Director of Education.

During 2009-10, the school had hiked the tuition fee in the following manner:

Class	Tuition fee in 2008-09 Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
Nursery / KG	---	600	---
I	480	600	120
II to III	480	660	180
IV to V	535	710	175
VI to VIII	625	810	185
IX to X	700	880	180

It is thus evident that the tuition fee during the year 2009-10 for Classes I, II & III had been increased more than even the maximum hike permitted by the order dated 11/02/2009. For other Classes also, the hike was between 25% and 33%. The school had admittedly not implemented the recommendation of the 6th Pay Commission. Hence, the school took undue advantage of the order dt.11.02.2009 in hiking the fee without implementing the 6th Pay Commission.

The Committee also took note of the fact that, besides tuition fee, the school was also charging development fee @Rs.400 per annum

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in 2009-10 and @Rs.450 per annum in 2010-11. Examination of the balance sheets of the school revealed that it was neither treating the development fee as a capital receipt nor maintaining any development fund and depreciation reserve fund account. Thus the school was not fulfilling the pre-conditions for charging development fee as laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. UOI.

In view of the foregoing facts, the Committee is of the view that the tuition fee hiked by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the tuition fees increased w.e.f. 01.04.2009, ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. The Committee is also of the view that the school ought to refund the development fee charged in the year 2009-10 and 2010-11 without fulfilling the prescribed condition, along with interest @9%. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson
Dated: 21.05.2013

DR. R.K.Sharma
Member

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Secretary

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

I agree
J.S. Kochar
Member

Mukand Lal Katyal S.D. Sec. School

Ashok Nagar, New Delhi-110018

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. On prima facie examination of the returns submitted by the school under Rule 180 of the Delhi School Education Rules, 1973, it appeared that the school had hiked the fee, without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.08.08.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 27.08.2012. Mrs. Manju, TGT of the school appeared on 27.08.2012 but did not produce any document for verification. She requested for another date to present the desired records. Her request was considered, with the directions that all relevant records be presented on 04.09.2012 for verification. On 04.09.2012, Mrs. Manju, TGT of the school appeared and produced the required records. Reply to questionnaire was also filed wherein it was stated that the 6th Pay Commission had not been implemented but at the same time, fee had also not been hiked by the school.

The records produced by the school were examined by Shri N.S. Batra, Audit Officer of the Committee. He observed that contrary to its contention, the school had actually hiked the fee without

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implementing the recommendations of 6th.Pay Commission. He further observed that in fact the school had hiked the fee much in excess of the maximum hike permitted by the order dt.11.02.2009. In fact, the school filed a letter dt.04.09.2012, vide which, it was admitted that the school had hiked the fee in the middle of session w.e.f. 1.11.2008. However, no prior approval of the Director of Education for such increase, as required under section 17(3) of the Delhi School Education Act, 1973 was produced.

In nutshell, the following position emerged as regards the fee for 2008-09 and 2009-10.

Class	Monthly Tuition fee in 2008-09 (upto October, 2008)	Monthly Tuition fee from 1.11.2008 to 31.3.2009	Monthly Tuition in 2009-10
VI	600	800	900
VII	700	900	1000
VIII	750	1050	1150
IX	850	1200	1300
X	900	1300	1400

The increase in fee w.e.f. 1.11.2008 was clearly unauthorized and in violation of the statutory provisions.

In order to provide an opportunity of hearing to the school, vide notice dated 26/03/2013, the school was directed to appear before the Committee on 09.04.2013 along with its fee and accounting records.

On the appointed date, Mrs. Alka Tyagi, School Incharge and Ms. Manju, TGT of the school appeared before the Committee. They were heard. The records of the school were also examined. During

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the course of hearing, the school representatives admitted that the recommendation of the 6th Pay Commission had not been implemented. However, fee hike was to the tune of Rs.300 to Rs.500 for various classes. The school had admitted that it was charging Rs.90/- as development fee in the year 2008-09 which was merged in the fee for the year 2009-10. According to them, development charges were merged for utilizing the same for payment of salary to the teachers.

In view of the foregoing facts, the Committee is of the view that the fee hiked by the school w.e.f. November, 2008 and again w.e.f. April, 2009 was not justified as the school had not implemented the VI Pay Commission Report. Further, the hike in fee w.e.f. November, 2008 was in violation of law. Therefore, the fees increased w.e.f. 1.11.2008 and 1.4.2009 ought to be refunded along with interest @ 9% per annum. Since the fee hiked for the above period is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson
Dated: 21.05.2013

DR. R.K.Sharma
Member

J.S. Kochar
Member.

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Shri Geeta Bhawan Model School, Tilak Nagar New Delhi-110018

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. On examination of the returns submitted under Rule 180 of the Delhi School Education Rules, 1973, it appeared that the school had hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.08.08.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 28.08.2012. On this date, Mrs. Monica Dhir, Admin Head of the school appeared and produced the required records. Reply to questionnaire was also filed, in which it was stated that the fee had been hiked in accordance with the order dt.11.02.2009 of the Directorate of Education w.e.f. April, 2009. However, it was also claimed that the school had implemented the 6th Pay Commission w.e.f. January, 2012. With regard to arrears, it was stated that the fee arrears were not recovered.

The records produced by the school were examined by Shri A.K. Vijh, Audit Officer of the Committee. His observations were that the accounts of the school had not been audited by the Charted Accountants. The CAs had only given compilation reports of the

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accounts. Further, as per the replies to the questionnaire submitted by the school, the 6th Pay Commission Report had been implemented w.e.f. January, 2012 and the fee had been hiked w.e.f. April, 2009.

In order to provide an opportunity of hearing to the school, vide notice dated 26/03/2013, the school was directed to appear before the Committee on 09.04.2013 along with its fee and accounting records.

On the appointed date of hearing, Mrs. Monica Dhir, Admin Head and Ms. Poonam Khera, UDC of the school appeared before the Committee. They were heard. The records of the school were also examined.

During the course of hearing, the school representatives admitted that the recommendation of the 6th Pay Commission had not been implemented, *which was contrary to the earlier submission before the audit officer and reply submitted in the questionnaire.* The fee hike w.e.f. 01.04.2009 was more than the prescribed limit of the order dated 11.02.2009 of the Director of Education for pre-primary class and in respect of other classes; it was in the range of 20% to 33%. In the subsequent year i.e. 2010-11, the fee had been hiked within the tolerable limit of 10%.

In 2009-10, the school had hiked the fee in the following manner:

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Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
Pre-primary	430	560	130
I	465	560	95
II to V	570	700	130
VI to VIII	590	720	130
IX to X	600	800	200

As for implementation of the 6th Pay Commission, the school representatives admitted that the school had not implemented the same.

In view of the foregoing facts, the Committee is of the view that the fee hiked by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the fees increased w.e.f. 01.04.2009, ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. R.K.Sharma
Member

Dated:21.05.2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

I agree

J.S. Kochar
Member.

Rao Balram Public School Najafgarh New Delhi-110043

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. On prima facie examination of the returns filed under Rule 180 of the Delhi School Education Rules, 1973, it appeared that the school had hiked the fee in accordance with the order dt.11.02.2009 of the Directorate of Education without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.08.08.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 28.08.2012. Sh. Balram, Manager of the school appeared on the scheduled date and produced the required records. Reply to questionnaire was also filed, in which it was stated that the 6th Pay Commission had been implemented w.e.f. ~~April, 2011, but, the fee had not been~~ hiked by the school.

The records produced by the school were examined by Shri N.S. Batra, Audit Officer of the Committee. He observed that the school had hiked the fee by Rs.100/- w.e.f. April, 2009 for all the classes which was the maximum hike permitted vide order dated 11/02/2009 of the Director of Education. The school itself claimed to have implemented the recommendations of 6th.Pay Commission only w.e.f. 1.4.2011. However, on scrutiny of the salaries paid to the staff, it was

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found that even their claim was not true as the school had only partially implemented the same.

In order to provide an opportunity of hearing to the school, vide notice dated 26/03/2013, the school was directed to appear before the Committee on 09.04.2013 along with its fee and accounting records.

On the appointed date of hearing, Sh. Balram, Manager and Sh. Kokindra, Principal of the school appeared before the Committee. They were heard. The records of the school were also examined. During the course of hearing, the school representatives admitted that the recommendation of the 6th Pay Commission had only been partially implemented w.e.f. April, 2011.. It was also admitted that the fee was hiked from the year 2009-10, and the hike was in the range of 22.7% to 33.3%. For the year 2010-11, there was no increase in the fees. In the year 2011-12, the increase in the fee was less than 10%.

The school had hiked the fee in the following manner:

Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
I	300	400	100
II	320	420	100
III	340	440	100
IV	360	460	100
V	380	480	100
VI	400	500	100
VII	420	520	100
VIII	440	540	100

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It is thus evident that the fee during the year 2009-10 for all classes had been increased to the maximum extent permitted by the order dated 11/02/2009 of the Director of Education.

In view of the foregoing facts, the Committee is of the view that the fee hiked by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Further, even the partial implementation was done w.e.f. 1.4.2011. Therefore, the fee increased w.e.f. 01.04.2009, ought to be refunded along with interest @ 9% per annum. However, since the school did not increase any fee in 2010-11, the Committee is not recommending the refund of any part of the fee for subsequent years.

Recommended accordingly.

Justice Anil Dev Singh(Retd.)
Chairperson

DR. ~~R.K.~~Sharma
Member

Dated: 21.05.2013

I agree

(J.S. KOCHAR)
Member

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ANIL DEV SINGH
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Dashmesh Public School, Mayur Vihar Phase-III, Delhi-110096

The school had not replied to the questionnaire sent by the Committee on 27.02.2012. On prima facie examination of the returns filed under Rule 180 of the Delhi School Education Rules, 1973, it appeared that the school had hiked the fee in pursuant to order dt.11.02.2009 of the Director of Education, without implementing the 6th Pay Commission. Accordingly, it was placed in Category 'A'.

In order to verify the returns of the school, it was directed vide notice dt.05.09.2012, to produce its fee and salary records and also to submit reply to the questionnaire on 19.09.2012.

On 19.09.2012, Ms. Vinay Pandey, TGT of the school appeared and produced the required records. Reply to questionnaire was also filed, in which it was stated that neither the 6th Pay Commission had been implemented nor the fee had been hiked by the school in accordance with the order dt.11-02-2009 issued by the Director of Education.

The records produced by the school were examined by Shri N.S. Batra, Audit Officer of the Committee. He observed that, during 2009-10, tuition fee, in case of pre-nursery classes, had been increased from Rs.250 per month to Rs.400 per month i.e. by 60%. However, there had been no fee hike for other classes. The school had hiked annual charges for pre-nursery classes from Rs.500/- to Rs.1,650/- during the same year.

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The Audit Officer of the Committee further recorded that during 2010-11, the fee had been hiked for all classes ranging from Rs.135 per month to Rs.250 per month i.e. by 25% to 50%. The school had also hiked annual charges in the range of 14.2% to 30% for different classes.

In order to provide an opportunity of hearing, vide notice dated 25/04/2013, the school was directed to appear before the Committee on 14.05.2013, along with its fee and accounting records.

On the date of hearing, Ms. Harpreet Kaur, UDC and Ms. Vinay Pandey, PGT of the school appeared before the Committee. They stated that there had been bereavement in the family of the Principal of the school and, requested that the matter may be taken up on 23-05-2013. Accordingly, hearing was adjourned.

On 23.05.2013, S. Balbir Singh, Chairman, Ms. Sarita Saxena, Principal, Mr. Arvind Mittal, C.A., Ms. Vinay Pandey, PGT, Ms. Gurpreet Kaur, O.S. and Ms. Harpreet Kaur, UDC appeared before the Committee along with records.

The representatives of the school contended that the school did not hike any tuition fee in 2009-10 & 2010-11. The school had given substantial concession to the students in 2009-10 and 2010-11, out of annual charges, development fee, term fee and computer fee. The school also submitted a letter dt.14.05.2013 contending that in 2009-10, on representation of the parents, 30% of the fee hike was taken back and in 2010-11 also, the hike was partially rolled back.

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Besides, the school was giving 50% concession to fatherless children. The school produced books of accounts and fee records in support of the submission. The school had been charging development fund and it was treated as revenue receipt and no separate fund had been maintained for depreciation reserve and un-utilized development fund.

The contentions of the school with regard to the roll back and concession given to the students have been examined by the Committee from the records produced by the school. The same have been found to be correct. As such no intervention is called for with regard to tuition fee and annual charges.

With regard to development fee, the Committee is of the view that since the pre-condition laid down by the Duggal Committee, which were affirmed by the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., were not been fulfilled, the school ought to refund the Development Fee of Rs.6,73,710.00 charged in 2009-10 and Rs.19,54,020.00 charged in 2010-11 along with interest @9% per annum.

Recommended accordingly.

DR. R.K.Sharma	**CA J.S. Kochar**
Member	**Member**

Dated: 15.07.2013

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15/07/2013

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DAV Public School, Sreshtha Vihar, New Delhi-110092

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school Vide letter dated 01/03/2012 stated that it had implemented the VI Pay Commission w.e.f. 01/02/2009. It was further stated that the arrears of salary arising on account of retrospective implementation of VI Pay Commission had also been paid. With regard to increase in fee, the school stated that the fee had been increased @ Rs. 300 per month per student in accordance with the order dated 11/02/2009 issued by the Director of Education and it had also recovered arrears of fee from students in accordance with the said order. It also submitted a chart showing the pre and post increase salary, arrears of salary paid on various dates and pre and post increase fee and also the arrears of fee recovered. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the

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school as on 31/03/2008 were to the tune of **Rs. 2,09,85,695**. The arrears of VI Pay Commission paid to the staff were **Rs. 2,75,16,274.** The arrears of fee recovered from the students was **Rs. 2,03,20,083.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs.3,09,32,151**. The incremental revenue of school on account of increase in fee from 01/09/2008 to 31/03/2010 was **Rs. 2,45,91,840**. The school was, therefore, served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee on 09/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had hiked more fee than was required to offset the additional burden on account of implementation of the VI Pay Commission Report. The Committee received a request letter dated 02/01/2013 from the school requesting for postponement of hearing on account of non availability of the concerned person. As requested, the hearing of the school was postponed to 18/01/2013. On this date, Sh. Sanjeev Aggarwal, Chartered Accountant and authorized representative appeared with Sh. Manoj Gupta, Sr. Superintendent of the School. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 04/02/2013. When queried with regard to development fee charged by the school, they fairly conceded that the development

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fee was treated as a revenue receipt in the accounts and no separate development fund or depreciation reserve fund accounts were maintained.

On 04/02/2013, Sh. S.C. Gupta, Manager of the school appeared along with the aforesaid representatives. They confirmed that the preliminary calculations made by the CAs detailed with the Committee were correct and stated that they had nothing more to say.

Discussion

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the submissions of the school regarding development fund as recorded on 18/01/2013 and the confirmation of the calculations made by the CAs by the school. On the basis of the admitted position, the following determinations are made.

Determinations:

1. **Tuition fee**

The funds available with the school as on 31/03/2008 are admittedly **Rs. 2,09,85,695.** Although, the school has not made any claim with regard to keeping some funds in reserve, the Committee, consistent with the view taken in the case of other schools, is of the view that the school ought to maintain a

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reserve equivalent to four months' salary and only the balance should be treated as available for implementation of VI Pay Commission Report. The monthly expenditure of salary, post implementation of VI Pay Commission, as claimed by the school is Rs. 54,52,088. Four months salary on the basis of this works out to **Rs. 2,18,08,352**. The school contributes to a gratuity pool account maintained by DAV Trust which is charged to revenue every year and the liability for payment of gratuity is taken care of by the Trust. The school, therefore does not have any liability for payment of gratuity.

After taking into consideration, the funds already available with the school, for maintaining a reserve as mentioned hereinfore and for payment of arrears of VI Pay Commission, the school needed to recover a sum of Rs. 2,83,38,931 as arrear fee. As against this, the school recovered a sum of Rs. 2,03,20,083 as arrear fee. Thus the school was in deficit to the tune of **Rs. 80,18,848** upto the point of payment of arrear salary. Further, the incremental salary for the period 01/09/2008 to 31/03/2010 on account of implementation of VI Pay Commission was Rs. 3,09,32,151. As against this, the incremental fee accruing to the school on account of fee hike for this period amounted to Rs. 2,45,91,840. Thus on this account also, the school was in deficit to the tune of **Rs. 63,40,311**.

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Thus the school recovered a sum of **Rs. 1,43,59,159 short of its requirement,** for implementation of VI Pay Commission report.

Development Fee

The school fairly conceded that it was treating development fee as a revenue receipt instead of treating it as a capital receipt and further the school was not maintaining any development fund or depreciation reserve fund. These are the pre-conditions which have to be fulfilled by the school for charging development fee as per the recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583. The Committee is of the view that the development fee charged by the school was not in accordance with the law laid down by the Hon'ble Supreme Court. On examination of the financials of the school for the years 2009-10 and 2010-11, it is apparent that the school recovered a sum of **Rs. 1,01,78,290** as development fee in 2009-10 and **Rs. 1,12,67,555** in 2010-11. These were unauthorized charges and liable to be refunded to the students.

Recommendations:

In view of the determinations made by the Committee as above, the school ought to refund a sum of Rs. 70,86,686, as mentioned here under, along with interest @ 9% per annum.

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Development fee for 2009-10	**Rs.1,01,78,290**	
Development fee for 2010-11	**Rs.1,12,67,555**	**Rs.2,14,45,845**
Less short fall in recovery of tuition fee		**Rs.1,43,59,159**
Net amount refundable		**Rs.70,86,686**

Recommended accordingly.

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 09/05/2013

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B-7

Bal Bhavan Public School, Mayur Vihar-II, Delhi-110091

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school vide letter dated 01/03/2012 stated that it had implemented the VI Pay Commission w.e.f. 01/04/2009. However, it was also stated that the school had not paid the arrears of salary arising on account of retrospective implementation of VI Pay Commission as the school had not recovered any arrear fee from the students. The parents had refused to pay the arrears and the school on its own did not have sufficient funds to pay the arrears. It was further stated that the teachers and other staff members had voluntarily agreed, not to claim or insist for the arrears at any point of time. The school also stated that it had prospectively increased the fee w.e.f. 01/04/2009 in accordance with the order dated 11/02/2009 issued by the Director of Education. Along with the reply, the school enclosed pay bill, one for the month of March 2009 to show that the monthly salary bill before implementation of VI Pay Commission was Rs. 4,78,845 and the other, for the month of April 2009 to show that the monthly salary bill after implementation of VI Pay Commission was Rs. 9,26,083. Schedule of fee for the years 2008-09 and 2009-10 as also the enrolment details as on 31/07/2008 and 31/07/2009 were also enclosed with the reply. As per the fee schedules for the two years, there was a hike of Rs. 300 per month in the tuition fee of the

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students. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/04/2009, the audited balance sheet of the school as on 31/03/2009 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2009 were to the tune of **Rs. 1,99,64,685.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/04/2009 to 31/03/2010 was **Rs. 53,66,856**. The incremental revenue of school on account of increase in fee from 01/04/2009 to 31/03/2010 was **Rs. 29,98,800**. The school was served with a notice dated 21/01/2013 for providing it an opportunity of hearing by the Committee on 07/02/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had sufficient funds to meet the additional burden on account of implementation of the VI Pay Commission Report and it did not have to hike the fee.

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On the appointed date, Sh. G.C. Lagan, President of the Society appeared with Sh. B.B. Gupta, Principal of the school, and Sh. Sachin Aggarwal, Chartered Accountant. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 28/02/2013. As the school was found to be charging development fee also, the school was asked to give specific replies to the queries regarding development fee namely, how development fee was treated in the accounts and how was it utilised. It was also required to inform whether separate development fund and depreciation reserve fund accounts were maintained by the school.

Submissions:

On 28/02/2013, Sh. G.C. Lagan and Sh. B.B. Gupta again appeared and filed written submissions dated 28/02/2013. The school contended that a sum of Rs. 60,00,000 was paid as earnest money on 27/03/2009 for purchase of land for Residential Senior Secondary School and the balance amount of Rs. 1,86,75,000 was paid on 04/06/2009. Copies of the sale deed and receipts of earnest money payment and balance payment were filed in evidence. It was contended that the CAs attached with the Committee had wrongly included the sum of Rs. 60,00,000 in the current assets as part of the funds available. It was further contended that it should have been

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treated as an investment out of development fund. The school also filed a computation showing its version of funds available as on 31/03/2009 and as on 31/03/2010. As per its computation, the net current assets of the school were just Rs. 1,15,638 as on 31/03/2009 while the corresponding figure as on 31/03/2010 was a negative at Rs. 60,66,265. On comparison of the figures of funds available as determined by the CAs detailed with the Committee with the figures worked out by the school, it is apparent that the school has disputed two figures viz (i) Current assets, loans and advances which had been taken at Rs. 80,51,193 by the CAs detailed with the Committee, and (ii) the investments taken by the CAs at Rs. 1,17,97,854. The school in its working of funds available omitted both these items. These two omissions account for the difference of Rs. 1,98,49,047 in the funds available as worked out by the CAs from the figure worked out by the school._The explanation offered by the school by way of notes on its computation statement was as follows:

(i) Staff advance (Rs. 19,85,000) was recoverable in more than 12 months and hence should not have been taken as current asset.

(ii) TDS recoverable (Rs. 62,893) was non recoverable.

(iii) Security with DVB (Rs. 3,300) was a permanent security and hence ought to have been excluded.

(iv) Advance against school land (Rs. 60,00,000) should have been excluded.

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(v) FDRs for Rs. 1,17,97,854 should have been excluded as they were kept earmarked for the balance payment of land.

Discussion

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the calculation sheet prepared by the school, and its oral and written submissions. The points of divergence as brought out by the school are discussed hereinafter.

(i) **Staff advance (Rs. 19,85,000)**

Perusal of the balance sheet of the school as on 31/03/2008 shows that the school had given a housing loan of Rs. 3,00,000 to the staff. During 2008-09, the school gave a further sum of Rs. 16,85,000 as housing loan. The school has not furnished any detail as to whom the housing loan has been given. The school is not a financial institution to be giving housing loans to staff or any other person out of the school fund. The accounts of the school do not show any income otherwise than by way of fee except for some amounts of interest on FDRs which again have been made out of fee. Section 18 (4) (a) of Delhi School Education Act 1973 provides that income derived by an unaided school by way of fees shall be utilised only for such educational purposes as may be prescribed. The educational purposes for which fee may be utilised are given in Rule 177 of Delhi School Education Rules 1973. Giving of housing loans to staff or any other person is not mentioned as one of the items of utilisation. Hence, the Committee is of the view that giving of housing loans to staff or any other person tentamounts to diversion of funds for unauthorized purposes and therefore, the Committee does not agree with the contention of the school that this amount should be excluded from the computation of funds available with the school.

(ii) **TDS recoverable (Rs. 62,893)**

The Committee rejects the contention of the school that TDS recoverable should not be included in the computation of funds available as the same is deducted from the Income of the school which is exempt from tax and hence the TDS is refundable to the school and therefore can legitimately be taken as part of the funds available.

(iii) **Security with DVB (Rs. 3,300)**

The Committee accepts the contention of the school that the security deposited with Delhi Vidyut Board, being of a

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permanent nature ought to be excluded from the computation of funds available.

(iv) **Advance against school land (Rs. 60,00,000)**

On perusal of the documents submitted by the school, it is apparent that the school paid for purchasing agricultural land in village Badot in **Sonepat district (Haryana)** for which it paid an advance of Rs. 60,00,000 on 27/03/2009. The claim of the school that the land is purchased for a Residential Senior Secondary School cannot be accepted for the reason that it is an agricultural land. Further, the land is purchased outside Delhi and in the opinion of the Committee, this was not a permitted utilisation out of the development fee as contended by the school. This issue will be discussed in detail while we deal with the issue of development fee. The Committee is of the view that this represents diversion of funds for non educational purposes and ought to be included in the computation of funds available with the school. The contention of the school that it should be excluded from such computation is thus rejected.

(v) **FDRs for Rs. 1,17,97,854**

For the reasons given in respect of earnest money for purchase of land, the committee rejects the contention of the school that the FDRs to the tune of Rs. 1.17 crores should be excluded from the computation of funds available as they were kept in reserve for making balance payment of land.

(vi) **Provision for Gratuity and leave encashment**:

The school has neither made any provision in the balance sheet for accrued liabilities, if any, for gratuity and leave encashment nor has made any such claim during the course of hearing. It appears that either the school does not pay gratuity and leave encashment as a matter of policy or none of its staff members was entitled to it. In the absence of any such claim, the Committee cannot allow any deductions for these items.

Determinations:

1. **Tuition fee**

The net funds available with the school as on 31/03/2009 are determined to be **Rs. 1,99,61,385** as follows:

Particulars	Amount(Rs.)
Funds available as per preliminary calculation sheet	1,99,64,685
Less deductions as per discussion above (i) Security with DVB	3,300
Net funds available	**1,99,61,385**

The Committee has taken a view in case of others schools that the entire funds available with the school ought not to be considered available for payment of increased salaries on

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account of implementation of VI Pay Commission. A sum equivalent to four months' salary ought to be retained by the schools to meet any future contingency. The monthly salary of the school post implementation of VI Pay Commission was Rs. 9,26,083. Four months' salary on the basis of this works out to Rs. 37,04,322, which, in view of the Committee, the school should keep in reserve. Therefore the funds available with the school for the purpose of implementation of VI Pay Commission are determined to be **Rs. 1,62,57,053.** The school did not pay any arrears to the staff nor does it have to pay the same in terms of the settlement arrived at with its staff. The incremental salary for the year 2009-10 on account of implementation of VI Pay Commission has been worked out at **Rs. 53,66,856** which the school has not disputed. In view of these facts, the Committee is of the view that the school was not justified in increasing any fee for the purpose of implementation of VI Pay Commission. However, the school admittedly increased the tuition fee @ Rs. 300 per month. The aggregate incremental revenue for 2009-10 on account of increase in tuition fee amounts to Rs. 29,98,800. **The Committee is of the view that the school ought to refund the entire incremental fee of Rs. 300/- per month per student amounting to Rs.29,98,800 for the year 2009-10 along with interest @ 9% per annum. Recommended accordingly.**

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Development Fee

As noted above, the school was asked to give specific replies to the three queries regarding development fee raised by the Committee. However, the school avoided giving any reply to those queries. It only contended that it had purchased land worth Rs. 2,46,75,000 for a Residential Senior Secondary School in Haryana. Purchase of real estate is not a permitted usage of development fee as per the Duggal Committee Report and as per the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583. It would be profitable to quote from the Duggal Committee Report on this issue. In paras 7.21 and 7.24, it is observed:

> *7.21 Provided a school is maintaining a depreciation reserve fund equivalent to depreciation charged in the revenue accounts, schools could also levy, in addition to the above four categories, a Development fee annually, as a capital receipt not exceeding 10% of the total annual tuition fee* ***for supplementing the resources for purchase, upgradation and replacement of furnitures, fixtures and equipment. At present these are widely neglected items, notwithstanding the fact that a large number of schools were levying charges under the head 'Development Fund'.***
>
> *7.24 Simultaneously, it is also to be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the Society out of the fee and other charges collected from the students;* ***or where the parents are made to bear, even in part, the financial burden for the creation of the facilities including building, on a land which had been given to the Society at concessional rate for carrying out a "philanthropic" activity.*** *One only wonders what then is the contribution of the society that professes to run the school.*

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Reading the two recommendations together, it is absolutely clear that the schools were authorized to charge development fee only for the purpose of purchase, upgradation and replacement of furnitures, fixtures and equipments which, in view of the Duggal Committee, remained neglected items. Further, the next recommendation specifically prohibits the schools from recovering any fee for creation of facilities including building or land. These recommendations have been affirmed by the Hon'ble Supreme Court in the case of Modern Schools (supra).

Further, on perusal of the balance sheet and Income & Expenditure accounts of the school, it becomes apparent that neither the school has capitalized the development fee nor any development fund or depreciation reserve fund accounts are maintained. In fact development fee is not shown as a head of account either in balance sheet or in Income & Expenditure account or in Receipt and Payment account. It seems to be included in the consolidated figure appearing under the head "Fees and funds" in the Income & Expenditure Account. Perusal of the fee schedule of the school for year 2009-10 and 2010-11 shows that the school was charging development fee at the rate of Rs. 3,000 per annum in 2009-10 and 2010-11. Since the school has not complied with any of the pre conditions for charging development fee in terms of the Duggal Committee Report which were affirmed by the Hon'ble Supreme Court, the Committee is of the view that the development fee charged by the school was not in accordance

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with the law laid down by the Hon'ble Supreme Court. **The school ought, therefore, to refund the development fee of Rs. 3,000 per annum charged from the students in the years 2009-10 and 2010-11 along with interest @ 9% per annum. Recommended accordingly.**

Sd/- Sd/- Sd/-

Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 27/06/2013

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Mahavir Senior Model School, G.T. Karnal Road, Delhi-110033

Vide letter dated 7th February 2012, the school submitted to the Education Officer, Zone –IX of the Directorate of Education, copies of its annual returns under Rule 180 of the Delhi School Education Rules 1973 along with a copy of the letter sent to the parents for fee hike and salary sheets for March 2009, April 2009, September 2009, October 2009, December 2009 and May 2010. These documents were transmitted to the office of the Committee by the Education Officer.

In response to the questionnaire dated 27/02/2012 sent by the Committee, the school vide reply dated 29/02/2012 stated that the school had implemented the VI Pay Commission Report and salary was paid to the eligible staff in accordance therewith w.e.f. January 2006. Comparative figures of salary paid in the month of April 2009 and June 2009 were furnished to show the impact of the VI Pay commission on the salary bill. It was stated that the salary bill for the month of April 2009 was Rs. 14,48,900 which shot up to Rs.22,26,534 for the month of June 2009. It was thus contended that as a result of implementation of VI Pay Commission, the regular monthly salary of the staff increased to the tune of Rs. 7,77,634 per month. It was also stated that total arrears amounting to Rs.1,06,19,997 were paid for the period 01/01/2006 to 31/08/2008 and Rs. 65,34,956 for the period 01/09/2008 to 31/05/2009. It was also stated that the school had also increased the fee in accordance

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with the order dated 11/02/2009 issued by the Director of Education. The fee was stated to have been increased w.e.f. Ist September 2008. Annexures were enclosed to show the fee charged for the year 2008-09 and 2009-10 and also the arrear fee recovered from the students. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs. 5,69,31,038**. The arrears of VI Pay Commission paid to the staff were **Rs. 1,06,19,997.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs.1,43,11,296**. The school was, therefore, served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee on 23/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that no fee hike was required to be made having regard

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to the fact that the school had sufficient funds available with it to meet the additional liability arising on account of implementation of the VI Pay Commission Report. The hearing of the school was postponed to 14/02/2013. On this date, Sh. S.L. Jain, Principal of the school appeared with Sh. Ashok Kumar Jain, Accounts Officer and Sh. Dinesh Kumar Gupta, Accounts Assistant. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 01/03/2013. They were also asked to specifically respond to certain queries raised by the Committee with regard to collection of Development fee, its treatment in the accounts and maintenance of earmarked accounts for development fund and depreciation reserve fund.

On 01/03/2013, the aforesaid representatives of the school again appeared accompanied by Sh. N.K. Jain, Chartered Accountant and filed detailed written submissions dated 27/02/2013 along with the school's own calculations of funds available with reference to the impact of VI Pay Commission on the salary outgo. The representatives of the school were heard at length. As certain calculations regarding the liability of gratuity and leave encashment were not furnished, the school was given liberty to furnish the same. These details were furnished by the school on 06/03/2013. The school also took opportunity to supplement its submissions with

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regard to maintenance of development fund/depreciation reserve fund. The school also revised its own calculations of availability of funds which it had submitted on 01/03/2013 as part of its written submissions.

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the written submissions dated 27/02/2013 and 06/03/2013 along with additional documents filed by the school during the course of hearing and also the calculation sheet prepared by the school. The Committee has also considered the oral submissions advanced on behalf of the school.

Submissions:-

1. As per the revised calculation sheet submitted by the school, it is claimed that the funds available with the school as on 31/03/2008 were Rs. 37,08,269 as against Rs. 5,69,31,038 calculated by the CAs detailed with the Committee. The difference of Rs. 5,32,22,769, as per the submissions of the school, is on account of the following:
   (a) A sum of Rs. 33,929 representing pre paid insurance has been taken by the CAs as part of available funds which should not have been taken as it is not a liquid asset.
   (b) A sum of Rs. 53,850 representing security deposit with various agencies like DTC, NDPL, Indane Gas Service, MTNL

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etc. should not have been taken as part of available funds as they perpetually remain deposited.

(c) A sum of Rs. 48,50,000 which represents a reasonable reserve and appears in the balance sheet as Reserve Fund should have been deducted from the funds available as the same is maintained for meeting contingencies/developmental future projects.

(d) A sum of Rs. 10,63,154 representing Transport Fund should have been deducted from the funds available as the same is a specific fund, accumulated out of transport fee and has actually been utilized for purchase of school bus in 2010-11.

(e) A sum of Rs. 1,59,57,462 represents Depreciation Reserve Fund which has been created in accordance with the orders the Apex Court and directions of Directorate of Education and as such should have been deducted from the funds available.

(f) A sum of Rs. 1,37,48,331 represents Development Fund and has been created in accordance with the orders the Apex Court and directions of Directorate of Education and as such should have been deducted from the funds available.

(g) A sum of Rs. 93,76,140 is a provision for gratuity and should have been deducted from the funds available as payment of gratuity is a legal obligation.

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(h) A sum of Rs. 30,74,197 is a provision for leave encashment and should have been deducted from the funds available as it is a legal obligation.

(i) A sum of Rs. 42,60,843 representing three months salary should have been deducted from the funds available as the same has to be kept in reserve for any unforeseen contingent/legal liability/financial obligations.

(j) A sum of Rs. 2,18,516 should have been deducted from the funds available as the same is a compulsory reserve to be made for affiliation with CBSE.

(k) A sum of Rs. 4,71,347 representing fee concession fund should have been deducted from the funds available as the same has been kept to give financial help to the needy students in the form of fee concession and cannot be utilized for any other purpose. It is also contended that this fund was not created out of school fee but out of donations received for this specific purpose.

(l) A sum of Rs. 1,15,000 has been kept in reserve to award prizes to the students on the occasions of annual day. This fund has also been created out of donations and not from the school fees.

2. The school has also contended that there are minor errors in the calculations made by the CAs with regard to incremental salary paid and incremental fee accruing as a result of

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implementation of VI Pay Commission and the resultant fee hike. These differences, as claimed by the school, are as follows:

(a) There is a difference of a sum of Rs. 50,955 in the figure of increased salary payable as per VI Pay Commission for the period 01/09/2008 to 31/03/2009. As against the figure of Rs. 50,82,744 taken by the CAs, the correct figure, as per the contention of the school, is Rs. 51,33,699.

(b) There is a difference of Rs. 3,40,182 in the figure of increased salary as per VI Pay Commission for the period 01/04/2009 to 31/03/2010. As against the figure of Rs. 92,28,552 taken by the CAs , the correct figure, as per the contention of the school , is Rs. 95,68,734.

(c) There is a difference of Rs. 4,02,000 in the figure of the incremental fee for the period 01/04/2009 to 31/03/2010. As against the figure of Rs. 53,85,600 taken by the CAs, the correct figure as claimed by the school is Rs. 49,83,600. The difference is explained by the school to be due to non recovery or concessional recovery from certain categories of students, enjoying special benefits.

3. The school has also made detailed submissions with regard to development fee, maintenance of development fund and depreciation reserve fund. These submissions will be dwelt on in the latter part of our recommendations, when we consider the issue of development fee.

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Discussion

Re.: Funds available as on 31/03/2008

On going through the submissions of the school, it is observed by the Committee that the school has not disputed the basic figures of the balance sheet as on 31/03/2008 which formed the basis of calculations of funds available with the school. However, contentions have been raised with regard to the figures representing certain specific heads which the school maintains should either not be treated as part of funds available or they should be deducted from the funds available for meeting specific liabilities. Hence it would be in order to consider the specific items claimed by the school which should be excluded from the figure of funds available as worked out by the CAs attached with the Committee.

(a) With regard to **Rs. 53,850** representing security deposit with various agencies, **Rs. 2,18,516** representing compulsory reserve to be maintained with CBSE, the Committee accepts the contention of the school that these should not be treated as part of funds available for the purpose of meeting its obligations arising out of implementation of VI Pay Commission Report as they are non current assets.

(b) The Committee also accepts the contention of the school with regard to Transport Fund amounting to **Rs. 10,63,154, Rs.4,71,347** representing fee concession fund and

Rs.1,15,000 representing Prize Fund as these are specific funds which are not available for utilization for any other purpose.

(c) With regard to provision for gratuity amounting to Rs. 93,76,140 and provision for leave encashment amounting to Rs. 30,74,197, the Committee is in agreement with the contention of the school that out of the available funds, funds to meet the accrued liabilities on these counts should be kept apart and should not be utlised for payment of increased salaries on account of VI Pay Commission. The Committee is of the view that these liabilities as on 31/03/2010 should be reduced from the funds available and not as on 31/03/2008. The details of liabilities as on 31/03/2010 furnished by the school are as follows:

Provision for gratuity	1,46,57,180
Provision for earned leave	46,45,815

However, on examination of the details furnished, the Committee finds that in so far as provision for gratuity is concerned, the school has provided for gratuity of 5 staff members who had not completed five years of service as on 31/03/2010. As such, there was no accrued liability of gratuity due to them. The amount provided in respect of these five staff members is Rs.72,258 which needs to be deducted from the provision for gratuity. Hence for the purpose of calculation, the accrued liability of gratuity is taken at **Rs. 1,45,84,922**.

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(d) The Committee does not accept the contention of the school regarding prepaid insurance amounting to Rs. 33,929 as the school was yet to receive the value of this amount as on 31/03/2008. This amounts to an advance payment, the benefit of which will be utilized in the subsequent year when the charge for insurance will be lesser to this extent in the Income and Expenditure statement.

(e) With regard to reserve fund of Rs. 48,50,000 and three months' salary amounting to Rs. 42,60,843, the Committee is of the view that both these amounts have been kept by the school for meeting future contingencies. Together, they are excessive reserves. The Committee is of the view that the school may keep total reserve equivalent to four months' salary which amounts to **Rs. 56,81,124** for any future contingencies.

(f) The Committee does not accept the contention of the school that reserves amounting to Rs. 1,59,57,462 representing depreciation reserve and Rs. 1,37,48,331 representing development fund should be deducted from the funds available, for the reason that the conditions attached to these reserves are not fulfilled by the school as these are not kept in separate earmarked FDRs or investments or bank accounts. The detailed reasoning in respect of these amounts will be given by us while discussing the issue of development fee.

(g) With regard to incremental fee and salaries consequent to implementation of VI Pay Commission report, the Committee

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accepts the figures given by the school since they are culled out from their accounting records, while the figures calculated by the CAs attached with the Committee are based on calculations and extrapolations.

Determinations:

1. **Tuition fee**

The funds available with the school as on 31/03/2008 are determined to be Rs. **5,50,09,171** as per the following calculations.

Particulars		Amount
Net current assets + Investments as per the preliminary calculation sheet		**5,69,31,038**
Less Deductions as per the above discussion: (a) Security deposit (b) FDRs pledged with CBSE (c) Transport Fund (d) Fee concession fund (e) Prize fund	 53,850 2,18,516 10,63,154 4,71,347 1,15,000	**19,21,867**
Net funds available		**5,50,09,171**

However, the Committee is of the view that out of the total funds available, the school ought to keep in reserve the following amounts:

Accrued liability of gratuity as on 31.03.2010	Rs.1,45,84,922
Accrued liability of Earned leave as on 31.03.10	Rs. 46,45,815
Reserve equivalent to 4 months salary	Rs. 56,81,124
	Rs.2,49,11,861

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Excluding the aforementioned amounts to be kept in reserve, the net funds available with the school, which could be used for meeting its obligations arising out of implementation of VI Pay Commission Report, were **Rs. 3,00,97,310**. As against this, the liability of the school for payment of arrears from 01/01/2006 to 31/08/2008 on account of retrospective application of VI Pay Commission was **Rs. 1,06,19,997**. Hence the school had sufficient funds of its own to pay the arrears and there was no need to recover the arrear fee from the students. However, the school, of its own accord, has admitted that it recovered the arrears for this period which amounted to **Rs. 33,56,000**. **The Committee is of the view that this recovery of Rs. 33,56,000 was wholly unjustified and ought to be refunded along with interest @ 9% per annum. Recommended accordingly.**

After payment of arrears salary as above, the school would have been left with funds to the tune of **Rs. 1,94,77,313**. The increased salary on account of implementation of VI Pay Commission for the period 01/09/2008 to 31/03/2009 was **Rs.51,33,699.** The school could have paid this amount also from its own coffers and there was no need to recover the increased fee for this period. **The school has admitted that it recovered a sum of Rs. 28,39,550 by way of increased fee for this period. The Committee is of the view that this fee**

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hike was also not justified and the same ought to be refunded along with interest @ 9% per annum. Recommended accordingly.

After payment of arrears for the period 01/09/2008 to 31/03/2009, the school would have still been left with funds to the tune of **Rs. 1,43,43,614.** The incremental liability of the school for payment of increased salary for the period 01/04/2009 to 31/03/2010 was **Rs. 95,68,734**. The funds available with the school were more than adequate to meet this increased expenditure and hence the school ought not to have resorted to effecting a fee hike for the period 01/04/2009 to 31/03/2010. **The school, of its own accord, admitted that it recovered a sum of Rs. 49,83,600 by way of increased fee for this period. The committee is of the view that this recovery was also unjustified and the same ought to be refunded along with interest @ 9% per annum. Recommended accordingly.**

<u>**Development Fee**</u>

The school vide its written submissions dated 27.02.2013 and 06/03/2013 has made very detailed submissions justifying the recovery of development fee and maintaining that it has fulfilled all the conditions that have been laid down in the Duggal Committee Report, the directions of the Directorate of Education and the law laid down by the Hon'ble Supreme Court.

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Before elaborating the submissions made by the school, it would be in order to set out the basic figures of collection of development fee by the school. The same are as follows:

Financial Year	Development Fee Received Amount (in Rs.)
2006-07	28,45,739
2007-08	28,89,206
2008-09	36.72,708
2009-10	39,55,243
2010-11	44,76,255

The school has contended that development fee is being treated as a capital receipt as per order dated 15/12/1999 of the Director of Education. The same is held in a development fund account as shown in the balance sheet. Income by way of interest on development fund is also transferred from Income Expenditure Account to Development fund account. The school has furnished a chart showing receipt of development fee, accretion of income on development fund, utilization of development fund for purchase of fixed assets and the closing balance of development fund account. As per this chart, the opening balance of development fund with the school as on 01/04/2006 was Rs. 65,00,472, a sum of Rs. 1,78,39,151 was received as development fee from 2006-07 to 2010-11, a sum of Rs. 58,48,090 accrued as income on development fund, **no development fund was utilized from 2006-07 to 2010-11 and the balance in development fund rose to Rs. 3,01,87,713 as on**

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31.03.2011. However, in the chart, a sum of Rs. 17,15,971 has been shown as utilization in 2011-12 and an adjustment of Rs. 92,20,570 has been shown towards utilization from the years 2004-05 to 2010-11. At page No. 17 of its written submissions, the school has stated that it has new development projects for which development fund is to be retained. It has been mentioned that

> *"The school has future projects. Mahavira Foundation applied for a piece of plot in 1991 which was sanctioned by the DDA in February 2003. Due to their internal problems, all lands thus sanctioned were cancelled. Our file is still pending and we are waiting for the policy of land allotment by the Government to be finalized. Copy of the minutes is enclosed. (Annexure-II)*
>
> *The school is soon to launch the upgradation of sports facilities which are extremely vital for the school. We are at an advanced stage in finalizing the details with M/s. HTC. They have given estimates to the tune of Rs. 4,14,42,838."*

The school has relied upon the judgment of the Hon'ble Supreme Court in review petition No. 1368 of 2004 to buttress its argument that the school can transfer funds from one institution to the other under the same management and the Delhi School Education Act 1973 and the rules framed thereunder do not come in the way of management to establish more schools.

It has further been contended that the school is maintaining separate development fund and depreciation reserve fund **in the books** and as such it fulfilled all the conditions for charging development fee.

Vide written submissions dated 06/03/2013, the school vehemently stated that maintenance of development fund account and

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depreciation reserve fund account is to be restricted to books of accounts of the school. There is no requirement to maintain separate bank accounts for these purposes. In support of this proposition, the school has drawn our attention to the observations contained in para 18 of the Duggal Committee Report which has been reproduced by the school in its written submissions as follows:-

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

It is contended that in the above said para, there is no mention for separate bank account for development fund. Reliance has also been placed on the book "Technical Guide on Internal Audit of Educational Institutions" published by the Institute of Chartered Accountants of India. Para 3.20 from the book appearing at page 52 has been quoted by the school in support of the same contention i.e. there is no requirement to maintain a separate bank account for development fund and depreciation reserve fund. The same reads as under:

Fund Accounting

3.20 "The educational institutions, generally, follow fund accounting concept while preparing the financial statements. Fund Accounting is a method of accounting

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and presentation whereby assets and liabilities are grouped according to the purpose for which they are to be used. A fund is either created by law or by management or by donor. Funds are represented by the assets whether in the form of Fixed Assets, Investments, Inventory, Bank account etc. Fund Accounting does not necessarily involve opening of a new bank account for its operations. Funds are just the restriction imposed for utilization of asset."

Basically three issues have been raised by the school which need to be dealt with by the Committee. These are

(i) Whether separate dedicated bank accounts are required to be maintained for parking unutilized Development Fund and Depreciation Reserve Fund?

(ii) Whether separate reflection of these accounts in the balance sheet of the school would suffice, without there being corresponding earmarked investments or bank accounts?

(iii) Whether the school can utilize the accumulated development fund for buying land for the society to set up another school or for development of its own real estate?

For examining these issues, one would need to go through the Duggal Committee Report, the judgment of the Hon'ble Supreme court in the case of **Modern School vs. Union of India (2004) 5 SCC 583** and in the review petition no. 1368 of 2004 in the case of **Action Committee, Unaided Private Schools & Ors. vs. Directorate of Education, Delhi & Ors.**

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The first issue is whether separate dedicated bank accounts are required to be maintained for parking unutilized development fund and depreciation reserve fund? It is necessary to look into the contextual back ground of the recommendation of Duggal Committee regarding allowing the schools to charge development fee and maintenance of separate Development Fund and Depreciation Reserve Fund. The recommendations made by the Duggal Committee regarding maintenance of these accounts are predicated on the discussion of this issue in the report at page 68. It has been mentioned as follows:

> *"6.26 The Committee observes that next to transferring a part of its revenue income, to various funds/reserves even prior to determining surplus/deficit,* ***charging of depreciation provided the most convenient and widely used tool for the schools to covertly understate the surplus. Of the 142 schools studied, over a 100 schools have resorted to charging depreciation as an item of expenditure, without simultaneously setting up any Depreciation Reserve Fund for replacing the depreciated assets at the appropriate time. It tentamounts to creating 'Secret Reserves' by the schools- a purely commercial practice.*** *The Committee, however, takes note of the fact that in some of these cases the reserves had been utilized to create other Assets.*

In the aforesaid context, the Committee made the following recommendations in paras 7.21 and 7.22 which read as follows:

> *"7.21* ***Provided a school is maintaining a depreciation reserve fund equivalent to depreciation charged in the revenue accounts,*** *schools could also levy, in addition to the above four categories, a Development fee annually, as a capital receipt not exceeding 10% of the total annual tuition fee for supplementing the resources for purchase, upgradation and replacement of furnitures, fixtures and equipment. At present these are widely neglected items, notwithstanding the fact that a large number of schools were levying charges under the head 'Development Fund'.*

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7.22 *Being capital receipts, these should form a part of the Capital Account of the school.* ***The collection in this head along with any income generated from the investment made out of this fund should however, be kept in a separate Development Fund Account with the balance in the fund carried forward from year to year.***

It would be obvious from a combined reading of paras 6.26, 7.21 and 7.22 that the recommendations was made for maintaining separate fund accounts for development fee and depreciation reserve for the specific purpose of purchase, upgradation and replacement of furnitures, fixtures and equipment and to ensure that funds were readily available to the schools when the need for purchase of these items arose. This can obviously be ensured only if funds are parked either in separate bank accounts or in earmarked securities or FDRs. If such earmarked investments or bank balances are not maintained and the funds collected towards development fee get merged with the general funds of the school, there can be no certainty that at the appropriate time when the funds are required, they would be available to the school as they might have been utilised for other purposes. The whole idea of depreciation reserve fund is that money should be available for upgradation of or replacement of the original assets when they have lived their useful life. If it is not so available, the students would be asked to shell out more money by way of development fee when the assets require to be upgraded or replaced on account of wear and tear or obsolescence. The judgment of the Hon'ble Supreme court in the case of Modern School (supra) puts the matter beyond

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any shadow of doubt. The Hon'ble Apex Court while upholding the recommendations of the Duggal Committee observed as follows:

> ***"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."*

In the above premises, the contention of the school that there is no mention of separate bank account for development fund and depreciation reserve fund in the Duggal Committee Report amounts to hair splitting. The thrust of both the Duggal Committee and the Hon'ble Supreme court was for maintenance of "Funds" for development fee and depreciation reserve and that the schools set aside funds for purchase upgradation and replacement of furnitures, fixtures and equipments. If such a purpose is achieved without maintaining a bank account like by directly transferring funds from the school's general bank account to earmarked FDRs or investments, probably no objection can be taken for not maintaining a separate bank account. However, in this case, the Committee observes that no earmarked FDRs or investments have been maintained against Development Fund and Depreciation Reserve Fund. The citation given by the school from the book "Technical Guide on Internal Audit of Educational Institutions", published by the Institute of Chartered Accountants of India to the effect that fund accounting does not

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necessarily involve opening of a new bank account for its operations does not further the case of the school as it only conveys that in certain circumstances, separate bank account may not be opened for different funds. However, the school has only selectively quoted from the said book. It has quoted para 3.20. In para 3.23 of the same book, it is mentioned

> *"the concept of fund accounting requires earmarking of the funds with the objective of identifying funds as may be required for specified purposes or projects.* ***In such cases, the underlying idea is to park these funds in investments/specific bank accounts for subsequent utlisation for the earmarked purposes."***

In view of the foregoing discussion, the Committee is of the view that maintenance of separate bank accounts for parking unutilized development fund and depreciation reserve fund may not be necessary, so long as the school is ensuring that such funds are parked in earmarked FDRs and/or securities and the income accruing from such FDRs or securities is reinvested in fresh FDRs or securities which are also earmarked.

The next issue to be considered is whether separate reflection of these accounts in the balance sheet of the school would suffice without there being corresponding earmarked investments or bank accounts? This issue already stands answered as above. However, the Committee would like to further add that the Accountants have always understood the term "Fund" to be a reserve which is represented by earmarked FDRs or investments or bank balances.

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Schedule VI of the Companies Act 1956 which prescribes the format of the balance sheet of the Companies, in the explanatory notes regarding presentation of different balance sheet items, says in so many words:

> *"the word "Fund" in relation to any "Reserve" should be used only where such reserve is specifically represented by earmarked investments."*

"Depreciation fund method" is one of the recognized methods of charging depreciation on assets in the accounts and creating a corresponding fund by setting aside funds equivalent to the depreciation charge. Normally, funds are first set apart by opening a dedicated bank account and subsequently specific earmarked investments like FDRs and Govt. securities are created/bought out of the funds available in such dedicated bank account. The interest on such FDRs/securities is credited in such bank account and is reinvested in FDRs/securities. This process goes on till the asset is fully depreciated in the books by charging depreciation in successive years. At the end of the useful life of asset, the balances in the earmarked bank account and the value of FDRs/securities equal to the cost of asset, thus ensuring that when the asset has lived its useful life, funds are readily available for replacement. The interest on such investments which is also accumulated in the shape of fresh FDRs/securities takes care of the increased cost of replacement of the asset on account of inflation. This obviates the need for charging development fee afresh when the

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asset is to be replaced. Thus development fee becomes a self limiting charge. If such a system is not followed, the development fee would become a perennial charge on the students and every time an asset is to be replaced which was created out of development fee in the first place, the schools would justify the charge of fresh development fee on the grounds that they have no funds readily available for replacement of assets.

This method of charging depreciation and accumulating funds is not unknown to the Accountants world over. In fact, this method is taught to the students of first year of B.Com (Hons) in Delhi University and would definitely be part of curriculum in the other Indian Universities. In the book **"Financial Accounting" [Concepts and Applications] Vol. I (25th Edition), authored by Sh. J.R. Monga, Asstt. Professor of Commerce, Shri Ram College of Commerce, University of Delhi,** this method has been explained at page 8.37 in the following terms

"__DEPRECIATION (SINKING) FUND METHOD__

This method is different from all the methods stated above ***__because it provides for necessary cash to replace the asset at the end of its useful life__****. It would be found from the use of other methods that only the reduction in the book value is considered and provision is made for the replacement of the asset. This method requires the calculation of a basic sum of money which, if invested every year, would together with interest earned, will be equal to the cost of the asset. The amount to be set aside every year by way of depreciation is calculated by using Sinking Fund Tables. The following procedure is generally adopted for recording purposes:*

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(i) *Asset stands at its original cost.*

(ii) *At the end of the first accounting period following entries are recorded:*

(a) *The amount of depreciation as found from the sinking fund tables is debited to depreciation account and credited to depreciation (sinking) fund account i.e.*

Depreciation Account Dr.

To Depreciation (Sinking) Fund Account

(b) *The amount of depreciation transferred to Depreciation Fund Account is invested in outside securities i.e.*

Depreciation (Sinking) Fund Investments Account Dr.

To Bank Account

(iii) *In the second and subsequent years except last year*

(a) On receiving interest on investments

Bank Account Dr.

To Depreciation (Sinking) Fund Account

(b) On setting aside the annual amount [as in (ii) (a)]

Depreciation Account Dr.

To Depreciation (Sinking) Fund Account

(c) On investing the amount set aside together with interest

The same entry as (ii) (b) with the difference that the amount to be invested would include the amount set aside plus amount of interest received on previous investments.

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Last year

(i) *On sale of investments*

Bank Account *Dr*

To Depreciation (Sinking) Fund Investments Account

(ii) *The investments may be realised either at their nominal value, or at less than or more than nominal values. If there is a profit on sale investments:*

Depreciation (Sinking) Fund Investments Account *Dr.*

To Depreciation (Sinking) Fund Account

The entry would be reversed in the event of loss.

(iii) *On sale of Old asset*

Bank Account *Dr.*

To Asset Account

(iv) *The balance in the Depreciation (Sinking) Fund Account is transferred to the old asset account and if there is still any balance left, it would be transferred to profit and loss account our income statement.*

It may added that cash realized on the sale of old asset and sale of Depreciation (Sinking) fund investments is utilized for purchasing the new asset."

Further in the book **"Advanced Accounts" Volume I revised edition 2013** authored by the famous duo of **M.C. Shukla and T.S. Grewal,** which by many, is considered to be a bible on accountancy, the learned authors have on page 6.12 discussed the depreciation fund method in the following words:

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Depreciation Fund Method:

> *When one writes off depreciation, one makes sure that sufficient assets are retained in the business to replace the asset unless the proprietor draws out more than is warranted by the figure of his net profit.* ***Under the first three methods, however, ready cash may not be available when the time for replacement comes – the amount of depreciation may be dispersed in the all sorts of assets, making it difficult to find ready cash to buy new asset in place of the old one. The Depreciation Fund or rather regular investments made outside the business ensure that when replacement is due, ready cash will be available.*** *This method is also called Sinking Fund Method of depreciation.*
>
> ***In a nutshell, the system is that the amount written off as depreciation should be kept aside and invested in readily saleable securities, preferably government securities. The securities accumulate. When the life of the asset expires, the securities are sold and a new asset is purchased with the help of these proceeds.*** *Since the securities always earn some interest, it is not necessary to use the full amount of depreciation – something less will do. How much amount is to be invested every year so that a given sum is available at the end of given period depends on the rate of interest.*

Again at page 6.37, the learned authors while discussing the terms "Provisions, Reserves and Reserve Funds", have mentioned as follows:

> *"If amounts equal to reserve are invested in outside securities, the reserve will be named "Reserve Fund". If there are no specific investments, it cannot be called a Reserve Fund but merely a Reserve."*

In view of the foregoing discussion, the Committee is of the view that mere separate reflection of development fund and depreciation reserve fund in the balance sheet is not sufficient compliance with the recommendations the Duggal Committee which were affirmed by the Hon'ble Supreme Court. An amount equivalent to depreciation charged has to be set apart either in a separate bank account or in

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earmarked FDRs or securities. Both the Duggal Committee and the Hon'ble Supreme Court have used the terms "Development **Fund**" and "Depreciation Reserve **Fund**". As discussed infra, the requirement of keeping the money earmarked in securities, FDRs or separate bank accounts is a sine qua non for the reserves to qualify as **Funds.**

The last issue on the subject of development fee to be considered by the Committee in this case is whether the school can utilize the accumulated development fund for buying land for the society to set up another school or development of its own real estate? It would be profitable to quote from the Duggal Committee Report on this issue. In paras 7.21 and 7.24, it is observed:

> *7.21 Provided a school is maintaining a depreciation reserve fund equivalent to depreciation charged in the revenue accounts, schools could also levy, in addition to the above four categories, a Development fee annually, as a capital receipt not exceeding 10% of the total annual tuition fee* ***for supplementing the resources for purchase, upgradation and replacement of furnitures, fixtures and equipment. At present these are widely neglected items, notwithstanding the fact that a large number of schools were levying charges under the head 'Development Fund'.***
>
> *7.24 Simultaneously, it is also to be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the Society out of the fee and other charges collected from the students;* ***or where the parents are made to bear, even in part, the financial burden for the creation of the facilities including building, on a land which had been given to the Society at concessional rate for carrying out a "philanthropic" activity.*** *One only wonders what then is the contribution of the society that professes to run the school.*

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Reading the two recommendations together, it is absolutely clear that the schools were authorized to charge development fee only for the purpose of purchase, upgradation and replacement of furnitures, fixtures and equipments which, in view of the Duggal Committee, remained neglected items. Further, the next recommendation specifically prohibits the schools from recovering any fee for creation of facilities including building or land. These recommendations, as discussed in the foregoing paragraphs have been affirmed by the Hon'ble Supreme Court in the case of Modern Schools (supra). When the schools have been prohibited from charging any fee for purchase or construction of land & building for its own use, it would be too farfetched to suggest that the school could collect development fee to enable the society to buy land for another school for which even land had not been acquired. The school has contended that the development fund is being kept intact to pay for the land of the other school as and when it is allotted to the Society running the school. This would actually amount to indirect transfer the funds to the Society as the land would be allotted to the Society. Such transfer is specifically prohibited by the Hon'ble Supreme Court in the case of Modern School (supra). It is a well settled proposition of law that what cannot be done directly, cannot be done indirectly. The judgment of the Hon'ble Supreme Court in the case of Action Committee, which has been relied upon by the school, merely permits the schools to transfer funds to another school under the same management out of its own savings. It does not authorize the schools

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to charge or accumulate development fund for the purpose of transferring it to another school which is yet to come up. Savings cannot be pre-decided and fees levied to generate such savings. Savings are always incidental or accidental. What the school is doing is to levy a specific fee for the purpose of generating savings to be transferred to another school which the society is planning to set up. This is clearly not permissible.

Having dealt with all the issues, the Committee is of the view that the school had unjustly recovered development fee when none of the conditions laid down by the Duggal Committee as affirmed by the Hon'ble Supreme Court was fulfilled.

From the data submitted by the school, it transpires that the school recovered a sum of Rs. 39,55,243 as development fee in 2009-10 and Rs. 44,76,255 in 2010-11. The committee is of the view that these amounts ought to be refunded to the students along with interest @ 9% per annum. Recommended accordingly.

Sd/-	Sd/-	Sd/-
Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 21/05/2013

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KIIT World School, Suvidha Kunj, Pitampura, Delhi-110034

In reply to the questionnaire sent by the Committee on 27/02/2012, the school vide letter dated 29/02/2012 replied that the school had implemented the VI Pay commission w.e.f. 01/03/2009. The aggregate salary for the month of February 2009, i.e. prior to implementation of VI Pay Commission was Rs.5,37,624 which rose to Rs. 10,48,473 for the month of March 2009 after implementation of VI Pay Commission. It was further stated that the school had paid a sum of Rs. 48,67,198 towards arrears on account of retrospective application of VI Pay Commission. With regard to tuition fee, it was stated that the same had been hiked in accordance with order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009. The extent of hike as discernible from the information furnished by the school was Rs. 300 per month for classes VI to X and Rs. 400 per month for classes XI & XII. The information regarding arrears charged by the school from students of different classes was also furnished. On the basis of the information provided vide this letter, the school was placed in Category 'B'.

Preliminary examination of the financials of the school was done by the Chartered Accountants detailed with this Committee. As the school had increased the fee w.e.f. 01/09/2008, the balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of funds available with the school. As per the preliminary calculations

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made by them, the school had funds available to the tune of Rs. 16,54,020 as on 31/03/2008. However on perusal of the calculation sheet by the Committee, it was observed that the CAs had worked out the funds availability after providing for a deduction of Rs.4,58,111 which was the outstanding balance of a vehicle loan taken by the school from ICICI Bank. In the considered opinion of the Committee, this deduction ought not to have been allowed for the reason that the loan was taken for acquisition of a fixed asset. Accordingly, the figure of funds available as on 31/03/2008 was revised by the Committee to **Rs. 21,12,131** in the preliminary calculations. Further as per the preliminary calculations, the school had a liability of Rs. 48,67,198 for payment of arrears on account of VI Pay Commission, the increase in salary on account of implementation of VI Pay Commission upto 31/03/2010 was Rs. 66,41,037. *The* school had recovered arrear fee to the tune of Rs. 78,08,150 and the incremental revenue on account of increased fee upto 31/03/2010 was Rs. 63,38,400. Prima facie it appeared that the school had increased more fee than was necessary to absorb the effect of implementation of VI Pay Commission. Accordingly, a notice of hearing dated 26/12/2012 was issued, providing it an opportunity of being heard by the Committee on 21/01/2013. However due to certain exigencies, the meeting of the Committee scheduled for 21/01/2013 was cancelled and the school was informed in advance regarding the same. The hearing was rescheduled to 07/02/2013 vide notice dated 21/01/2013.

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On the rescheduled date fixed for hearing, Sh. Harsh Vardhan, Manager of the school appeared along with Sh. Survesh N. Mathur, Chartered Accountant and Sh. Vidhya Dhar Mishra, Accountant. They were provided with a copy of preliminary sheet for appropriate response. They requested for some time to be given to them and at their request, the hearing was adjourned to 27/02/2013. Since the school was found to be charging development fee, it was asked to give specific reply to the following queries:

(a) How development fee was being treated in the accounts?

(b) How development fee was being utilised?

(c) Whether separate development fund and depreciation reserve fund had been maintained?

Submissions:

On 27/02/2013, Sh. Harsh Vardhan and Sh. V.D. Mishra appeared on behalf of the school and filed written submissions dated 27/02/2013. Along with the written submissions, they filed their own calculation sheet as per which, instead of a surplus as projected by the CAs detailed with the Committee, a deficit of Rs. 59,60,345 was projected after implementation of VI Pay Commission. The school disputed the following figures taken by the CAs in the preliminary calculation sheet.

(i) The collection of arrear fees was actually Rs. 65,40,275 and not Rs. 78,08,150 as taken by the CAs. It was

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contended that the short collection was on account of certain students who had left the school without paying the arrear fee.

(ii) The liability for arrear salary was Rs. 65,40,275 i.e. the same as the collection of arrear fee, and not Rs. 48,67,198 as taken by the CAs.

Besides, the school claimed deduction of Rs. 38,90,133 on account of three months pay, Rs. 12,94,091 towards accrued liability for gratuity as on 31/03/2010 and Rs. 25,85,615 as provision for additional contingencies expenses which was calculated at 10% of actual expenses in financial year 2009-10.

During the course of hearing, it was observed by the Committee that cheques of huge arrear payments had been encashed in the name of the teachers. The school had not brought its books of accounts for 2009-10 onwards nor its bank statements. The hearing was adjourned to 01/03/2013 for producing the same.

On 01/03/2013, the school produced the required records and on examination of the salary register for March 2010, it was observed that while the regular monthly salary was paid by crossed cheques and the amount was transferred to the respective bank accounts of the staff, the arrears paid in the same month were encashed through bearer cheques. The school contended that this was done at the request of the staff members.

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Discussion

The committee has considered the financials of the school, the preliminary calculation sheet prepared by the CAs attached with the Committee, the calculation sheet submitted by the school, the books of accounts, the salary payment records and the bank statements of the school. The Committee has also considered the oral and written submissions made by the school. The Committee notes that the school has not disputed the threshold funds available with the school as on 31/03/2008 which had been determined by the Committee at **Rs. 21,12,131.** The points of divergence in the preliminary calculation sheet prepared by the CAs and that prepared by the school are discussed below:

Re.: Arrear fee recovered by the school

As against the figure of Rs. 78,08,150 taken by the CAs, the school claims that the correct figure is Rs. 65,40,275. In support of its contention, the school has filed ledger account of arrear collection from 01/04/2008 to 31/03/2013. The school has contended that the difference between the figures taken by the CAs and that taken by the school is on account of the fact that certain students had left the school without clearing their arrears. The Committee finds that though the school has not given the break up of regular fee and arrear fee in its Income & Expenditure accounts, a ledger account for arrear collection is separately maintained and the amount of arrears collected upto 31/03/2013 is Rs. 65,40,275 as claimed by the school.

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Since the claim of the school is based on its books of accounts, which are audited, the Committee accepts the figure of **Rs. 65,40,275** as claimed by the school.

Re.: <u>Arrears of salary paid by the school</u>

As against the figure of Rs. 48,67,198 taken by the CAs, the school claims that the total liability for arrear was Rs. 65,40,275. It has given a break up of arrears paid in its calculation sheet and also furnished copies of its ledger accounts. The Committee finds that the CAs has taken the figure of Rs. 48,67,198 from the reply dated 29/02/2012 furnished by the school itself. The school claims that it paid arrears amounting to Rs. 13,21,855 in the financial year 2012-13 i.e. after submitting reply to the questionnaire. A further sum of Rs. 3,51,222 is shown to be still payable, without any detail. This appears to have been done to match the figures of arrear fee collection and arrear salary payment.

In order to examine the claim of payment of arrears by the school, the committee required the school to produce its salary payment records and bank statements. On examination of these records, the Committee observed a very disturbing trend. The bulk of the arrears (Rs. 48,67,198) were purportedly paid in the month of March 2010. The payment was shown to have been made by cheques. However, on examination of the bank statements of the school, it was found by the Committee that the payment of all the cheques of arrear payments was withdrawn in cash from the bank. On the other hand,

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the payment of regular monthly salary paid in same month i.e. March 2010 was by means of crossed cheques and transferred to the respective bank accounts of the staff. Though the school claims that the bearer cheques were given for payment of arrears at the request of the staff members, the Committee finds it difficult to countenance the submission of the school. When the staff has no problems in taking regular salary by crossed cheques, why would they have any problem in taking the arrear salary by crossed cheques. In view of this, the Committee is of the view that the school, in fact, did not make any payment of arrears and the same has been shown only to justify the recovery of arrear fee.

Re.: <u>Reserve for future contingencies</u>

The Committee is in agreement with the contention of the school that the entire funds available with it may not be considered as available for implementation of VI Pay Commission and it ought to maintain certain funds in reserve for meeting any future contingencies. However, the quantum of such reserves is an issue. The school has claimed three months salary amounting to Rs. 38,90,133 based on the salary for the month of March 2010 and an additional amount of Rs. 25,85,615 representing 10% of actual expenses incurred during financial year 2009-10. The Committee has taken a view in the cases of other schools that a sum equivalent to four months' salary ought to be kept by the school for future contingencies. The school has filed a copy of salary register for the month March 2010 as per which the

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salary for that month paid by the school was Rs. 10,84,131. Based on this, a sum of **Rs. 43,36,524** is determined by the Committee as reasonable reserve for any future contingencies.

Re.: <u>Reserve for gratuity</u>

The school has claimed that it had an accrued liability of Rs. 12,94,091 as on 31/03/2010 and has furnished employee wise detail of the same. The detail furnished by the school is apparently found to be in order except that in case of one Mrs. Sangeeta Bhatia, the accrued liability is shown as Rs. 4,16,004 when the ceiling of gratuity as on 31/03/2010 was Rs. 3,50,000. Hence the Committee is of the view that the amount as claimed by the school is overstated by Rs. 66,004 and the correct amount on this account would be Rs. 12,28,087. Hence, the amount that needs to be set apart is **Rs. 12,28,087.**

<u>Determinations:</u>

<u>Tuition Fee</u>

In view of the foregoing discussions, the following determinations are made by the Committee:

The funds available as on 31/03/2008 are determined to be **Rs. 21,12,131** as also accepted by the school. The school recovered arrear fee of **Rs. 65,40,275**. After such recovery, the funds swelled to **Rs. 86,52,406.** The school ought to have kept a sum of **Rs. 43,36,524** for future contingencies and Rs. 12,28,087 for meeting its accrued

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liability for gratuity. After setting aside such reserves, the school had available with it a sum of **Rs. 30,87,795.** The incremental salary on account of implementation of VI Pay Commission Report was **Rs. 66,41,037** as accepted by the school. Hence the school had a shortfall of **Rs. 35,53,242** which it needed to recover by way of hike in fee. However, the school admittedly recovered a sum of **Rs. 63,38,400** by way of increased fee in terms of order 11/02/2009 issued by the Director of Education. Hence the school recovered a sum of **Rs. 27,85,158** in excess of its requirements.

The Committee is of the view that the recovery to the extent of Rs. 27,85,158 was not justified and ought to be refunded by the school along with interest @ 9% per annum.

Development fee:

In its written submissions dated 27/02/2013, the school fairly conceded that it had been charging development fee from 2008-09 to 2010-11 and treated the same as a revenue receipt in its accounts. The school also conceded that it had not maintained any depreciation reserve or development fund. The school further stated that in future it will do so and also treat the development fee as a capital receipt. The school also furnished a statement showing receipt of development fee and its utilisation for the year 2008-09 to 2010-11. From this statement, it is apparent that the development fee had been utilised year after year for repair and maintenance of building and other

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assets and not for acquisition of any furniture and fixtures and equipments.

Since the school was not fulfilling any of the pre-conditions as laid down by the Hon'ble Supreme Court in the case of Modern School vs Union of India (2004) 5 SCC 583, the recovery of development fee by the school was not justified and not compliant with the law laid down by the Hon'ble Supreme Court.

The school admitted having recovered sum of Rs. 67,27,565 as development fee in 2009-10 and Rs. 56,81,690 in 2010-11. The Committee is of the view that the same ought to be refunded along with interest @ 9% per annum.

Recommendations:

In view of the foregoing determinations, the Committee is of the view that the school ought to refund the following amounts to the students along with interest @ 9% per annum.

Excessive tuition fee recovered	**Rs. 27,85,158**
Development fee for 2009-10	**Rs. 67,27,565**
Development fee for 2010-11	**Rs. 56,81,690**
Total	**Rs.1,51,94,413**

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 27/06/2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Abhinav Public Sr. Sec. School, Sector-3, Rohini, Delhi-110085

In response to the questionnaire sent by the Committee vide email dated 27/02/2012, the school vide letter dated 05/03/2012 replied, stating that the school had implemented the VI Pay Commission Report w.e.f. 01/04/2009. However, the arrears of salary on account of retrospective application of VI Pay Commission were in the process and would be cleared soon. Alongwith the reply, the school sent details of salary paid to the staff for the month of March 2009 i.e. before implementation of VI Pay Commission Report as well as salary for the month of April 2009 i.e. after implementation. With regard to the increase in fee, the school stated that it had hiked the fee of the students in accordance with order dated 11/02/2009 issued by the Director of Education w.e.f. 01/04/2009. However, the arrear fee could not be collected due to inability of the parents to pay the same. The school also filed the fee structures for 2008-09 and 2009-10 for different classes showing the increase in fee w.e.f. 01/04/2009. On the basis of this reply, the school was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee (CAs). As the school claimed to have implemented the VI Pay Commission Report w.e.f. 01/04/2009 and also increased the tuition fee w.e.f. 01/04/2009, the balance sheet of the school as on

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31/03/2009 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs, the funds available with the school as on 31/03/2009 were to the tune of **Rs. 2,53,523.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/04/2009 to 31/03/2010 was **Rs. 30,31,092** while the amount of incremental fee in 2009-10 was **Rs. 28,88,400**. The school was, served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee.

On07/01/2013, the date fixed for hearing, Sh. Pradeep Gupta, appeared with an authorization from Manager of the school. After hearing him for some time, it was discovered by the Committee that the school had not filed annexures to the balance sheet for any of the years. He sought time to file the same and at his request, the hearing was adjourned to 18/01/2013. The representative of the school was asked to produce the bank statements as also the fee and salary records besides the books of accounts as the same had not been produced.

On18/01/2013, Sh. Rajesh Sharma, Vice Principal/ Head of the school appeared with Sh. Pradeep Gupta, Accountant. The required documents were filed and the fee, salary and accounting records were produced which were examined by the Committee. The representatives of the schools were heard.

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While deliberating upon the final recommendations and examining the returns of the schools filed under Rule 180 of Delhi School Education Rules 1973, the Committee observed another discrepancy in as much as in the fee schedules filed by the school as part of the returns under Rule 180, the school had shown development fee as one of the heads of fee but while submitting reply to the questionnaire of the Committee, no such component of fee was shown by the school. The financials of the school also did not show any receipt towards development fee. In order to clarify the position, the school was asked to state the correct position. In response, the school, vide letter dated 01/03/2013, submitted that though development fee was reflected in the fee structure from 2006-07 onwards, the same was not being recovered by the school. In order to verify the veracity of the stand of the school, the fee records and books of accounts were again called for.

On 08/03/2013, the accountant of the school produced the records for the years 2008-09, 2009,-10 and 2010-11 which were examined by Ms. Sunita Nautiyal, Audit Officer of the Committee. The accountant of the school also informed that though development fee was proposed and passed in the meeting of the Managing Committee every year, the same was never approved by the parents of the students and hence it was never charged. Examination of the fee records by her also did not reveal any charge of development fee.

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The Committee has examined the annual returns filed by the school under Rule 180 of Delhi School Education Rules, 1973, the fee and salary records produced by the school, the preliminary calculations made by the CAs attached with the Committee and the observations made by the audit officer of the Committee. On examination of the financials of the school, the Committee observed that during the five years for which the financials had been called for, the cash revenue being generated by the school was as follows:-

Year	Net surplus	Non cash expenditure (Depreciation)	Cash Surplus	Total revenue	Percentage of surplus to total revenue
2006-07	8,14,674	88,879	9,03,553	68,08,929	13.27
2007-08	12,01,251	92,187	12,93,438	81,29,742	15.91
2008-09	45,91,401	1,68,400	47,59,801	1,08,57,526	43.84
2009-10	39,12,476	2,00,426	41,12,902	1,20,71,061	34.07
2010-11	38,64,018	2,21,542	40,85,560	1,30,53,101	31.30

As would be apparent from the above figures, the school was having substantial cash surplus. The position remained the same even in 2009-10 and 2010-11 when the VI Pay Commission was implemented. Even if we consider the surpluses for 2006-07, 2007-08 and 2008-09 only, the school ought to have had funds to the tune of Rs. 69.56 lacs as on 31/03/2009. As against this, the figure worked out by the CAs detailed with the Committee was just Rs. 2.53 lac which was based on the audited balance sheet of the school as on

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31/03/2009. There was a clear mismatch between the funds available with the school as per its balance sheet and the funds that ought to have been available as per the revenue statements of the school. It was obvious that the school was either diverting its funds to its parent society or for some other impermissible purposes. On examination of the balance sheet as on 31/03/2009, the Committee observed that the school had not filed the annexures to the balance sheets for any of the years. In order to reconcile the discrepancy, the Committee called for complete financials of the school alongwith annexures and the details of the capital fund of the school. The school submitted the financial statements along with annexures vide letter dated 20/03/2013. The apprehensions of the Committee were confirmed. The school in its aforesaid letter dated 20/03/2013 admitted in so many words that during 2006-07, the school transferred a sum of Rs. 17.50 lacs to its parent society. During 2007-08, it transferred Rs. 12.49 lacs. Further, during 2008-09, it transferred Rs. 38.33 lacs. Likewise during 2009-10, it transferred Rs.37.25 Lacs and during 2010-11, it transferred Rs. 33.82 Lacs to the society. In terms of the ratio of the decisions of the Hon'ble Supreme Court in the case of **Modern School & Ors vs. Union of India (2004) 5 SCC 583 read with Action Committee Unaided Pvt. Schools and Ors. v. Director of Education and Ors. 2009 (11) SCALE 77**, the schools are barred from transferring any funds to their parent societies. In this view of the matter, the Committee is of the view that the funds transferred by the school to the society during the

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years 2006-07 to 2010-11, were illegally transferred and ought to be recovered from the society. The funds transferred upto 2008-09, ought to be considered as funds available with the school as on 31/03/2009. The same would be factored in while making the final determinations.

Determinations:

The funds available with the school as on 31/03/2009 are determined to be Rs. 70,86,961as follows:-

Particulars		Amount(Rs.)
Net current assets as on 31/03/2009 as per the Balance Sheet of the school		2,53,522
Add funds transferred by the school to its parent society as admitted by the school vide its letter dated 20/03/2013: (a) During 2006-07 (b) During 2007-08 (c) During 2008-09	 17,50,000 12,49,559 38,33,880	 68,33,439
Total funds available as on 31/03/2009		**70,86,961**

The school has not claimed any accrued liability towards gratuity or leave encashment. Therefore, it is presumed that the school did not have any such liabilities as on 31/03/2009. However, the Committee is of the view that the school ought to retain in reserve, an amount equivalent to 4 months salary for any future contingencies. From the details submitted by the school along with its reply to the questionnaire, the Committee finds that the monthly salary bill of the school after implementation of VI Pay Commission was Rs. 6,81,710. Based on this, the Committee is of the view that

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the school ought to retain sum of Rs. 27,26,840 in reserve and only the balance of **Rs. 43,60,121** was available with it for implementation of VI Pay Commission. The monthly salary bill of the school prior to implementation of VI Pay Commission was Rs. 4,29,110 while the same after implementation of VI Pay Commission went upto Rs. 6,81,710, as per the information provided by the school along with its reply to the questionnaire. Hence, the monthly increase in salary was Rs. 2,52,600 as per the school's own version. For the full year of 2009-10, the impact of the implementation of VI Pay Commission on the school would be **Rs. 30,31,200**. Since, the funds available with the school after providing for the reserve, were more than the amount required for meeting the additional expenditure on account of implementation of VI Pay Commission, the school did not need to increase any fee in terms of the order dated 11/02/2009 issued by the Director of Education. However, the school admitted in its reply to the questionnaire that it had increased the tuition fee by Rs. 200 per month for students of classes I to X and by Rs. 300 per month for students of classes XI & XII. Based on the students' strength in 2008-09 and 2009-10, as provided by the school, the Committee has worked out that the school recovered a total sum of **Rs. 28,88,400** by way of increased fee. In the above premises, the Committee is of the view that the fee hike effected by the school was not justified and ought to be refunded along with interest @ 9% per annum.

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Recommendations:

The school ought to refund the fee hiked by it w.e.f. 01/04/2009 amounting to Rs.28,88,400 along with interest @ 9% per annum. Recommended accordingly.

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Dated: 05/07/2013

I agree
5/7/2013

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For Review of School Fee

N.C.Jindal Public School, Punjabi Bagh,New Delhi

In reply to the questionnaire dated 27/02/2012 sent by email, the school, vide letter dated 2nd March 2012, submitted that it had implemented the VI Pay Commission w.e.f. 01/01/2006. The increased salary was paid w.e.f. 01/02/2009. The aggregate salary for January 2009 was Rs. 27,20,357 which rose to Rs. 39,79,578 for February 2009 on account of implementation of VI Pay Commission Report. The aggregate arrears of salary paid on account of implementation of VI Pay Commission were Rs. 2,76,29,982. With regard to hike in fee, it was submitted that the school had increased the monthly fee of the students in accordance with the order dated 11/02/2009 of the Director of Education. The fee was increased w.e.f. September 2008. The fee was increased at the rate of Rs. 200 per month for all the classes except classes IX to XII for which the hike was Rs. 300 per month. With regard to the arrear fee, it was submitted that the same had been recovered at the rate of Rs. 2,500 per student for all the classes except IX to XII. The arrears recovered from the students of IX to XII were at the rate of Rs. 3,000 per student. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have increased the tuition fee

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w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs.2,79,50,754**. The arrears of VI Pay Commission paid to the staff were **Rs.2,76,29,982.** The arrear fee recovered by the school for the period 01/01/2006 to 31/08/2008 was **Rs.88,15,500.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs. 1,76,29,094**. The incremental revenue on account of increased fee for the period 01/09/2008 to 31/03/2010 was **Rs.1,44,15,300**. After taking into account the funds available with the school and the funds which accrued on account of arrear fee and increased fee, the school had generated a surplus of **Rs. 59,29,478**, after payment of arrear salary and increased salary on account of implementation of VI Pay Commission report. The school was, therefore, served with a notice dated 20/02/2013 for providing it an opportunity of hearing by the Committee on 20/03/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had increased fee more than what was required to offset the additional burden on account of implementation of the VI Pay Commission Report.

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On the date of hearing, Sh. D.K. Pande, Principal of the School appeared with Sh. K.S. Singhal, AAO. The representatives of the school were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 10/04/2013. During the course of hearing, the school contended that the funds which were shown as surplus in the calculations made by the CAs detailed with the Committee were required to be kept in reserve for payment of gratuity and leave encashment. It was further contended that the school was required to keep in reserve funds equivalent to three months salary and if such provisions were made, the school would have no surplus as reflected in the preliminary calculations. Further, during the course of hearing, it was observed that besides tuition fee, the school was also charging development fee. In order to ascertain whether the essential pre conditions as prescribed by the Duggal Committee which were subsequently affirmed by the Hon'ble Supreme Court, were being fulfilled, the school was queried. In response, the representatives of the school stated that the school did not maintain an earmarked bank account or FDRs or investments for development fee. Depreciation reserve was also maintained only in books. No separate fund was maintained. The school was directed to give details of receipt and utilisation of development fee from 2006-07 to 2010-11 as also the details of accrued liabilities of gratuity and leave encashment along with

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actuarial valuation as the school had claimed that the provision for these liabilities was made on the basis of report of actuary.

On 10/04/2013, the aforesaid representatives of the school again appeared and filed detailed written submissions dated 16/03/2013 and 06/04/2013.

Submissions:-

Vide written submissions dated 16/03/2013, the school submitted parawise compliance of the order dated 11/02/2009 issued by the Director of Education. Shorn off unnecessary details, the school contended as follows:-

(a) The school had not increased the fee for the years 2007-08 and 2008-09 due to the fact that the school was under the impression that the Department of Education would give directions permitting 40% hike in fee as were given at the time of implementation of V Pay Commission Report.

(b) The school did not have any existing reserves to meet any shortfall in payment of salary and allowances as a consequence of implementation of VI Pay Commission Report.

(c) As per the order dated 11/02/2009 issued by the Director of Education, the school had called a meeting of Parent Teacher Association (PTA), which appreciated the management for not increasing the tuition fee in the previous two academic

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sessions. The fee structure for 2009-10 as well as collection of arrears as per order dated 11/02/2009 was approved by the association. The proposals as approved by the PTA were duly approved by the management Committee of the school.

(d) Far from having any surplus, the school was actually in deficit as would be apparent from its financials from 2006-07 to 2010-11.

Vide written submissions dated 06/04/2013, the school gave details of receipt and utilisation of development fee from 2006-07 to 2010-11. Further it submitted that:

(a) The gratuity liability as on 31/03/2008 was Rs. 2,05,50,670 and the liability for leave encashment was Rs. 58,68,470. As on 31/03/2010, the liability for gratuity was Rs. 2,93,58,478 while that for leave encashment was Rs. 85,31,591. These liabilities were supported by valuation reports of Dr. Y.P. Sabharwal, Consulting Actuary.

(b) The increased salary for the period 01/04/2009 to 31/03/2010 as taken by the CAs at Rs. 1,51,10,652 was incorrect. The correct figure as evincible from the financials of the school, as adjusted for the payment of arrears, was Rs. 1,80,85,391.

(c) The additional expenditure on account of employers contribution to provident fund, deposit linked insurance, administrative charges and security and housekeeping

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expenses, ought also to have been considered as additional cost on account of implementation of VI Pay Commission Report. The amount of such expenditure for the period 01/09/2008 to 31/03/2009 was Rs. 18,32,780 while that for the period 01/04/2009 to 31/03/2010 was Rs. 32,39,982.

(d) Gratuity amounting to Rs. 4,57,941 and leave encashment amounting to Rs. 33,816 actually paid at the time of resignation of staff during the period ending 31/03/2010 , ought also to have been considered as additional cost.

(e) An amount equivalent to three months salary amounting to Rs. 98,38,527 should have been excluded from the available reserves as the same was required to be kept for any future eventuality.

It was thus contended that instead of a surplus of Rs. 59,22,478 calculated by the CAs attached with the Committee, the school had a deficit after implementation of 6th Pay Commission report. **It is noteworthy that though the school contended that it was in deficit after implementation of VI Pay Commission Report, the school did not claim any further hike in fee over and above the hike effected by it in terms of order dated 11/02/2009 of the Director of Education.**

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Discussion:

The Committee finds that the school has not seriously contested the figure of funds available as on 31/03/2008 as worked out by the CAs detailed with the Committee. Its only claim is that such funds had to be kept in reserve to meet the accrued liabilities on account of gratuity/leave encashment and for future contingencies. Hence it would be in order to discuss the issues raised by the school.

Re.: Accrued Liability towards gratuity and leave encashment

On perusal of the report of Sh.Y.P. Sabharwal, Consulting Actuary, the Committee observes that as on 31/03/2008, the school had an accrued liability of Rs. 2,05,50,670 towards gratuity and Rs.58,68,470 towards leave encashment. The school had made provisions for these liabilities in its balance sheet as on that date. The CAs in the preliminary calculations made to ascertain the available fund as on 31/03/2008 and had omitted these figures from the liabilities as there were no documents on record showing the working of these liabilities. Now that the school has filed actuarial reports certifying these liabilities, the Committee is of the view that the claim of the school is well founded. If these accrued liabilities are taken into account, there would be no funds available with the school as on 31/03/2008. Hence, in the final determination, the funds available with the school at the threshold would be taken as NIL.

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Re.: Reserve for future contingencies

The school has claimed that it ought to keep in reserve, an amount equivalent to three months salary which amounts to Rs.98,38,527. Although, the Committee has been taking a view in case of other schools that the schools ought to retain an amount equivalent to four months' salary in reserve for future contingencies, that view has been taken where the schools had surplus funds. Since, this school did not have any funds as on 31/03/2008, as per above discussion, the question of keeping any funds in reserve for future contingencies does not arise. Funds can be kept in reserve if they exist. If the funds do not exist, it would be an impossibility to keep any funds in reserve. However, this aspect will be kept in view in the final determination if the school is found to have generated a surplus in the subsequent years.

Re.: Discrepancy in the figures of increased salary post implementation of VI Pay Commission.

The Committee has perused the working sheet of the CAs attached with it vis a vis the submissions made by the school. On examination of the calculations of CAs and the financials of the school, it appears that there are certain differences on account of the fact that the CAs extrapolated the difference of monthly salary pre implementation and post implementation. The school has taken the figures from its audited Income & Expenditure Accounts. Since the accounts reflect the actual payments made by the school and the

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books of accounts are maintained properly and are duly audited, the figures as per the audited financial statements are to be preferred as against the estimates made by the CAs. The Committee therefore accepts the figure of **Rs. 1,80,85,391**, being the incremental salary in 2009-10 and the same will be duly factored in while making the final determination.

Re.: Expenditure on PF contribution, deposit linked insurance etc.

The contentions of the school on account of increased expenditure on provident fund contribution, deposit linked insurance, administrative charges and security and housekeeping expenses are not supported by the financials of the school. While the security and housekeeping expenses can by no stretch of imagination be considered as linked to implementation of VI Pay Commission Report, the expenditure on the remaining heads has more or less remained the same in 2009-10 and 2010-11. The figures as coming out from the audited financials of the school on expenditure under these heads are as follows:-

Head of expenditure	**2008-09**	**2009-10**
PF contribution	14,21,920	13,92,702
Deposit linked insurance	59,358	58,048
PF Administrative charges	1,31,774	1,28,864
Total	**16,13,052**	**15,79,614**

As would be observed from the above table, the expenditure under these heads actually came down in 2009-10 as compared to

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2008-09. Therefore the contentions of the school on this ground are rejected.

Re.: Actual payment of gratuity and leave encashment during 2009-10

The contention of the school on this ground is only stated to be rejected. The school has claimed deduction of liability of gratuity and leave encashment on accrual basis. It cannot claim any deduction on payment of liabilities which have already been taken into account on accrual basis. The school is seeking to take double benefit which cannot be allowed.

Determinations:

1. **Tuition fee**

As discussed in the earlier part of these recommendations, the school did not have any funds available with it as on 31/03/2008 which could be utilised for discharge of its liabilities arising on account of implementation of VI Pay Commission report. Hence, the Committee accepts that the school needed to hike the fee in order to implement the VI Pay Commission Report. Whether the fee actually hiked by the school was adequate or excessive or short is the question to be determined by the Committee.

The total additional liability arising on account of implementation of VI Pay Commission Report has been determined to be Rs. **4,82,33,815** as follows:-

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Arrears of salary from 01/01/2006 to 31/01/2009	2,76,29,982
Incremental salary from 01/02/2009 to 31/03/2009	25,18,442
Incremental salary from 01/04/2009 to 31/03/2010	1,80,85,391
Total impact of implementation of VI Pay Commission Report	**4,82,33,815**

The total additional revenue that accrued to the school by way of fee hike as per order dated 11/02/2009 was of the order of Rs. **2,32,30,800** as follows:

Arrear fee recovered from the students for the period 01/01/2006 to 31/08/2008	88,15,500
Incremental fee from 01/09/2008 to 31/03/2010	1,44,15,300
Total additional revenue	**2,32,30,800**

It would be apparent from the above figures that the school was in deficit to the tune of Rs.2,50,03,015 after implementation of the VI Pay Commission Report.

2. **Development Fee**

As noted above, the school has furnished details of development fee receipts from 2006-07 to 2010-11 as well as the amount expended out of such fee. However, the details of fixed assets acquired out of development fee or other expenditures met out of the same, have not been given. As on 31/03/2011, the school claims to have a surplus in development fund account amounting to Rs. 1,04,70,732. However, perusal of the balance sheet as on 31/03/2011 shows that this amount does not appear as a fund. During the financial year 2009-

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10, the development fee was treated as a revenue receipt and the left over the development fee of the previous years was also transferred to the revenue account of the school. During 2010-11 also, the development fee was treated as a revenue receipt. The school, during the course of hearing on 20/03/2013 admitted that no earmarked funds were maintained either for development fee or for depreciation reserve. Although the depreciation reserve fund is shown on the liability side of the balance sheet, there is no corresponding investment or dedicated FDRs. It is obvious that the school was not fulfilling any of the pre conditions prescribed by the Duggal Committee for charging development fee. These were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583. During 2009-10 and 2010-11, the school charged development fee amounting to Rs. 69,93,206 and Rs. 77,31,071 respectively. These fees were not charged in accordance with law. The aggregate amount for the two years is Rs. 1,47,24,277. We would have recommended refund of this amount but are not doing so on account of the factors discussed in the succeeding paragraphs.

However, there is another aspect to the issue of development fee. During 2008-09, the school, as per the fee schedule submitted to the Directorate, was charging development fee at the rate of 10% of tuition fee. However, while recovering the arrears for the period 01/09/2008 to 31/03/2009, the school recovered the same at the rate of 15% of tuition fee. While the school can legitimately charge

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development fee at the rate of 15% of tuition fee w.e.f. 01/04/2009, the school cannot recover the arrears of development fee at the rate of 15% of tuition fee when the development fee originally charged during the period to which the arrears pertained was at the rate of 10%. This would amount to hiking the development fee retrospectively during the middle of the year which is not permissible in view of the provisions of section 17 (3) of the Delhi School Education Act, 1973 which requires that no school shall charge a fee in excess of what has been intimated to the Director of Education before 31st March every year, without the prior approval of the Director. The development fee charged by the school which formed part of the total fee for the year 2008-09 which was intimated to the Director of Education before 31st March 2008 was at the rate of 10% of tuition fee. Therefore, the school was not competent to charge any development fee in excess of 10% for the year 2008-09, whether originally or by way of arrears for any period forming part of that year. Any such excess charge would require prior approval from the Director which the school has admittedly not taken. The Committee, is therefore of the view, that the arrears of development fee recovered by the school at the rate of 5% (i.e. 15%-10%) of tuition fee for the period 01/09/2008 to 31/03/2009 were not justified. The school at best could have recovered the arrears at the rate of 10% of the hike in tuition fee. The excess recovery of 5% was wholly unjustified and in fact illegal. While the total amount of arrears of development fee for the period 01/09/2008 to 31/03/2009 has not been separately given by the

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For Secretary

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

school, based on the information furnished in reply to the questionnaire the same is worked out as follows:

Classes	**Number of students**	**Monthly Tuition fee as hiked w.e.f. 01/09/2008 to 31/03/2009 (Rs.)**	**5% of hiked tuition fee (Rs.)**	**Total amount excess recovered per month (Rs.)**
Pre school and Pre primary	431	1,000	50	21,550
I to V	1230	1,050	52	63,960
VI to VIII	796	1,150	58	46,168
IX to XII	891	1,350	68	60,588
Total	3348			1,92,266

Total amount excess recovered for seven months (192266 x 7) = 13,45,862.

Recommendations:

The Committee, although is of the view, that the school even after taking into account the fact that the development fee recovered by it was not in accordance with the law laid down by the Hon'ble Supreme Court, is not recommending refund thereof in view of fact that the school had a large shortfall after payment of VI Pay Commission dues to the staff which is much more than the development fee which was unauthorisedly recovered. The Committee is also not recommending any hike in fee over and above that effected by the school as the school has not made any such claim. <u>However, the Committee recommends that the school ought to refund the excess development fee arrears</u>

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charged for the period 01/09/2008 to 31/03/2009, amounting to Rs. 13,45,862 as the same has been illegally charged without obtaining the specific approval of the Director of Education as required under section 17(3) of Delhi School Education Act 1973. The refund ought to be made along with interest @ 9% per annum. Recommended accordingly.

Sd/-	Sd/-	Sd/-
Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 13/08/2013

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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For Secretary

Doon Public School, Paschim Vihar, New Delhi-110063

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school stated that it had implemented the recommendations of the VI Pay Commission w.e.f. 01/07/2009 and had also paid the arrears on account of retrospective application of the VI Pay Commission. It was stated that the salary bill for the month of June 2009, i.e. before implementation of VI Pay Commission was **Rs. 16,04,160** which swelled to **Rs. 26,99,685** after its implementation. It was also mentioned that the total arrears paid to the staff amounted to **Rs. 1,17,52,810.** With regard to fee, it was stated that the same was hiked w.e.f. 01/09/2008 in accordance with the order dated 11/02/2009 issued by the Director of Education. The arrears of fee were also recovered in accordance with the said order. The total arrear of fee recovered was stated to be **Rs. 1,01,48,130**. Further as per Annexure-A attached to the reply, the monthly fee hike was stated to be Rs. 300 per month for classes pre primary to X and Rs. 400 per month for classes XI & XII. On the basis of this reply, the school was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have increased the fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds

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available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs. 18,59,753**. The arrear fee recovered by the school was **Rs. 1,01,48,130**. The arrears of VI Pay Commission paid to the staff were **Rs.1,17,52,810.** The incremental revenue of school on account of increase in fee from 01/09/2008 to 31/03/2010 was **Rs.1,23,08,600**. The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs.98,59,725**. After taking into account the fee hike and the salary hike, the funds available with the school rose to **Rs. 27,03,948**. The school was served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee on 07/01/2013 and for enabling it to provide justification for the hike in fee.

On the date of hearing, Sh. N.V. Sarat Chandran, Manager of the school appeared with Sh. Deepak Chopra, Chartered Accountant and Sh. Sanjay Kumar Solanki, Accountant. They were provided with a copy of the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They requested for some time to be given to respond to the calculations. At their request, the hearing was adjourned to 01/02/2013. Since the school was also charging development fee, they were requested to give specific replies to the following queries:

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(a) Details of development fee charged.

(b) Manner of utilisation of development fee.

(c) Whether separate development fund and depreciation reserve fund accounts had been maintained?

On 31/01/2013, a request letter was received from the school for postponing the hearing. The request was acceded to by the Committee and the school was asked to appear on 27/02/2013. On this date, the aforesaid representatives of the school appeared and filed written submissions dated 27/02/2013 only with regard to development fund for the year 2007-08. The school was asked to file similar details for the years 2008-09, 2009-10 and 2010-11. However, during the course of hearing, it was conceded by the representatives of the school that separate earmarked development fund and depreciation reserve fund accounts were not maintained. The school had not produced its books of accounts and salary payment instructions to the bank or the bank statements nor had it responded to the preliminary calculation sheet. They sought time for doing the needful. At their request, the hearing was adjourned to 22/03/2013.

On the adjourned date of hearing, the school filed written submissions dated 22/03/2013 along with its own calculation sheet, disputing the calculations made by the CAs attached with the Committee.

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Submissions:-

Vide written submissions dated 22/03/2013, the school contended as follows:-

(i) The FDRs for Rs. 6,54,786 were in the name of Central Board of Secondary Education and Dy. Director of Education for affiliation/recognition of the school. As such they should not be considered as funds available for implementation of VI Pay Commission.

(ii) Advance of Rs. 79,731 is recoverable from staff and Rs. 2,64,506 are to be adjusted against supplies to be made by the suppliers and therefore should not be considered as part of funds available.

(iii) The school paid a total arrear of Rs. 1,34,18,675 to the staff on account of retrospective effect of VI Pay Commission Report (as against Rs. 1,17,52,810 taken in the preliminary calculation sheet).

(iv) The total recovery of arrear fee was Rs. 1,01,48,130 which has been taken correctly in the preliminary calculations but another sum of Rs. 41,76,200 for the period 01/09/2008 to 31/03/2009 taken in the preliminary calculations was never collected by the school, the same having been already included in the total arrear figure of Rs. 1,01,48,130.

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After the conclusion of hearing on 22/03/2013, the school filed another letter dated 25/03/2013, clarifying some of the issues raised during the course of hearing on 22/03/2013.

Discussion

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the submissions of the school and the calculations of available funds vis a vis the liability on account of implementation of VI Pay Commission, as submitted by the school. Various contentions raised by the school are discussed as under:

Re.: FDRs in the name of CBSE and Director of Education.

The school has filed copies of FDRs for Rs. 6,54,786 which are in the joint names of the school and CBSE/Director of Education. The Committee agrees with the contention of the school that since these FDRs are under pledge with the respective authorities and are not available to the school for any purposes, the same ought not to have been included in the funds available for implementation of VI Pay Commission.

Re.: Advances to staff and suppliers.

The Committee does not accept the contention of the school that they should not form part of the funds available as to the extent of such advances, the school's liability to pay the salary to staff and dues

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to suppliers stands reduced. As such these amounts have been rightly included in the funds available.

Re.: Discrepancy in the figure of arrears salary paid to the staff.

The CAs attached with the Committee had taken the figure of arrears to be Rs. 1,17,52,810. The same was taken on the basis of reply to the questionnaire submitted by the school. The school states the same to be Rs. 1,34,18,675. In support of the figures of arrears paid, the school has filed copies of its ledger accounts and bank statements.

On examination of the records filed by the school, the Committee has observed that after submitting reply to the questionnaire on 01/03/2012, the school made a further payment of arrears amounting to Rs. 44,890 in 2011-12 and Rs. 16,20,975 in 2012-13. Obviously these figures could not have been included in the preliminary calculations as no information pertaining to them was available with the Committee. The Committee has examined the payment of arrears and has observed that the same has been paid either by direct transfer to the accounts of staff or by account payee cheques. Therefore, the Committee is of the view that the figure of **Rs. 1,34,18,675**, being based on the audited books of accounts is correct and the same would be factored in while making the final determinations.

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Re.: Discrepancy in the figure of recovery of arrear fees.

The school has contended that the figure of arrear fees 1,01,48,130 taken by the CAs in the preliminary calculation sheet pertains to the period 01/01/2006 to 31/03/2009 while the CAs have taken the same to be for the period 01/01/2006 to 31/08/2008 and have taken a further amount of Rs. 41,76,200 for the period 01/09/2008 to 31/03/2009. The school contends that this figure of Rs. 41,76,200 already stands included in the figure of Rs. 1,01,48,130.

The Committee, on examination of the copies of ledger accounts filed by the school, has observed that actually the arrears collected by the school were Rs. 1,01,86,721 and not Rs. 1,01,48,130 as contended by it. The Committee accepts the contention of the school that there is double counting of Rs. 41,76,200 in the preliminary calculation sheet prepared by the CAs detailed with the Committee. Therefore, the figure of arrear fee received by the school for the period 01/01/2006 to 31/03/2009 will be taken as **Rs. 1,01,86,721** in the final determinations.

Determinations:

As per the above discussion, the funds available with the school at the threshold on 01/04/2008 are determined to be **Rs. 12,04,967** as follows:

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Particulars	Amount
Funds available as per preliminary calculations	Rs. 18,59,753
Less FDRs not available as per above discussion	Rs. 6,54,786
Net funds available	**Rs. 12,04,967**

Although the school has not claimed that it should be allowed to keep some funds in reserve for meeting any future eventuality, the Committee has taken a consistent view in the cases of other schools that a sum equivalent to four months' salary should be retained by the schools for such a purpose. On examination of the salary bill for the month of July 2009 i.e. after implementation of VI Pay Commission, the Committee finds that the monthly salary expenditure of the school was more than Rs. 25.00 lacs. Therefore, the funds available with the school as on 31/03/2008 were too meager to even enable the school to maintain a sufficient reserve. Therefore the Committee is of the view that the school did not have any funds available with it for the purpose of implementation of VI Pay Commission Report prior to resorting to fee hike.

The only issue that remains to be considered is whether the fee hike effected by the school was justified or was excessive or was inadequate.

As per the above discussions, the liability of the school for payment of VI Pay Commission arrears was to the tune of **Rs. 1,34,18,675.** Further, the impact of VI Pay Commission by way of salary hike for the year 2009-10 was **Rs. 98,59,725,** on which figure

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there is agreement between the school and the CAs attached with the Committee. Thus the total funds required by the school for implementing the VI Pay Commission were **Rs. 2,32,78,400.** As against this, the school recovered the sum of Rs. **1,01,86,721** as arrear fee and **Rs. 81,32,400** as incremental fee on account of hike effected as per order dated 11/02/2009 of the Director of Education. Thus the total additional revenue generated by the school was **Rs. 1,83,19,121** . **Therefore the Committee is of the view that the school recovered a sum of Rs. 49,59,279 <u>short of its requirement</u> for implementation of VI Pay Commission report.**

<u>Development Fee</u>

Despite being specifically asked to file details of development fee received and utilised during 2009-10 and 2010-11, the school avoided filing the same. However, during the course of hearing on 27/02/2013, the Manager of the school conceded. that no separate earmarked development fund or depreciation reserve fund were maintained by the school. On examination of the balance sheet of the school as on 31/03/2010 and 31/03/2011 also, it is observed by the Committee that the school does not maintain a depreciation reserve fund account although depreciation is charged in the Income & Expenditure Account. Similarly, no funds are kept earmarked for unutilised development fund although the same is shown as a capital receipt. In view of these findings, the Committee is of the view that the school was not fulfilling the pre conditions for charging development

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fee as laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme court in the case of Modern School vs. Union of India & ors (2004) 5 SCC 583. On examination of the fee schedules of the school for 2009-10 and 2010-11, it is apparent that the school was charging development fee at the following scales in the two years:

Class	**Development fee charged in 2009-10 (Annual)**	**Development fee charged in 2010-11(Annual)**
Pre Primary	Rs. 2700	Rs. 1980
Primary	Rs. 2730	Rs. 2000
Middle	Rs. 2930	Rs. 2140
Secondary	Rs. 3180	Rs. 2320
Sr. Secondary	Rs. 3490	Rs. 2550

Recommendations:

In view of the findings of the Committee, the development fee charged by the school was not in accordance with the law laid down by the Hon'ble Supreme Court and ought to be refunded along with interest @ 9% per annum. However, the school may set off the deficiency of Rs. 49,59,279 on account of implementation of VI Pay Commission Report from the amount of development fee to be refunded.

Recommended accordingly.

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 27/06/2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

B-78

Raghubir Singh Modern School, Mohan Garden, Delhi-110059

The school, vide its reply dated 02.03.2012 to the questionnaire sent by the Committee to it by email on 27/02/2012 stated that it had implemented the VI Pay Commission Report w.e.f.01.04.2009, and had also increased the fees of the students in accordance with the order dated 11.2.2009 issued by the Directorate of Education. It was further stated that the school had neither recovered any arrear fee nor paid any arrear to the staff on account of retrospective implementation of the VIth Pay Commission.

On the basis of the information provided by the school, it was placed in Category 'B' for detailed examination. The school was found to have hiked the fee in 2009-10, to the maximum extent permitted by the order dated 11/02/2009 of the Director of the Education for most classes.

The school was, therefore, served with a notice dated 20/02/2013 providing them an opportunity of being heard by the Committee on 25/03/2013 and provide justification for the hike in fee. Shri Rajiv Kumar, Manager, Shri Satbir Singh, PGT and Shri Vikas Kumar, Accountant have appeared before the committee.

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It is contended by the representatives of the school that the 6th Pay Commission was only partially implemented as the school is situated in an area which is populated by the people in the low income group. On examination of the bank statement of the school, it was observed by the Committee that all the staff members were paid salary by bearer cheques which are en-cashed together on a single date. On being confronted, the school representatives admitted that full salaries as per cheques were not paid to the staff members. In view of this, the Committee find it difficult to accept the claim of even partial implementation of VIth Pay Commission by the school.

On examination of the fee schedules submitted by the school, the Committee finds that the fee hike effected by the school for various classes was as follows:

Class	Tuition fee in 2008-09	Tuition fee in 2009-10	Fee Increase in 2009-10
I & II	390	490	100
III	400	500	100
IV & V	420	520	100
VI & VII	575	775	200
VIII	625	825	200
IX	630	830	200
X	795	950	155
XI & XII	1430	1700	270

In view of the fact that the school had not implemented the VI Pay Commission, the Committee is of the view that the fee hiked by the school w.e.f.01-04-2009 was not justified as the underlying purpose of fee hike i.e. implementation of VI Pay Commission was not fulfilled The order of the Director of

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Education was taken undue advantage of by the school for unjust enrichment. The fee hiked in 2009-10 for different classes ought to be refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years to the extent it is relatable to the fee hiked in 2009-10 ought also be refunded along with interest @ 9% per annum. Recommended accordingly.

Sd/-	Sd/-	Sd/-
Justice Anil Dev Singh (Retd.) Chairperson	Dr.R.K.Sharma Member	CA J.S.Kochar Member

Dated.09.05.2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Holy Innocents Public School, C Block, Vikas Puri, New Delhi-110018

The school, vide letter dated 27/01/2012, had submitted the copies of returns under Rule 180 for the years 2006-07 to 2010-11, details of salary to staff before implementation of VI Pay Commission as well as after its implementation, details of arrears of salary paid to the staff and the details of fee hiked by the school consequent to order dated 11/02/2009 issued by the Director of Education. These details were submitted to the Education Officer, Zone-18 of Directorate of Education which were forwarded to the Committee.

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school vide letter dated 01/03/2012 reiterated that it had implemented the VI Pay Commission w.e.f. 01/04/2009 and had also paid arrears of salary to the staff consequent to implementation of VI Pay Commission with retrospective effect. The school also reiterated that it had increased the fee w.e.f. 01/09/2008 in accordance with the order dated 11/02/2009 issued by the Director of Education and also indicated that it had recovered the arrear fee from the students in accordance with the aforesaid order. Along with the reply, the school enclosed details of salary for the month of March 2009 as per which the total salary for that month i.e. prior to implementation of VI Pay Commission was **Rs. 5,73,161** and details of salary for the month April 2009 i.e. after implementation of

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VI Pay Commission, which aggregated **Rs. 7,89,391.** Details of arrear salary paid which aggregated **Rs. 18,51,500** were also furnished. It was also stated that the total recovery of arrear fee from the students was **Rs. 18,37,957**. Schedules of fee for the years 2008-09 and 2009-10 as also the enrolment details were furnished. As per the schedules furnished for the two years, there was a hike of Rs. 200 per month in the tuition fee of the students of classes pre-primary to X and Rs. 300 per month for classes XI & XII. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs.43,42,527.** The school had paid arrears to the staff amounting to **Rs. 18,37,957**. The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs.25,94,760**. The arrear fee recovered by the school was **Rs. 18,51,500**. The incremental revenue of school on

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account of increase in fee from 01/09/2008 to 31/03/2010 was **Rs.48,87,600.** The school was served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee on 09/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had sufficient funds to meet the additional burden on account of implementation of the VI Pay Commission Report and it did not have to hike the fee.

On the appointed date, Sh. Neeraj Kumar, Office Asstt. of the school appeared along with Sh. Subhash Kumar Saini, part time accountant. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee. As the representatives of the school had not brought books of accounts for 2009-10 nor the bank statements or salary payment instruction sheets, the hearing was adjourned to 01/02/2013 with the direction to produce the complete records of the school. As the school was found to be charging development fee also, the school was asked to give specific replies to the following queries regarding development fee:

(a) Detail of development fee charged and the manner of its utilisation

(b) How was the development fee treated in the accounts of the school?

(c) Whether separate development fund and depreciation reserve fund had been maintained by the school?

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On 01/02/2013, Wg. Comdr. Sudershan Kumar Nangia, Manager of the school appeared with Sh. Subhash Kumar Saini, Accountant. The school filed written submissions dated 31/01/2013 and the representatives were partly heard. However, the school did not produce the records which it was required to produce as per note sheet entry dated 09/01/2013. The school was given a last opportunity to produce the records and hearing was adjourned to 27/02/2013 for this purpose. On the adjourned date, Sh. N.K. Mahajan, Chartered Accountant and authorized representative appeared with Sh. S.K. Saini , Accountant and Sh. Neeraj Kumar, Office Asstt. The school filed another written submission dated 27/02/2013 and the representatives of the school were heard. A letter from Bank of India, Janak Puri, New Delhi had been received by the Committee on 19/02/2013 giving details of the mode of payment of arrears to the staff. A similar letter was received by the Committee from Syndicate Bank, Vikas Puri on 28/02/2013.

Submissions:

Vide written submissions dated 31/01/2013, the school contended that:

(a) Out of the funds determined to be available as on 31/03/2008 amounting to Rs. 43,42,527, the following amounts are required to be kept in reserve:

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(i)	Three months salary	Rs. 25,10,157
(ii)	Accrued liability of gratuity	Rs. 14,34,745
(iii)	Accrued liability for leave encashement	Rs. 9,70,884
(iv)	Reasonable reserve(10%)	Rs.4,34,253
	Total	Rs.53,50,039

It was thus contended that the school had no funds available with it to implement the VI Pay Commission and therefore it was required to hike the fee.

(b) It was contended that the financial impact of implementation of VI Pay Commission on the school and the recovery of enhanced fee (including arrears) had not been correctly reflected in the calculation sheet prepared by the CAs attached with the Committee. It was stated that the correct position with regard to increased salary and increased fee was as follows:

Particulars	**Amount as per preliminary calculation sheet**	**Correct amount as per the school**
Arrears of tuition fee from 01/01/2006 to 31/03/2009	37,19,557	18,37,957
Increased tuition fee in 2009-10	30,06,000	31,13,572
Arrears of salary from 01/01/2006 to 31/03/2009	18,51,500	18,51,500
Increased salary in 2009-10	25,94,760	42,94,797

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The school furnished copies of its ledger accounts to support the figures given by it. Accordingly the school contended that far from having any surplus, the school was actually in deficit after implementation of VI Pay Commission Report.

(c) With regard to development fee, the school stated that the same had been utilised for purchased of fixed assets and no funds remained in the development fund as the cost of the fixed assets was more than the amount received. It gave details of development fee received in 2007-08 to 2009-10 and cost of fixed assets purchased during the corresponding period. The development fee received was stated to be Rs. 24,55,466 while the cost of fixed asset purchased was stated to be Rs. 33,41,735. The school did not state as to how the development fee was treated in the accounts and whether depreciation reserve fund was maintained.

Discussion

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculation sheet prepared by the CAs detailed with the Committee and the oral and written submissions of the school. The points of divergence as brought out by the school are discussed hereinafter.

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Re.: Reserve for future contingencies

The school has claimed that it should be allowed to keep in reserve a total sum of Rs 29,44,410 (25,10,157+4,34,253) for future contingencies. The Committee is in agreement with the school that sum of **Rs. 29,44,410** ought to be kept by the school in reserve for any future contingencies. The same will be factored in while making the final determination.

Re.: Accrued liability for gratuity and leave encashment

The school has claimed that it ought to keep funds in reserve for meeting the accrued liability of gratuity (Rs. 14,34,745) and leave encashment (Rs. 9,70,884). The school has also furnished employee wise detail of such accrued liabilities. However, on going through the detail of accrued gratuity, it is observed by the committee that in respect of Mrs. Sneh Nangia, Principal, the school is claiming a liability of Rs. 6,25,898 as on 31/07/2009, when the maximum gratuity that was payble on that date was Rs. 3,50,000. Hence the Committee is of the view that the claim of the school is excessive by Rs. 2,75,898. As for the remaining amount of **Rs. 11,58,847**, the Committee agrees with the contention of the school and this will be duly considered while making the final determination. As regards liability for leave encashment, the Committee finds the claim of the school in order and accordingly a sum of **Rs. 9,70,884** will be considered while making the final determination.

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Re.: Discrepancies in the preliminary calculation sheet.

As regards arrear fee for the period 01/01/2006 to 31/03/2009, received by the school, it has been observed by the Committee that the school consolidated the demand for arrears from 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009 in the circular issued to the parents of the students. While giving the figures of arrears to the Committee, the school did not mention the period to which the arrears pertained. This created confusion and the CAs attached with the committee took the figure furnished by the school as arrears for the period 01/01/2006 to 31/08/2008 and for the period 01/09/2008 to 31/03/2009, they worked out a further figure of Rs. 18,81,600. The Committee finds that the later figure of Rs. 18,81,600 was not correctly taken by the CAs in the calculation sheet and the same has to be ignored. The financials of the school also support its contention that the total recovery of the arrear was **Rs. 18,37,957.** The upshot of this discussion is that the figure taken by the school is accepted as correct.

Regarding increased tuition fee for the year 2009-10, the figure of **Rs. 31,13,572** as given by the school is pitted against the figure of Rs. 30,06,000 taken by the CAs attached with the Committee. Since the figure taken by the school is taken from its audited financials, the same has to prevail over the figure taken by the CAs which is a derived figure.

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As regards the increased salary for the year 2009-10, the Committee observes that the CAs attached with the Committee have extrapolated the difference of monthly salary of March 2009 and April 2009 for the full year. As per the details furnished by the school along with reply to the questionnaire, the aggregate salary for the March 2009 was Rs. 5,73,161 while that for the month of April was Rs. 7,89,391. Be it noted that the school admittedly implemented the VI Pay Commission w.e.f. 01/04/2009. Hence the CAs correctly calculated the incremental salary for the year 2009-10 to be Rs. 25,94,760 i.e. (7,89,391-5,73,161)x12. The school has not given any basis for the figure of Rs. 42,94,797 given by it. In the absence of any basis, the contention of the school cannot be accepted. Hence the figure worked out by the CAs attached with the Committee i.e. **Rs. 25,94,760** will be taken into final determination.

Determinations:

1. Tuition fee

The funds available with the school as on 31/03/2008 are determined to be **Rs. Nil** after accounting for the accrued liabilities of gratuity, leave encashment and the reserve the school ought to maintain for future contingencies. Hence, in order to implement the VI Pay Commission, the Committee is of the view that the school needed to increase the fee. The only issue that requires determination is whether the fee hike effected by the school was in order.

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As per the above discussion, the school collected a sum of **Rs. 49,51,529** (18,37,957 + 31,13,572) by way of arrear fee and the increased tuition fee in 2009-10. As against this, the incremental expenditure on account of implementation of VI Pay Commission Report by way of arrear payment to staff and increased salary in 2009-10 was **Rs. 44,46,260** (25,94,760+18,51,500). Hence, the school recovered a sum of **Rs. 5,05,269** in excess of its requirements. The Committee is of the view that the fee hike to this extent was not justified and the same ought to be refunded along with interest @ 9% per annum.

Development Fee

As noted above, the school was asked to give specific replies to the three queries regarding development fee raised by the Committee. However, the school avoided giving any reply as to how the development fee was treated in the accounts and whether any depreciation reserve fund was maintained. Perusal of the Income & Expenditure accounts of the school and the balance sheets reveals that the school was treating the development fee as a revenue receipt and no depreciation reserve fund was maintained in respect of depreciation on assets acquired out of development fee. Therefore the Committee is of the view that the school was not collecting a development fee in accordance with the recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court

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in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583. Examination of the Income & Expenditure accounts of the school for the year 2009-10 and 2010-11 shows that the school recovered a total sum of **Rs. 9,95,196 and Rs. 12,39,930** as development fee in these two years. Since the conditions attached to the charge of development fee i.e. its treatment as capital receipt and maintenance of depreciation reserve fund were not being fulfilled by the school, the Committee is of the view that the school was not justified in recovering these sums and the same ought to be refunded along with interest @ 9% per annum.

Recommendations:

In view of the determinations as made above, the Committee recommends that the school ought to refund the following amounts along with interest @ 9% per annum to the students:

(i)	**Tuition fee for 2009-10**	**Rs. 5,05,269**
(ii)	**Development fee for 2009-10**	**Rs. 9,95,196**
(iii)	**Development fee for 2010-11**	**Rs. 12,39,930**

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 05/07/2013

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Bhatnagar International School, Vasant Kunj, New Delhi

In reply to the questionnaire dated 27/02/2012, the school, vide letter dated 02/03/2012, submitted that it had implemented the VI Pay Commission w.e.f. June 2009 and had also paid arrears of salary to the staff on account of retrospective application of the VI Pay Commission. It further submitted that it had increased the fee of the students in accordance with the order dated 11/02/2009 of the Director of Education. The fee was increased w.e.f. 01/09/2008 and the arrear fee was also recovered from the students. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs.15,16,719**. The arrears of VI Pay Commission paid to the staff were **Rs.60,19,223.** The arrear fee recovered by the school for the period 01/01/2006 to 31/08/2008 was **Rs.44,84,471.** The additional burden on account of increased salary due to implementation of VI Pay Commission from

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01/09/2008 to 31/03/2010 was **Rs.68,88,825**. The incremental revenue on account of increased fee for the period 01/09/2008 to 31/03/2010 was **Rs. 97,22,769**. The school was, therefore, served with a notice dated 24/12/2012 for providing it an opportunity of hearing by the Committee on 07/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had increased fee more than what was required to offset the additional burden on account of implementation of the VI Pay Commission Report.

On the date of hearing, Sh. G.R. Kathuria, Administrator of the School appeared with Sh. Hemant Khanna, Accounts Officer and Sh. Tarun Gulati, Chartered Accountant. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 01/02/2013. They were also asked to specifically state the amount of development fee charged, the manner of utilisation thereof and whether development fund and depreciation reserve fund had been maintained by the school?

On 01/02/2013, the aforesaid representatives of the school again appeared and filed written submissions dated 01/02/2013 vide which they disputed the calculations of funds available and the

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figures of recovery of increased fee and arrears as also the figures of increased salary and arrears.

Submissions:-

It was contended that the school needed to keep funds in reserve for meeting the accrued liabilities towards gratuity and leave encashment. The school submitted that the liability for gratuity as on 31/03/2008 was Rs. 24,85,000 which rose to Rs. 59,57,662 as on 31/03/2010. Similarly the liability for leave encashment as on 31/03/2008 was Rs. 9,25,000 which rose to Rs. 17,07,313 as on 31/03/2010. The school filed employee wise calculations in respect of each of the above figures. It was also contended that fixed deposit to the tune of Rs. 5,35,000 were earmarked specifically as a condition for grant of affiliation by CBSE and was thus not available for payment of increased salaries on account of VI Pay Commission. It was thus contended that even at the threshold on 31/03/2008, the school was in deficit to the tune of Rs. 24,28,281 and as such had no funds available with it for implementation of VI Pay Commission. Further the school disputed the figures of arrear fee and arrear salary as also the incremental revenue on account of recurring fee for the period 01/04/2009 to 31/03/2010. Based on its own working, the school contended that it was justified in enhancing the fee. With regard to development fee, it was contended that the recovery on this account was strictly in accordance with the guidelines laid down by the Duggal Committee. The fee received from the students was credited to a

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separate fund account and the same was utilised accordingly. On a query by the Committee, the school conceded that separate depreciation reserve fund was not maintained by earmarking any bank account or FDRs or investments. .

Discussion:

Re.: Funds available as on 31/03/2008

The contention of the school have been examined by the Committee. The Committee is in agreement with the contention that the liabilities for gratuity and leave encashment should have been taken into account while working out the funds available with the school. The Committee also agrees that the FDR which was pledged with CBSE should not have been taken as part of funds available. If these adjustments are made to the figure of funds available as worked out by the CAs detailed with the Committee, the resultant figure of available funds comes into negative. The formula adopted by the Committee for working out the funds available is Net Current Assets i.e. working capital + investments which are readily encashable. This figure can be in negative on account of three reasons which are as follows:

(1) The school has been incurring cash losses year after year.

(2) The school has been diverting its short term funds (working capital) for investing in fixed assets like land, building, furniture, equipments, vehicles etc.

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(3) The school has been transferring funds to the Society or other institutions.

If the shortfall in working capital is on account of reasons enumerated at (2) and (3), the school has itself to blame for its predicament. The school, in such an event, cannot be heard to say that it needs to hike the fee to cover the shortfall. However, if the shortfall is on account of reason enumerated at (1) above, there could be some justification for covering the gap by hiking the fee. It therefore becomes imperative to examine as to whether the school was incurring cash losses. The Committee has before it the accounts of the school from 2006-07 to 2010-11. Perusal of the balance sheet of the school as on 31/03/2007 shows that during the year the school incurred a net loss of Rs. 36,92,298 after charging depreciation of Rs. 21,32,632. Thus apparently, the school incurred a cash loss of Rs. 15,59,666. However, the school received development fee amounting to Rs. 25,06,780 which has been capitalized and professedly used for acquisition of fixed assets. Thus, in effect, the school used development fee to the extent of Rs. 15,59,666 for meeting its revenue expenses and only the balance of Rs. 9,47,114 was used for acquiring fixed assets. During the year 2007-08, the school had a net loss of Rs. 5,25,600 after charging depreciation of Rs. 19,25,775. Thus the school earned a cash profit of Rs. 14,00,175. The same story is repeated in 2009-10 when the school earned the cash profit of Rs. 23,08,182. When the school was not incurring any cash losses, the supposed shortfall in funds

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as on 31/03/2008 was illusory. Therefore, the Committee rejects the argument of the school that it had an opening shortfall of Rs. 24,28,281. However, keeping in view that the diversion of short term funds to long term uses or worse diversion to the society or other entities in the same management might have been taken place for a long time, the Committee feels that the ends of justice would be met if the opening funds available with the school are taken at zero.

Re.: <u>Accrued Liability towards gratuity and leave encashment</u>

On perusal of the employee wise calculations filed by the school, it has observed that the school is also claiming to set apart funds for accrued liability of gratuity in respect of 6 employees who had not completed five years of service and as such they were not entitled for payment of gratuity. The amount in respect of these 6 employees is Rs. 2,32,416. Therefore, in view of the Committee, the accured liability of gratuity as on 31/03/2010 was Rs. 57,25,246. Out of this, the accrued liability as on 31/03/2008 amounting to Rs. 24,85,000 has already been taken into account while working out the funds available as on 31/03/2008. The balance of **Rs. 32,40,246** will be taken into consideration in the final determination. Similarly, in respect of accrued liability for leave encashment, out of the total liability of Rs. 17,07,313, a sum of Rs. 9,25,000 has already been accounted for while working out the funds available as on 31/03/2008. The balance

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of **Rs. 7,82,313** will be taken into consideration in the final determination.

Re.: Fixed deposit pledged with CBSE

The Committee agrees with the contention of the school that fixed deposit to the tune of Rs. 5,35,000 which are held in the name of Central Board of Secondary Education against grant of affiliation to the school, ought not to be considered as part of the funds available for payment of enhanced salaries on account of VI Pay Commission. However, since the same was outstanding as on 31/03/2008, it has already been considered while working out the funds available as on 31/03/2008.

Re.: Differences in figures of arrear fee

As against the figure of Rs. 44,84,471 taken by the CAs detailed with the Committee, the school has contended that the same has been erroneously taken and actually it was **Rs. 43,13,288**. On examination of the records, the Committee observes that the figure taken by the CAs was based on the reply to the questionnaire given by the school. However, the CAs did not take into account the figure of Rs. 1,71,183 which was shown as deduction by the school as the same could not recovered from the students. During the course of hearing, it was contended by the school that the same is irrecoverable as the students have left the school. The Committee is of the view that the amount neither recovered by the school nor recoverable in

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future cannot be taken into consideration. Hence, the contention of the school on this account is accepted.

Re.: Incremental Revenue from increased fee from 01/04/2009 to 31/03/2010

As against the figure of Rs. 63,30,000 taken by the CAs detailed with the Committee, the school has contended that the correct figure was **Rs. 55,17,124**. On examination of the calculations made by the CAs, the Committee observes that the CAs had not taken into consideration the number of students who were in the EWS category or were otherwise enjoying concessions and thus had not paid the incremental fee. The Committee therefore accepts the contention of the school on this account.

Re.: Incremental salary and salary arrears on account of implementation of VI Pay Commission

Certain differences between the figures taken by the CAs and those taken by the school have cropped up on account of taking different periods of payment of arrears as the date of implementation of VI Pay Commission was taken as 01/04/2009 by the CAs while the date of implementation as per the school was 01/06/2009. Therefore, the cumulative figures of salary arrears and incremental salary for the entire period of 01/01/2006 to 31/03/2010 would take care of such differences. When viewed in totality, the figure taken by the CAs is Rs. 1,29,08,048 while that taken by the school is **Rs. 1,38,31,283**.

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The difference is not very significant and as such the version of the school is accepted by the Committee.

Determinations:

1. **Tuition fee**

The funds available with the school as on 31/03/2008 are determined to be NIL as per the above discussion.

The total incremental fee recovered by the school for the purpose of implementation of VI Pay Commission was Rs.1,32,23,181 as per the following details given by the school itself. .

Arrear fee from 01/01/2006 to 31/08/2008	43,13,288
Arrear fee from 01/09/2008 to 31/03/2009	33,92,769
Incremental fee from 01/04/2009 to 31/03/2010	55,17,124
Total	1,32,23,181

As against this, the arrear and incremental salary on account of implementation of VI Pay Commission was Rs. 1,78,53,842 as per the following details.

Arrear salary from 01/01/2006 to 31/03/2009	79,87,168
Incremental salary upto 2009-10	58,44,115
Additional liability on account of gratuity for the year 2008-09 and 2009-10	32,40,246
Additional liability on account of leave	7,82,313

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encashment for the years 2008-09 and 2009-10	
Total	1,78,53,842

Thus the school recovered a sum of Rs. 46,30,661 short of its requirements.

Development Fee

As discussed above, the school while showing the development fee as a capital receipt, is actually utilizing the same, partly or fully for meeting its revenue expenses. This could be apparent from the balance sheet of the school. Year after year, the school is showing negative general fund which are offset by development fund. To illustrate, the school had a negative general fund to the tune of Rs. 1,19,56,153 as on 31/03/2010 while the positive balance in development fund was Rs. 2,45,52,966. This gives a lie to the contention of the school that it was utilizing its development fund for acquiring fixed assets only. This is a classic case to illustrate how the funds can be manipulated by not keeping them in earmarked bank accounts or securities. The school was meeting its revenue deficit by transferring funds from development fee without passing corresponding accounting entries. Besides not maintaining any earmarked bank account for development fund, the school was also not maintaining any earmarked depreciation reserve fund either by way of dedicated bank account or FDRs or securities. The school has only created a façade of showing development fee as a capital receipt

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and its utilisation for buying fixed assets. The reality is otherwise. In the light of these findings, the Committee is of the view that the school was not justified in charging any development fee. The balance sheets of the school reveal that during the year 2009-10, the school charged development fee to the tune of Rs. 59,31,989 and during 2010-11, it charged development fee to the tune of Rs. 57,34,035. The Committee is of the view that such fee was unjustly charged. These charges for the years 2009-10 and 2010-11 ought to be refunded. However, as the Committee has found that the school recovered a sum of Rs. 46,30,661 short of its requirement as tuition fee, the net amount to be refunded would be Rs. 70,35,363.

Recommendations:

Therefore, the school ought to refund Rs. 70,35,363 along with interest @ 9% per annum. Recommended accordingly.

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

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COMMITTEE
For Review of School Fee

Dated: 09-05-2013

I agree.

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Midfields Sr. Sec. School, Jaffarpur Kalan, Najafgarh, Delhi

In reply to the questionnaire sent by the Committee on 27/02/2012, the school vide letter dated-06-03-2012, stated that the school had implemented the recommendations of the VI Pay Commission w.e.f. May, 2010,but the arrears have not been paid to the staff. However, the fee had been increased w.e.f. April, 2009, in accordance with order dated 11/02/2009. On the basis of this reply, the school was initially placed in Category 'B'.

Preliminary examination of the financials of the school was done by the Chartered Accountants detailed with this Committee. The preliminary calculations submitted by the Chartered Accountants were checked by the office of the Committee. In order to verify its contentions, the school, vide notice dated 20/02/2013, was required to appear before the committee for hearing and to produce its fee and accounting records on 14/03/2013.

On the appointed date of hearing, Sh. P.L. Malik, Shri Babu Lal, and Shri Naveen Kumar, authorized representatives of the school, appeared before the committee. They were heard. The records of the school were also examined. It was observed by the committee that the

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school had created a façade of implementation of the 6th Pay Commission report as the salary to the staff was being paid by bearer cheques, all of which were en-cashed on a single day from the bank. When confronted, the representatives of the school contended that all the cheques are taken by a clerk of the school to the bank and are en-cashed. Thereafter, salary to the staff is disbursed in cash. On further examination, it was found that it was also purportedly receiving aid from the society to meet the increased burden of salaries. The committee is of the view that this is nothing but the usual round tripping of cash. Part of the salary shows to have been paid to the staff is brought back in the books in the shape of aid from the society. In actual fact, 6th Pay Commission was not implemented by the school.

The school had hiked the fee in the following manner:

Class	Tuition fee in 2008-09 (Monthly)	Tuition fee in 2009-10 (Monthly)	Fee Increase in 2009-10 (Monthly)
Pre-primary	450	550	100
I	490	590	100
II	500	600	100
III	510	710	200
IV	540	740	200
V	600	800	200
VI	630	830	200
VII	650	850	200
VIII	680	880	200
IX	790	990	200
X	840	1040	200
XI	NIL	1100	NIL

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As would be obvious from the above table, the fee had been increased by the school in accordance with order dated 11/02/2009 to the maximum permissible extent.

The committee is of the view that fee hiked for all the classes by the school w.e.f. April 2009 was not justified as the school had not implemented the VI Pay Commission Report. Therefore, the fee increased in 2009-10 by the school ought to the refunded along with interest @ 9% per annum. Since the fee hiked in 2009-10 is also part of the fee for the subsequent years, there would be a ripple effect in the subsequent years and the fee of the subsequent years, to the extent it is relatable to the fee hiked in 2009-10, also be refunded along with interest @ 9% per annum.

Recommended accordingly.

Sd/-	Sd/-	Sd/-
Justice Anil Dev Singh **Chairperson**	**Dr. R.K. Sharma** **Member**	**J.S. Kochar** **Member**

Dated: 09-05-2013 TRUE COPY

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

Guru Tegh Bahadur 3rd Centenary Public School, Mansarover Garden, New Delhi -110015

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school vide letter dated 02/03/2012 stated that it had implemented the VI Pay Commission w.e.f. 01/09/2008. It was further stated that the arrears of salary arising on account of retrospective implementation of VI Pay Commission amounting to Rs. 20,61,220 had also been paid. With regard to increase in fee, the school stated that the fee had been increased w.e.f. 01/09/2008 in accordance with the order dated 11/02/2009 issued by the Director of Education and it had also recovered arrears of fee from students amounting to Rs. 20,61,220. It also submitted statements showing pre-implementation and post-implementation monthly salary and pre implementation and post implementation monthly fee. On examination of these statements, it was observed that the monthly impact of implementation of VI Pay Commission by way of increased salary was Rs. 4,01,900 and the fee had been hiked by Rs. 300 per month for all the classes. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on

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31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs.54,05,581**. The arrears of VI Pay Commission paid to the staff were **Rs.20,61,220.** The arrears of fee recovered from the students was also **Rs.20,61,220.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs.76,36,100**. The incremental revenue of school on account of increase in fee from 01/09/2008 to 31/03/2010 was **Rs.86,87,500**. The school was, therefore, served with a notice dated 21/01/2013 for providing it an opportunity of hearing by the Committee on 20/02/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had hiked more fee than was required to offset the additional burden on account of implementation of the VI Pay ~~Commission Report. On the a~~ppointed date, Sh. Raj Kumar, Office Superintendent and Sh. Govind Parshad Accountant of the school appeared. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 28/02/2013. As the school was found to be charging

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development fee also, it was asked to give specific replies to the following queries:

(i) How the development fee was treated in the accounts?

(ii) How much development fee had been charged in 2009-10 and 2010-11?

(iii) For what purpose development fee was utilised?

(iv) Whether separate development fund account and depreciation reserve fund account were maintained?

Submissions:

On 28/02/2013, the aforesaid representatives of the school again appeared. They filed written submission dated 28/02/2013 along with their own calculations showing funds available vis a vis the additional liability on account of implementation of VI Pay Commission. They also filed an account of development fee received and utilised for the years 2009-10 and 2010-11. It was mentioned in the written submissions that the school was not maintaining a separate development fund.

On comparison of the calculations prepared by school and those prepared by the CAs detailed with the Committee, it was observed that while the school did not dispute the workings of the CAs, it claimed that the following liabilities of the school should also have been considered while working out the funds available:

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(i)	Overdraft from Punjab & Sind Bank	Rs. 39,38,080
(ii)	Loan from ICICI Bank	Rs. 12,29,357
(iii)	Loan from HDFC Bank	Rs. 6,021
(iv)	Loan from another branch of School	Rs. 8,27,391

Discussion

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculation sheet prepared by the CAs detailed with the Committee, the calculation sheet submitted by the school and the submissions of the school regarding development fund.

Re.: Overdraft from Punjab & Sind Bank

The Committee has observed that the school was availing an overdraft facility from Punjab & Sind Bank against fixed deposits. As per the balance sheet of the school, the overdraft as on 31/03/2008 was **Rs. 39,38,080**. While the FDRs have been included as part of current assets, the overdraft availed against those FDRs has not been taken as a current liability while making the preliminary calculations. Therefore, the contention of the school is accepted and the liability on ~~account of overdraft will be duly~~ factored in while making the final determinations.

Re.: Loans from ICICI Bank and HDFC Bank

In the course of hearing, the representatives of the school stated that these loans were taken for purchase of buses. However, on

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perusal of the audited balance sheet, it is observed by the Committee that the loans were taken for cars. Be that as it may, whether the loans are taken for purchase of buses or for cars, the same cannot be reduced from the working of the funds available for the simple reason that the cost of cars and buses has not been included in the working. Therefore, the contention of the school for reducing the liability on accounts of these loans is rejected.

Re.: Loan from another branch of School

The contention of the school that a sum of Rs. 8,27,391 should be excluded from the funds available as the same represents the liability to be discharged in respect of loan taken from another branch of the school. However, on perusal of the balance sheet, it transpires that out of the total amount of Rs. 8,27,391, a sum of Rs. 5,58,924 is payable to the parent society of the school and a sum of Rs. 2,68,467 is payable to Guru Tegh Bahadur Junior Public School. While the purported liability of the school to its parent society cannot be accepted for the simple reason that the society is supposed to provide the basic infrastructure of the school and the funds injected by the society have gone towards creation of such infrastructure, the amount owing to another school i.e. **Rs. 2,68,467** ought to be deducted, particularly as the Committee finds that the same has been paid off in the subsequent year. Hence the contention of the school is partially accepted.

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Determinations:

1. **Tuition fee**

The funds available with the school as on 31/03/2008 are determined to be **Rs. 11,99,034** as per details below.

Particulars		Amount
Net current assets as per the preliminary calculation sheet		54,05,581
Less deductions as per the above discussion (i) Overdraft from P&S Bank (ii) Liability towards junior public school	 39,38,080 2,68,467	 42,06,547
Net Funds available		**11,99,034**

Although, the school has not made any claim with regard to keeping some funds in reserve, the Committee, consistent with the view taken in the case of other schools, is of the view that the school ought to maintain a reserve equivalent to four months' salary and only the balance should be treated as available for implementation of VI Pay Commission Report. The monthly expenditure of salary, post implementation of VI Pay Commission, as claimed by the school is Rs. 15,78,582. Four months' salary on the basis of this works out to **Rs. 63,14,328**.

Hence the school did not have sufficient funds to be able to maintain a reasonable reserve for future contingencies. Therefore, whatever liability that befell on the school on account implementation of VI Pay Commission Report, it had to raise the funds by increasing its fee. The school recovered a sum of Rs. 20,61,220 by way of arrear

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fee, the whole of which was disbursed to the staff towards payment of arrears, although the liability was more. So far as the incremental fee for the period 01/09/2008 to 31/03/2010 is concerned, the school generated excess funds to the tune of Rs. 10,41,400 as the aggregate of increased fee amounted to Rs. 86,77,500 while the liability for increased salary of the corresponding period amounted to Rs. 76,36,100. However, as noted infra, the school did not have sufficient fund to maintain a reasonable reserve for future contingencies, the Committee is not recommending any refund of fee on this account.

Development Fee

The school fairly conceded that it was not maintaining a separate development fund account. On examination of its Income & Expenditure Account and balance sheet, it is apparent that the school was treating the development fee as a revenue receipt and not as a capital receipt. As treatment of development fee as capital receipt and maintenance of a separate development fund account are conditions precedent for charging development fee in terms of the recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583, the Committee is of the view that the development fee charged by the school was not in accordance with the law laid down by the Hon'ble Supreme Court. The school vide its submissions dated 28/02/2013 submitted that it had recovered a sum of **Rs. 44,09,851** as development fee in 2009-10 and **Rs.**

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JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

34,81,655 in 2010-11. These were unauthorized charges and are liable to be refunded to the students.

Recommendations:

In view of the determinations made by the Committee as above, the school ought to refund a sum of Rs.78,91,506 which was unauthorisedly charged as development fee along with interest @ 9% per annum. Recommended accordingly.

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 21.05.2012

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ANIL DEV SINGH
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Modern School, Vasant Vihar, New Delhi-110057

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school vide letter dated 06/03/2012 stated that it had implemented the VI Pay Commission w.e.f. 01/09/2008 and had also paid the arrears on account of retrospective implementation of VI Pay Commission w.e.f. 01/01/2006. With regard to increase in fee, the school stated that the same had been increased w.e.f. 01/09/2008. The hike was to the tune of Rs. 500 per month in tuition fee and Rs. 205 per month in development fee, purportedly in accordance with the order dated 11/02/2009 issued by the Director of Education. It was stated that prior to implementation of VI Pay Commission, the expenditure on salary to the staff amounted to Rs. 38,40,782 per month while after its implementation, it rose to Rs. 48,52,784 per month. Arrears of salary were paid in two instalments i.e. Rs. 89,69,348 in March 2009 and Rs. 1,34,54,021 in September 2009. Further, a sum of Rs. 51,68,698 was paid as arrears to the employees who had retired or left the employment of the school from 01/01/2006 to 31/08/2008. The arrears of tuition fee for seven months were stated to be Rs. 75,63,500 while the arrears of development fee for seven months was stated to be Rs. 31,01,035. Based on this reply submitted by the school, it was placed in Category 'B'.

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Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs. 7,58,58,767**. The arrears of VI Pay Commission paid to the staff were **Rs. 2,75,92,067.** The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs. 1,92,28,038**. The incremental revenue of school on account of increase in fee from 01/09/2008 to 31/03/2009 was **Rs. 1,06,64,535**. The school was served with a notice dated 26/12/2012 for providing it an opportunity of hearing by the Committee on 28/01/2013 and for enabling it to provide justification for the hike in fee.

On the date of hearing, Sh. Balbir Sharma, C.F.O., Sh. A.P. Sharma, Accounts Officer and Sh. Rohit Arora, Accountant of the school appeared. They were provided with a copy of the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They

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requested for some time to be given to respond to the calculations. At their request, the hearing was adjourned to 27/02/2013. Since the school was also charging development fee, they were requested to give specific replies to the following queries:

(a) How development fee was accounted in the books of accounts and how it was utilised?

(b) Whether separate development fund and depreciation reserve fund accounts were maintained?

On 27/02/2013, the aforesaid representatives of the school again appeared before the Committee and were heard.

Submissions:-

It was contended by them as follows:

(a) While working out the funds available with the school, the CAs attached with the Committee had also included earmarked funds, which had to be spent for specific purposes in terms Rule 176 of Delhi School Education Rules 1973. In particular, it was contended that the following FDRs were earmarked for specific purposes and ought to be excluded:

(i)	Students securities	40,33,750
(ii)	Scholarship and prizes fund	1,81,708
(iii)	Gratuity	2,29,33,770
(iv)	Development fund	1,66,19,469
(v)	Depreciation Reserve fund	4,62,55,210

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(b) All the preconditions as per the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors. (2004) 5 SCC 583 were complied with regard to the development fee.

(c) The figures taken by the CAs per se were not disputed except for the incremental salary for 2009-10 which was Rs. 1,11,66,339 instead of Rs. 1,21,44,024 taken by the CAs.

On 28/02/2013, the school filed copies of actuarial valuation of gratuity as on 31/03/2008, certifying the estimated liability to be Rs. 2,19,27,718 and Rs. 5,25,58,395 as on 31/03/2010 and requested that the same may also be considered while making the final determinations.

However, while deliberating upon the recommendations to be made by the Committee, it was observed that there were certain flaws in the preliminary calculation sheet prepared by the CAs attached with the Committee which were beneficial to the school and hence were not pointed out by the school also. Further, it was observed that the CAs had deducted a sum of Rs. 1,42,17,712 as other liabilities, while working out the funds available with the school as on 31/03/2008. However, the schedule of other liabilities was not furnished by the school along with its balance sheet. Hence, in view of the Committee, this deduction made by the CAs was not verifiable. In order to arrive at a just conclusion, the Committee requested the school to furnish the schedule of other liabilities. A scanned copy of the same was

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emailed by the school. On perusal of the same, it was observed that the school had already made a provision of Rs. 1,20,00,000 in its balance sheet as on 31/03/2008 towards anticipated liability of VI Pay Commission. The Committee also observed that though, prima facie , the school appeared to have complied with the pre conditions for charging of development fee, it was claiming excessive earmarking of funds towards depreciation reserve fund. As the information required by the Committee was not apparent from its financials, the Committee vide letter dated 20/05/2013 required the school to furnish various informations, chiefly being accumulated depreciation on assets acquired out of development fee. The preliminary calculation sheet prepared by the CAs was revised by the Committee and a copy of the same was furnished to the school vide letter dated 26/06/2013. The school was asked to justify the fee hike in light of the fact that as per the revised calculations, prima facie, the school had a surplus of Rs. 6.58 crores after accounting for the fee hike and the salary hike. The requisite information regarding accumulated depreciation on assets acquired out of development fee was furnished by the school vide letter dated 04/07/2013. The hearing in the matter was fixed again for 15/07/2013 when the aforesaid representatives of the school appeared and made the following submissions in addition to the submissions made on 27/02/2013:

(a) The investments against the earmarked funds i.e. depreciation reserve fund to the tune of Rs. 4,62,55,210 and

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development fund of Rs. 1,66,19,469 ought to be excluded from the funds available for implementation of VI Pay Commission.

(b) Similarly, the gratuity fund amounting to Rs. 2,29,33,770 ought to be excluded.

(c) The entire funds available with the school ought not to be considered as available for discharge of liability arising on account of implementation of VI Pay Commission as the school requires some cushion to meet future contingencies.

(d) The figure of arrear fee taken by the Committee at Rs. 1,06,64,535 includes arrear of development fee amounting to Rs. 31,01,035, which the school has capitalized and is separately earmarked.

(e) The actual additional revenue on account of fee hike in 2009-10 was Rs. 1,06,02,465 instead of Rs. 1,31,70,000 taken by the Committee.

(f) On query from the Committee, the representatives of the school stated that the accumulated depreciation on fixed assets acquired out of development fee was Rs. 2,01,02,660 as was also mentioned in the enclosure to its letter dated 04/07/2013.

Discussion:

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by

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the CAs detailed with the Committee, the revised calculation sheet prepared by the office of the Committee, the clarifications furnished by the school regarding development fee and depreciation reserve fund, and the oral submissions made by the representatives of the school.

Re.: Exclusion of earmarked funds

The Committee agrees with the contention of the school that funds collected for specific purposes have to be utlised for those purposes alone and cannot be considered as available for payment of the liabilities of the school arising on account of implementation of VI Pay Commission. However, the question remains as to what extent they can be considered as earmarked. The contentions of the school in respect of each of these funds are discussed hereinafter.

(a) **Students securities** : It is observed from the balance sheet of the school as on 31/03/2008 that the liability for students security was Rs. 28,34,750 as on that date which had already been excluded in the calculations of funds available. The FDRs held on this account were to the tune of Rs. 40,33,750. The amount of FDRs over and above the liability for refund of student security is free for utilisation for payment of increased salaries on account of implementation of VI Pay Commission. Hence only the excess amount of **Rs. 11,99,000** will be considered as available with the school in the final determination.

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(b) Scholarship and prizes fund : The Committee agrees that the FDR held on this account amounting to Rs. 1,81,708 cannot be considered as available for payment of increased salary on account of VI Pay Commission.

(c) Gratuity : the school held FDRs of Rs. 2,29,33,770 for accrued liability of gratuity payable to staff. However, the actuarial valuation certificate issued by Sh. M.L. Sodhi, Consulting Actuary certifies that the estimated liability of the school towards gratuity as on 31/03/2008 was Rs. 2,19,27,718. The same amount has been provided by the school in its balance sheet also. Hence the excess of FDRs held over the estimated liability amounting to **Rs. 10,06,052** will be considered as fund available with the school in the final determination. However, the incremental liability of gratuity as on 31/03/2010, as certified by the actuary, amounting to **Rs. 3,06,30,677** also needs to be factored in the final calculations.

(d) Development fund : the FDRs and bank balance held on this account amounts to Rs. 1,66,19,469 whereas the unutilized development fund shown on the liability side of the balance sheet was Rs. 1,65,87,574. Hence the excess FDR amounting to **Rs. 31,895** will be considered as fund available for payment of increased salary on account of VI Pay Commission.

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(e) **Depreciation Reserve fund**: the FDRs held on this account amount to Rs. 4,62,55,210. However, as per the details furnished by the school vide letter dated 04/07/2013, the depreciation reserve on account of assets acquired out of development fee was Rs.2,01,02,660 only. The school is required to earmark funds on account of accumulated depreciation on assets acquired out of development fee only. The school cannot claim earmarking of funds against accumulated depreciation on assets acquired out of general fund of the school. Hence in view of the Committee, the FDRs in excess of Rs.2,01,02,660 represents free funds available with the school and the same can be considered as part of funds available for implementation of VI Pay Commission. The excess amount of FDRs i.e **Rs. 2,61,52,550** will be taken as part of available funds in the final determination.

Re.: Discrepancies in figures taken by the CAs detailed with the Committee.

The school has pointed out a discrepancy in the incremental salary for the year 2009-10 as taken by the CAs. The school has contended that the incremental salary as apparent from the Income & Expenditure accounts of 2008-09 and 2009-10 was Rs. 1,11,66,339 and not 1,21,44,024. This contention is accepted by the Committee as the figures reflected in the audited Income & Expenditure accounts

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would be a fair reflection of the expenditure actually incurred. The Committee while revising the calculations of the CAs has already corrected this mistake. Hence the figure of **Rs. 1,11,66,339** will be taken as the incremental salary for the year 2009-10.

Re.: <u>Discrepancy in arrear fee for the period 01/09/2008 to 31/03/2009</u>

The school has contended that only the arrear of tuition fee amounting to Rs. 75,63,500 should have been taken into consideration. The arrear of development fee amounting to Rs. 31,01,035 should not have been taken into consideration as the same is capitalized and earmarked for purchase of eligible fixed assets. The Committee has observed that the school hiked tuition fee to the extent of Rs. 500 per month and development fee to the extent of Rs. 205 per month. In terms of the judgment of the Hon'ble Supreme Court in the case of Modern School vs. Union of India & ors (2004) 5 SCC 583 and also the order dated 11/02/2009 issued by the Director of Education, the schools have been given liberty to charge development fee for specified purposes upto 15% of tuition fee. The hike in development fee of Rs. 205 on a hike of Rs. 500 in tuition fee works out to 41%. The school has contended that the hike in development fee in percentage terms is more as earlier the school was charging development fee at lesser rate(10%) instead of 15%. The Committee is of the view that the school cannot recover arrears of development fee at a rate higher than 10% in order to make up the deficiency in the

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development fee charged in the earlier years. The arrears can be charged at the same percentage of tuition fee at which the pre hike fee was being charged in accordance with the statement of fee filed by the school under section 17(3) of the Delhi School Education Act 1973 before 31st March. As the hike in tuition fee was to the tune of Rs. 500 per month, the hike in development fee could at best be @ Rs. 50 per month.

Re.: Discrepancy in the figure of additional revenue from the fee hike in 2009-10

The Committee accepts the contention of the school that the additional revenue on account of fee hike in 2009-10 ought to be taken at Rs. 1,06,02,465 as reflected in its audited financials instead of Rs. 1,31,70,000 taken by the office of the Committee in the revised preliminary calculations. While making the revised calculations, the office of the Committee did not take into account various concessions enjoyed by certain sections of the students like those belonging EWS, staff wards etc.

Re.: Reserve for future contingencies.

The Committee accepts the contention of the school that the entire funds available with the school should not be considered as available for implementation of VI Pay Commission. The school needs to keep in reserve some funds for future contingencies. The Committee has taken a consistent view that the schools ought to

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retain funds equivalent to 4 months salary for future contingencies. The monthly salary bill of the school after implementation of VI Pay commission was Rs. 48,52,784. The Committee is of the view that the school ought to retain funds amounting to **Rs. 1,94,11,136**, representing 4 months' salary, for any future contingencies.

Determinations:

1. **Tuition fee**

The free funds available with the school as on 31/03/2008 are determined to be **Rs. 2,90,59,108** as follows:

Particulars			**Amount (Rs.)**
Net Current Assets			
(i) Cash		3,000	
(ii) Bank Balance		14,89,233	
(iii) Pre paid expenses		9,43,821	
(iv) TDS refundable		3,893	
(v) Loans & advances		18,02,128	
		42,42,075	
Less Current Liabilities			
(i) Advance fee	16,97,320		
(ii) Otherliabilities	22,17,712	39,15,032	3,27,043
Free Investments			
(i) General fund FDRs		3,42,568	
(ii) Excessive Development fund FDRs		31,895	
(iii) Excessive depreciation fund FDRs		2,61,52,550	
(iv) Excessive gratuity fund FDRs		10,06,052	
(v) Excessive student securities FDRs		11,99,000	2,87,32,065
Total free funds available			**2,90,59,108**

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As per the above discussion, the school ought to set apart the following amounts out of its free funds available:

(a) 4 months salary	Rs. 1,94,11,136
(b) Incremental liability of	Rs. 3,06,30,677
Gratuity as on 31/03/2010	Rs. 5,00,41,813

Since the free funds available with the school were not sufficient to cover the amounts which, in view of the Committee, the school ought to set apart, the school needed to hike the fee to implement the VI Pay Commission Report. The question that is to be determined by the Committee is what was the extent of hike required?

The school recovered a sum of Rs. 75,63,500 as arrears of fee for the period 01/09/2008 to 31/03/2009. The arrears of development fee will be considered separately by us while dealing with the issue of development fee. The incremental revenue on account of fee hike for the period 01/04/2009 to 31/03/2010 was Rs. 1,06,02,465, as determined by the Committee. Hence, the total additional funds available with the school for implementation of VI Pay Commission were Rs. 1,81,65,965. As against this, the total additional expenditure of the school on account of implementation of VI Pay Commission was Rs. 4,58,42,420 representing Rs. 2,75,92,067 as arrears from 01/01/2006 to 31/08/2008, Rs. 70,84,014 as arrears for the period 01/09/2008 to 31/03/2009 and Rs. 1,11,66,339 as incremental salary in the year 2009-10. Hence, in view of the Committee, the school was in deficit to the tune of Rs. 2,76,76,455.

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Development Fee

Although, in view of the Committee, the school is scrupulously following the pre conditions laid down by the Duggal Committee as affirmed by the Hon'ble Supreme Court in the case of Modern school (Supra) with regard to capitalization of development fee and maintenance of development fund and depreciation reserve fund, the Committee has observed that the development fee as a percentage of tuition fee was 41%, in so far as the arrears of fee for the period 01/09/2008 to 31/03/2009 are concerned. This was on account of the fact that till 2008-09, the school was charging development fee at the rate of 10% of tuition fee while in 2009-10, it started charging at the rate of 15% of the tuition fee. In recovering the arrears for the period 01/09/2008 to 31/03/2009, the school recovered the same at the rate of 15% of tuition fee. While the school can legitimately charge development fee at the rate of 15% of tuition fee w.e.f. 01/04/2009, the school cannot recover the arrears of development fee at the rate of 15% of tuition fee when the development fee originally charged during the period to which the arrears pertained was at the rate of 10%. This would amount to hiking the development fee retrospectively which is not permissible in view of the provisions of section 17 (3) of the Delhi School Education Act, 1973 which requires that no school shall charge a fee in excess of what has been intimated to the Director of Education before 31st March every year. The development fee

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charged by the school which formed part of the total fee for the year 2008-09 which was intimated to the Director of Education before 31st March 2008 was at the rate of 10% of tuition fee. Therefore, the school was not competent to charge any development fee in excess of 10% for the year 2008-09, whether originally or by way of arrears for any period forming part of that year. Any such excess charge would require prior approval from the Director which the school has admittedly not taken. The Committee, is therefore of the view, that the arrears of development fee recovered by the school at the rate of Rs. 205 per month for the period 01/09/2008 to 31/03/2009 was not justified. The school at best could have recovered the arrears at the rate of Rs. 50 per month i.e. 10% of the hike in tuition fee. The excess recovery of Rs. 155 per month was wholly unjustified and in fact illegal. The total amount at the rate of Rs. 155 per month per student for the period 01/09/2008 to 31/03/2009 works out to Rs. 23,44,685 which the school unjustifiably recovered.

Recommendations:

In view of the determinations made by the Committee as above, no intervention is required in so far as tuition fee is concerned as the school has not made any claim to be allowed to increase its fee over and above the increase it has effected in terms of order dated 11/02/2009 of the Director of Education. However, the school ought to refund the excess arrears of development fee of Rs.23,44,685 for the period 01.09.2008 to

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31.03.2009, which the school recovered in contravention of the provisions of law, more particularly section 17(3) of the Delhi School Education Act, 1973. The aforesaid refund ought to be made alongwith interest @ 9% p.a. .

Recommended accordingly.

Sd/-	Sd/-	Sd/-
Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 23/07/2013

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

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Good Samaritan School, Jasola, New Delhi-110025

In reply to the questionnaire dated 27/02/2012 sent by email, the school, vide letter dated nil, received in the office of the Committee on 12/03/2012, submitted that it had implemented the VI Pay Commission w.e.f. July 2010. However, no arrears of salary on account of retrospective application of the VI Pay Commission were paid. In support of its contention of having implemented the VI Pay Commission, it enclosed salary statement for the month of June 2010 showing gross monthly salary of Rs. 4,37,265 and salary statement for the month of July 2010 showing gross monthly salary of Rs. 5,86,954. With regard to increase in fee, it submitted that it had increased the fee of the students in accordance with the order dated 11/02/2009 of the Director of Education w.e.f. April 2009. In support of this submission, it enclosed fee structures for the years 2008-09 and 2009-10, as per which it was observed that for classes I to VIII, the tuition fee had been increased by Rs. 400 per month while that for classes IX & X, it was increased by Rs. 500 per month. The development charges levied by the school were hiked from Rs. 2,640 per annum in 2008-09 to Rs. 3,700 per annum. As for the arrears of fee, it stated that it had collected only Rs. 14,577. The school also enclosed a statement showing that a large number of students were being granted fee concession ranging from 25% to 100% and therefore the actual collection of fee was significantly less. It also enclosed a copy of the circular issued to the parents of the students demanding

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arrears of fee for the period 01/01/2006 to 31/08/2008 and 01/09/2008 to 31/03/2009. Based on this reply submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. The CAs had made the calculations with reference to the balance sheet of the school as on 31/03/2010 for the reason that the school had implemented the VI Pay Commission w.e.f. July 2010. However, the Committee felt that since the school had hiked the fee in the year 2008-09 w.e.f. 01/09/2008, the calculation of funds available should have been made with reference to the balance sheet as on 31/03/2008 since that would indicate the funds available with the school when the decision to hike the fee was taken. Accordingly the CAs were asked to rework the position of funds availability as on 31/03/2008. The CAs submitted the revised calculations as per which, prima facie, the school had funds available to the tune of Rs. 13,64,979 as on 31/03/2008. A sum of Rs. 28,28,000 was apparently recovered by the school as arrears of fee which was calculated on the basis of the student strength and the demand for arrears made from parents. The additional revenue accruing to the school on account of hike in fee from 01/09/2008 to 31/03/2009 was Rs. 1,85,67,519. However, since the school had not implemented the VI Pay Commission Report till 31/03/2010, there was a nominal increase in salary amounting to Rs. 13,47,201 for the period

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01/09/2008 to 31/03/2010. Hence, as per the preliminary calculations made by the CAs, the surplus available with the school as a result of hike in fee swelled to Rs. 2,14,13,297. The school was, therefore, served with a notice dated 26/12/2012 for providing it an opportunity of hearing by the Committee on 28/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had hiked the fee w.e.f. 01/09/2008 without justification as it admittedly had implemented the VI Pay Commission Report only w.e.f July 2010. .

On the date of hearing, Dr. Ananthi Jeba Singh, Manager of the school appeared along with Mrs.. Roselin Vincent and Sh. Babloo Prasad. They were heard by the Committee.

It was contended that no arrears of VI Pay Commission could be paid to the staff since the collection on account of arrear fee was only to the extent of Rs. 25,076 in 2008-09. It was further contended that in the reply to the questionnaire, this figure had been incorrectly given as Rs. 14,577. It was also contended that though the fee was hiked w.e.f. 01/04/2009, the VI Pay Commission could only be implemented w.e.f. 01/07/2010 as the school gives free ships and concessions to a large number of students. Since, full fee paying students were very less, as such the collections were not sufficient to implement the VI Pay Commission w.e.f. 01/04/2009. The school also filed details of free ships and concessions granted to the students in support of its contentions.

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As the school was found to be charging development fee, besides tuition fee, it was asked to give specific replies to the following queries:

(a) How much development fund was collected since the date the school was recognized?

(b) How development fund had been utilised?

(c) How development fund was treated in the accounts of the school?

(d) Whether a separate development fund account was maintained and whether a separate depreciation reserve fund account was maintained?

In order to give an opportunity to the school to furnish answers to the aforesaid questions, the matter was directed to come up on 14/02/2013. On that date, the Manager of the school appeared with Mr. Danial Titus but did not file any response to the aforesaid queries. Certain statements, however were produced by them, which they were not able to co-relate with the financials of the school. It was submitted that one more date be given for their Chartered Accountant to render proper explanations with regard to the financials of the school. Having regard to the request, the matter was fixed for 01/03/2013.

On 01/03/2013, the Manager of the school appeared with Sh. Rakesh Mediratta, Chartered Accountant and Sh. Babloo Prasad, accountant. They filed written submissions dated 01/03/2013 regarding the queries raised by the Committee with regard to

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For Secretary

JUSTICE ANIL DEV SINGH COMMITTEE For Review of School Fee

development fund. It was stated that the school was recognized w.e.f. April 2007 and from the academic year 2007-08 to 2010-11, a total sum of Rs. 46,36,638 had been collected as development fund. Included in this were Rs.12,46,651 collected in 2009-10 and Rs.21,36,391 collected in 2010-11. With regard to its utilisation, it was stated that a sum of Rs. 34,76,397 had been utilised upto March 2011, out of which a sum of Rs. 15,02,946 was shown as utilised for purchase of buses. It was also stated that upto 2008-09, development fund was shown separately as a capital receipt in the balance sheet. However, in 2009-10 the balance in the development fund was transferred to the general fund and in 2010-11, the same was shown as a revenue receipt and credited to Income and Expenditure Account. With regard to separate development fund and depreciation reserve fund accounts, it was stated that no such accounts were being maintained.

During the course of hearing, the financials of the school were examined but on account of the peculiar accounting being adopted by the school (separate balance sheets were made for the domestic funds and for foreign contributions), the exact calculations with regard to additional fee accruing to the school on account of fee hike and additional salary paid by the school on account of implementation of VI Pay Commission were not coming out. Accordingly, the school was provided with a copy of the preliminary calculation sheet prepared by the CAs attached with the Committee and the school was asked to

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respond to the same. The school was particularly asked to file a computation of additional fee vis a vis additional salary on account of implementation of VI Pay Commission Report. The hearing was adjourned to 19/03/2013. However the meeting of the Committee scheduled for 19/03/2013 was cancelled due to certain reasons and the school was intimated of the same a day earlier. A fresh notice was issued on 25/04/2013 for hearing on 22/05/2013. On this date, Mr. Amulya Panigrahi, officiating Principal appeared along with Mrs. Roslin Vincent, Mr. Babloo and Mr. Danial Tytus. They filed the requisite computation which was examined by the Committee with reference to the financials of the school. With reference to the computation, the school submitted as follows:

Additional revenue on account of hike in fee

In 2009-10	Rs. 1,67,710
In 2010-11	Rs. 5,80,540
Total	Rs. 7,48,250

Additional liability on account of VI Pay Commission

From July 2010 to March 2011	Rs. 14,44,376

On examination of the details of hike in fee, the Committee observed that the school had calculated the hike after excluding 10% hike which the school stated was the normal hike which is allowed every year. However, the Committee considers that at this stage, the calculations must be based on the actual fee hike. If the full fee hike

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is taken into account, the additional revenue available to the school on account of fee hike would be as follows:_

Arrear fee, admittedly recovered by the school	Rs. 25,076
Additional fee on account of fee hike:	
In 2009-10 (as worked out by the Committee)	Rs. 3,01,775
In 2010-11(as worked out by the Committee)	Rs. 13,83,800
Total	Rs. 17,10,651

As against the aforesaid additional revenue, the additional liability on account of implementation of VI Pay Commission for the period 01/07/2010 to 31/03/2011 works out to be Rs. 14,44,376 (as per the statement submitted by the school)

Discussion & Determinations:

Tuition fee

The preliminary calculation sheet prepared by the Chartered Accountants attached with the Committee does not reflect the true picture, as far as the calculations of incremental revenue on account of fee hike are concerned, as they did not take into account the number of students enjoying free ships and concessions which is significantly high. Hence the calculations presented by the school as revised by the Committee would be adopted. With regard to the incremental salary on account of implementation of VI Pay Commission Report, the CAs had worked out the same to be Rs.

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13,47,201 for the period 01/09/2008 to 31/03/2010 upto which date, the school admittedly, had not implemented the VI Pay Commission. Hence, the same are not relevant for the purpose. The school has given a detailed statement showing the same to be Rs. 14,44,376. The Committee accepts the figure given by the school. The same will be factored in while making the final determination.

The school has not disputed that as on 31/03/2008, the funds available with the school were to the tune of Rs. 13,64,979 . Hence the same are taken as accepted by the school and will be taken into consideration while making the final determination.

Since the school was granted recognition w.e.f. April 2007, the school did not have any accrued liability for gratuity upto 31/03/2010 as none of the staff members would have completed five years of service. Hence, no allowance on account of gratuity is required to be made in respect of this school.

The Committee has taken a view in the case of other schools that a sum equivalent to four months' salary ought to be retained by the schools in reserve to meet any future contingency. The aggregate salary for the month of July 2010 as submitted by the school was Rs. 5,60,899. Based on this, four months' salary would amount to Rs. 22,43,596.

From the aforesaid analysis, it is apparent that as against the threshold funds available with the school as on 31/03/2008, which

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amounted to Rs. 14,44,376, the requirement for maintaining reserve for future contingencies was of the order of Rs. 22,43,596. The Committee is, therefore of the view, that the school did not have any funds of its own in order to implement the VI Pay Commission Report. Hence a fee hike was required. Hence, the question that is required to be determined is whether the fee hike effected by the school was excessive or was just?

As determined by the Committee, the school recovered a total sum of Rs. 17,10,651 by way of fee hike pursuant to order dated 11/02/2009 of the Director of Education. As against this its additional liability on account of implementation of VI Pay Commission was Rs. 14,44,376. Hence, the Committee is of the view that the school recovered a sum of Rs. 2,66,275 in excess of its requirement to implement the recommendations of VI Pay Commission Report. However the Committee is not recommending any refund in view of the requirement of the school for reserve to be maintained.

Development Fee

As noted above, the school during the years 2009-10 and 2010-11 treated the development fee as a revenue receipt. Besides, a large proportion of the development fee collected had been utilised for purchase of buses, which is not a permitted usage of development fee. Further the school is admittedly not maintaining any separate fund accounts for development fee and depreciation reserve. As such none

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of the pre conditions for collecting development fee laid down by the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India (2004) 5 SCC 583 , were being followed by the school.

Therefore, the Committee is of the view that the development fee collected by the school amounting to Rs. 12,46,651 in 2009-10 and Rs. 21,36,391 in 2010-11 ought to be refunded along with interest @ 9% per annum. Recommended accordingly.

Sd/-	Sd/-	Sd/-
Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 13/08/2013

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Adarsh Public School, Bali Nagar, New Delhi-110015

In reply to the questionnaire dated 27/02/2012 sent by the Committee on the school stated that it had implemented the VI Pay Commission w.e.f. 01/04/2009 and had also paid the arrears to the staff on account of retrospective application of VI Pay Commission. The details of salary before and after implementation of VI Pay Commission were also furnished. With regard to fee, it was stated that the school had increased the fee w.e.f. 01/04/2009 in terms of order dated 11/02/2009 issued by the Director of Education. However, the school had not recovered the arrear fee from the students. Fee structures for 2008-09 and 2009-10 were enclosed with the reply showing the fee charged by the school in those two years and also the number of students on roll of the school. On the basis of this reply, the school was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have increased the tuition fee w.e.f. 01/04/2009, the balance sheet of the school as on 31/03/2009 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the Chartered Accountants detailed with this Committee, the funds available with the school as on 31/03/2009 were to the tune of Rs.1,30,83,112. The

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arrears of VI Pay Commission paid to the staff were Rs.8,20,000. The additional burden on account of increased salary due to implementation of VI Pay Commission from 01/04/2009 to 31/03/2010 was Rs. 24,80,136. The additional revenue accruing to the school on account of increased fee from 01/04/2009 to 31/03/2010 was Rs.18,61,200. The school was, therefore, served with a notice dated 26/12/2012 for providing it an opportunity of hearing by the Committee on 23/01/2013. However, due to certain exigencies, the scheduled meeting of the Committee was cancelled. A fresh date was fixed for hearing on 08/02/2013.

On the scheduled date of hearing, Sh. P.K. Sehgal, Chairman and Sh. S. S. Sharma, Member of the Managing Committee, Sh. Prashant Sehgal, Manager of the school appeared along with Sh. Ashok Kumar Jain, CA and Auditor of the school. The school filed a revised reply to the questionnaire in supersession of the reply filed earlier. The school submitted a statement of total increase in fee in 2009-10 vis a vis total increase in salary during the corresponding period. It was stated that the total increase in fee in 2009-10 was **Rs. 18,61,200** while the total increase in salary in the same period was **Rs. 17,67,384**. Further a sum of **Rs. 9,70,000** was paid as arrears to the staff. The school was informed that in view of the revised reply to the questionnaire, the calculations made by the Committee also required to be revised and the same would be sent to them for their

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response. The school was also asked to give specific replies to the following queries with regard to development fee:

(a) How development fee was treated in the accounts of the school?

(b) How development fee was utilised?

(c) Whether separate accounts were maintained for development fund depreciation reserve fund?

Vide letter dated 08/02/2013, the revised calculations of funds available vis a vis increased salary were sent to the school. As per the revised calculations, the funds available with the school as on 01/04/2009 were determined to be **Rs. 1,81,27,480**. The figures of increased fee and salary as given by the school were accepted. After accounting for the fee hike and the impact of implementation of VI Pay Commission, the school was found to be having a surplus of **Rs. 1,72,51,296.** The school was asked to respond to the revised calculations made by the Committee on 01/03/2013.

On 01/03/2013, Sh. Prashant Manager of the school appeared with Sh. S.S. Sharma and Sh. Ashok Kumar Jain, CA and filed written submissions dated 01/03/2013. They were heard by the Committee.

Submissions:

Along with the written submissions, the school submitted a statement of availability of funds. **It was contended that as per this statement, there was a surplus of Rs. 1,08,79,478 and not Rs.**

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1,72,51,296 as projected by the Committee. The difference between the figures worked out by the school from those worked out by the Committee was stated to be on account of the following reasons:

(i) The net current asset of Rs. 1,81,27,480 which were worked out by the Committee included surplus on account of all charges received by the school from the students i.e. tuition fees and funds collected for specific purposes like annual charges, assignment/examination charges etc.. A statement was enclosed with the written submissions which showed that the school had surpluses on account of the following funds:

Fund	**Surplus**
Tuition fund	1,47,65,501
Annual fund	12,72,488
Activity fund	(-) 42,612
Examination fund	18,98,861
Total	**1,78,94,238**

Year wise split income & expenditure accounts were furnished from 1999-2000 to 2008-09 to show the accumulation of funds as above. It was contended that the surplus generated on account of annual fund (Rs. 12,72,488) and Examination fund (18,98,861) ought to have been excluded from the funds available as worked out by the Committee, as in terms of sub Rule 3 of Rule 177 of the Delhi School Education Rules 1973, the surplus on account

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of funds collected for specific purposes are to be used for those purposes only.

(ii) Salary reserves equivalent to three months salary which is Rs. 20,07,438 ought to be set apart.

(iii) The increase in gratuity liability as on 31/03/2010 amounting to Rs. 6,39,927 should also be deducted.

(iv) Depreciation reserve fund of Rs. 2,28,138 on assets acquired during the year 2009-10 should also have been deducted as depreciation reserve fund had been created during this year.

(v) Unutilised development fund of Rs. 3,49,166 for the year 2009-10 should also have been deducted.

(vi) The contingent liability on account of leave encashment payable to the teachers on superannuation/voluntarily retirement should also be taken into account.

(vii) Reserve fund for meeting future contingencies of the school should also be considered.

It was contended that though the school had surplus fund to the tune of Rs. 1,08,79,478 after meeting its liabilities arising on account of implementation of VI Pay Commission, the school had to keep such funds in reserve as the school did not have the minimum area of 2000 sq. yds required for getting affiliation from the Central Board of Secondary Education. The school was keeping the funds in reserve for the needed expansion for which the requirement would be Rs. 15 to 20 crores. It was contended that Rule

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177 (2) of Delhi School Education Rules, 1973 permitted the school to spend the savings from the tuition fee for expansion of the school building.

With regard to development fee, the school contended that prior to 2009-10, development fee was not charged and the development fee charged from 2009-10 was capitalized in the balance sheet. The same was utilised for purchase of fixed asset of the school. Although no separate bank account was maintained, FDRs with the bank were earmarked against development fund.

Discussion:

The Committee has_considered the aforementioned contentions of the school. These are discussed in the following paras.

Re.: Exclusion of surplus on account of fees recovered for specific purposes.

Whether the recovery of fee towards examination fee and annual charges are, per se, fee recovered for specific purposes? The Committee is of the view that examination fee cannot be termed as fee for specific purposes as conducting examination is an essential part of the imparting of education. The same cannot be segregated from the tuition fee. There cannot be any tuition without conducting the examinations to test the learning ability of the students. However, annual charges can be considered as fee for specific purposes. Annual charges are meant for recovery of school overheads.

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A close examination of the data submitted by the school shows that there is a consistent accumulation from annual charges from 1999-2000 to 2008-09. This would indicate that the school is recovering more fee than is required under this head by artificially suppressing the tuition fee. This is nothing but a device used by the school to show accumulation of funds under this head so that it can be shown as having been kept apart. Normally when fee is recovered for specific purposes, the revenue and expenditure on those accounts would nearly match. These fees are not for meeting any capital expenditure which would require funds to be accumulated but are for meeting the revenue expenditure. Accumulation out of annual charges can only be incidental or accidental. When there is a consistent pattern of accumulation of funds under this head, the inescapable conclusion is that the school was recovering more fee under this head than was required and to that extent, the tuition fee was suppressed. In the circumstances, the Committee finds no reason to exclude the accumulations out of annual fee and examination fee from the funds available which could be used for implementation of VI Pay Commission

Reg: <u>Reserves for future contingencies</u>

The school has claimed that reserve equivalent to three months salary amounting to Rs. 20,07,438 ought to be set apart. Further, the school has claimed that some reserve for future contingencies should also remain with the school. The Committee is in agreement with

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these contentions of the school. Consistent with the view taken by the Committee in cases of other schools, the Committee is of the view that the school ought to retain a total reserve equivalent to four months' salary for meeting any contingency in future. The monthly expenditure on salary, post implementation of VI Pay Commission, is Rs. 6,11,687. Based on this, the school ought to retain funds to the tune of **Rs. 24,46,748** and the same will be considered while making the final determination.

Re.: <u>Increase in gratuity liability as on 31/03/2010</u>

The school has given employee wise detail of its accrued liability towards gratuity as on 31/03/2010 and that as on 31/03/2009. The aggregate amount of accrued gratuity as on 31/03/2010 was Rs. 23,58,507 while that as on 31/03/2009 was Rs. 17,18,580. While the gratuity payable as on 31/03/2009 has already been taken into consideration in the preliminary calculations of funds available as on 31/03/2009, the additional liability that accrued on account of gratuity for the years ending 31/03/2010 has to be taken into consideration. The Committee accepts this proposition and the incremental liability as on 31/03/2010 amounting to **Rs. 6,39,927** will be factored in while making the final determination.

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Re.: <u>Exclusion of unutilized development fund collected during the year 2009-10 and depreciation reserve fund.</u>

The contention of the school that unutilized development fund received in the year 2009-10 amounting to Rs. 3,49,166 and depreciation reserve fund amounting to Rs. 2,28,138 on assets created out of development fee in 2009-10 should be excluded from the figure of funds available as on 31/03/2009, deserves to be outrightly rejected for the simple reason that while making the calculations of funds available as on 31/03/2009, the funds received in 2009-10 have not and could not have been included in the first place. Hence there is no case for exclusion of these funds.

Re.: <u>Contingent liability on account of leave encashment</u>

The school has not submitted any estimates of leave encashment due as on 31/03/2010. Presumably there is no such liability and the school only wants the Committee to estimate its future liability which would arise on superannuation or voluntary retirement of staff. Such an exercise is not required as the Committee is concerned with the fee hike pursuant to order dated 11/02/2009 of the Director of Education and estimates of future liabilities cannot be factored in such calculations.

Re: <u>Keeping funds in reserve for future expansion of school.</u>

With regard to the contention of the school that the school needs to keep the surplus in reserve for future expansion and such

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application of surplus is permitted by Rule 177 of the Delhi School Education Rules, 1973, the Committee is of the view that the same is clearly misplaced and does not take into account the scheme of Rule 177(supra). As per this rule, the income derived by the school by way of fees shall be utilised in the first instance for meeting the pay, allowances and other benefits admissible to the employees of the school. Hence, payment of salary and allowances is the first charge on the funds generated out of fees. Only if there is surplus after payment of salaries and allowances, the same can be utilised for other purposes like expansion of school building etc. The amount for needed expansion cannot be set apart first and the school cannot raise the fees for payment of salaries and allowances. Hence, the contention of the school that while keeping the funds available intact, it was justified in hiking the fee for meeting its liabilities arising on account of implementation of VI Pay Commission has to be rejected.

Determination

Tuition Fee:

The Committee has determined that the school had funds to the tune of **Rs. 1,81,27,480** as available on 31/03/2009. This has also been accepted by the school in the calculation sheet submitted by it. However, as discussed above, the school ought to retain the following amounts out of such funds:

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(a) Reserve for future contingencies	Rs. 24,46,748
(b) Incremental liability of gratuity as on 31/03/2010	Rs. 6,39,927
	Rs. 30,86,675

Hence the funds available with the school for the purpose of implementation of VI Pay Commission were to the tune of **Rs. 1,50,40,805.** The total liability of the school towards arrears on account of retrospective application of VI Pay Commission was Rs.9,70,000, a figure given by the school itself. The total liability of increased salary for the period 01/04/2009 to 31/03/2010 was Rs.17,67,384. This figure has also been given by the school itself. Hence the total impact of the implementation of VI Pay Commission on the school was **Rs.27,37,384**. Since the funds with the school which were available for implementation of VI Pay Commission, were more than its liability for increased salary and arrears, there was no need for the school to have hiked any fee in terms of order dated 11/02/2009 of the Director of Education. However, of its own showing, the school recovered a sum of **Rs. 18,61,200** towards incremental fee for the period 01/04/2009 to 31/03/2010. The Committee is of the view that this recovery of **Rs. 18,61,200** was wholly unjustified and ought to be refunded along with interest @ 9% per annum.

Development Fee:

Perusal of the balance sheet of the school as on 31/03/2010 shows that the school received a sum of Rs. 4,88,155 towards

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development fee and utilised a sum of Rs. 1,38,989 for purchase of UPS system and library books. The balance fund remaining with the school out of the development fee for 2009-10 Rs. 3,49,166. The depreciation on these assets for 2009-10 was about Rs. 15,000. The school has earmarked FDRs for Rs. 32,17,952 against depreciation reserve fund/development fund. The school has earmarked funds in these accounts, much in excess of the unutilized development fund and depreciation reserve fund on assets acquired out of development fund since 2009-10. But this aspect will have impact only in future when a working of funds available is required to be made for any other purpose like implementation of VII Pay Commission.

Since the school has fulfilled the conditions laid down by the Duggal Committee for charging development fee w.e.f. 2009-10, the Committee is of the view that no intervention is required in so far as development fee is concerned.

Recommendations:

In light of the above determinations, the Committee recommends that the school ought to refund a sum of Rs. 18,61,200, which has been found to be unjustly hiked, along with interest @ 9% per annum.

Sd/-	Sd/-	Sd/-
Dr. R.K. Sharma Member	CA J.S. Kochar Member	Justice Anil Dev Singh (Retd.) Chairperson

Dated: 05/07/2013

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For Review of School Fee

B-144

Jhabban Lal DAV Sr. Sec. Public School, Paschim Vihar, New Delhi

The Committee had received a representation dated 02/02/2012 from one Sh. Mahipal Singh, Advocate in response to the public notice issued by the Committee inviting all stake holders for their inputs for the determination of justifiability of fee hike effected by the schools for the purpose of implementation of VI Pay Commission. One of the grievances of Sh. Mahipal Singh was that he had issued legal notice to this school in July 2011, seeking details of fee but the school did not reply. Subsequently he had issued legal notice to the Director of Education and the Secretary, Central Board of Secondary Education but they also met with the same fate.

The Committee vide its letter dated 08/02/2012 required the school to file copies of its returns under Rule 180 of Delhi School Education Rules 1973 for the year 2006-07 to 2010-11, copies of fee statements for these years, details of salary paid to the staff before implementation of VI Pay Commission and after its implementation, details of arrears paid if any and details and extent of fee hike effected for implementation of VI Pay Commission including arrears of fee.

The school vide letter dated 22/02/2012 furnished the required details. As per the documents submitted by the school, it was evident that the school had recovered arrears of fee from 01/01/2006 to 31/08/2008 and also increased the monthly fee at the rate of Rs. 300

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per month for classes Pre School to X and at the rate of Rs. 400 per month for classes XI and XII w.e.f. 01/09/08. The school also submitted salary statements before and after implementation of VI Pay Commission Report. Based on these documents, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs. 39,53,859**. The school collected arrear fee amounting to **Rs. 78,06,500** but did not pay any arrear of salary. Further the incremental fee collected by the school for the period 01/09/2008 to 31/03/2010 was **Rs. 70,18,500** while the incremental salary as a consequence of implementation of VI Pay Commission during corresponding period was **Rs. 91,83,998.** As a result, the funds available with the school after implementation of VI Pay Commission increased to **Rs. 95,94,861** compared to **Rs. 39,53,859** before its implementation. The school was, therefore, served with a notice dated 26/12/2012 for providing it an opportunity

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of hearing by the Committee on 21/01/2013 and for enabling it to provide justification for the hike in fee, as prima facie, it appeared to the Committee that the school had hiked more fee than was required to offset the additional burden on account of implementation of the VI Pay Commission Report. However, the hearing was rescheduled to 07/02/2013 as on account of certain exigencies, the meeting of the Committee fixed for 21/01/2013 was cancelled

On 07/02/2013, Sh. C.M. Khanna, Manager, Ms. Indu Arora, Principal and Sh. Kashmir Singh, Office Superintendent of the school appeared. They were provided with the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They sought time to respond to the calculations. As per their request, the next hearing was fixed for 28/02/2013. During the course of hearing, the representatives of the school confirmed that although the arrears of fee were recovered from the students, the arrears of salary had not been paid due to paucity of funds. They also stated that full DA was not being paid to the staff as per the recommendations of the VI Pay Commission. As the school was found to be charging development fee also, besides tuition fee, the school was asked to respond to the following specific queries with regard to development fee:

(a) How development fee was treated in the accounts?

(b) How development fee was utilised?

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(c) Whether separate development fund and depreciation reserve fund were maintained?

On 28/02/2013, the aforesaid representatives of the school filed written submissions dated 28/02/2013 and were also heard on the calculations made by the CAs attached with the Committee. The representatives could not elaborate on certain issues which were raised by the Committee and they requested the Committee to give some more time to address those issues. Accordingly the hearing was adjourned to 14/03/2013. On this date, the aforesaid representatives of the school again appeared and filed further written submissions dated 14/03/2013 and were heard by the Committee.

Submissions:

Vide written submissions dated 28/02/2013, the school pointed out the following discrepancies in the preliminary calculations prepared by the CAs detailed with the Committee:

(i) The total number of students taken by the CAs for the purpose of calculations of fee was, although correct, but all of them could not be considered for the purpose of calculation since a number of students enjoying concession on various counts like EWS category, wards of staff had to be excluded. It was thus contended that for the year 2008-09, the number of students to be considered was 1054 (904 upto class X and 150 for

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classes XI and XII) as against 1201 taken by the CAs. Similarly, it was contended that for the year 2009-10, the number of students to be considered was 974 (763 upto class X and 211 for classes XI & XII), as against 1128 taken by the CAs.

(ii) There was duplication in the calculation of arrear as the number of the students taken was 1201 for classes pre primary to X and the same figure was repeated for classes XI & XII.

(iii) Certain students did not pay the full arrear and therefore only the amount actually collected should be taken into account.

(iv) The CAs had taken the arrear fee to be Rs. 1,04,79,800 as follows:

From 01/01/06 to 31/08/08	Rs. 78,06,500
From 01/09/08 to 31/03/09	Rs. 26,73,300
Total	Rs. 1,04,79,800

However, the correct figure as per the books of accounts was as follows:

From 01/01/06 to 31/08/08	Rs. 24,91,410
From 01/09/08 to 31/03/09	Rs. 21,13,600
Total	Rs. 46,05,010

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It was further stated that the arrears had been paid by 873 out of 1054 students.

(v) The increased fee for 2009-10 will also differ from the calculations made by the CAs as the same has been done for 1128 students, while it should have been done for 974 students.

(vi) With regard to development fee, it was stated that:

(a) Development fee was being collected for the development of the school for children and the same was spent on it.

(b) After the implementation of VI Pay Commission, the development fee was being utilised to meet the salary as the tuition fee was not sufficient to meet the same.

(c) No separate development fund or depreciation reserve fund were maintained by the school

Vide written submissions dated 14/03/2013, the school clarified as follows:

(i) The total fee arrear which was collectible (as against amount actually collected) was as follows:

From 01/01/2006 to 31/08/2008	Rs. 27,95,580
From 09/09/2008 to 31/03/2009	Rs. 23,59,800
Total	Rs. 51,54,580

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(ii) The incremental fee in 2009-10 which was collectible was Rs. 37,59,800.

(iii) A rough estimate of arrears of salary from January 2006 to August 2008, amounting to Rs. 74,63,715, which were yet to be paid was also filed. However, the school did not make any claim for enhancement of fee in order to pay these arrears.

(iv) With regard to development fee, it was stated that development was treated as income in the accounts, the same was utilised to meet the routine recurring expenses including salary and no development or depreciation reserve fund was maintained.

Discussion

The Committee has examined the financials of the school, the documents submitted by it with regard to the fee hike and salary hike in consequence of VI Pay Commission Report, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the written and oral submissions of the school and the details filed during the course of hearing. The submissions of school are discussed in the following paragraphs:

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Re.: <u>Discrepancy in total number of students for the purpose of calculations</u>

The Committee agrees with the contention of the school that the students who enjoyed various types of concessions and were thus not liable to pay the fee have to be excluded from the calculations. The CAs apparently took the total number of students from the enrolment sheet as the details of students enjoying concessions were not available initially.

Re.: <u>Duplication in the calculation of arrear fee.</u>

On perusing the calculation sheet prepared by the CAs, the Committee finds the contention of the school to be correct. The CAs had erroneously taken the number of students from classes pre primary to X to be 1201 and repeated the same figure for classes XI & XII, thus making calculations for 2402 students, when the total student strength was 1201.

Re.: <u>Whether the fee yet to be collected should be considered for calculations or only the fee actually collected should be considered</u>

The school contends that only the amount actually collected by the school towards arrear fee should be considered in the calculations. The Committee does not agree with the contention of the school as the school has been given liberty to defer the collection keeping in view the convenience of the

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students. The liability of the students to pay the arrear fee has not ceased nor has the school foreclosed its option of recovering the arrears from the defaulting students. From the statement filed by the school itself on 18/03/2013, it is apparent that the school is making partial recoveries of arrears in 2010-11, 2011-12 and even in 2012-13. Hence the Committee is of the view that the amount that is actually collectible has to be taken into calculations and not merely the amount that has been collected.

Re.: <u>Discrepancies in the calculation sheet with regard to arrear fee and incremental fee</u>

The Committee has perused the calculation sheet and the working notes of the CAs detailed with the Committee, in light of the submissions made by the school. There are indeed mistakes in the calculation sheet prepared by the CAs and therefore, the Committee agrees with the contention of the school on this score. The figures given by the school in its written submissions dated 14/03/2013, which are as follows, will be considered by the Committee as the correct figures while making the final determinations:

(i)	Arrear fee from 01/01/06 to 31/08/08	Rs. 27,95,580
(ii)	Arrear fee from 01/09/08 to 31/03/09	Rs. 23,59,800
(iii)	Incremental fee from 01/04/09 to 31/03/2010	Rs. 37,59,800

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Determinations:

1. **Tuition fee**

The Committee finds that the school has not disputed the threshold funds available with it as on 31/03/2008 which amounted to **Rs.39,53,859.** Although, the school has not made any claim with regard to keeping some funds in reserve, the Committee, consistent with the view taken in the case of other schools, is of the view that the school ought to maintain a reserve equivalent to four months' salary and only the balance should be treated as available for implementation of VI Pay Commission Report. The expenditure of salary for the April 2009, i.e. after implementation of VI Pay Commission, as per the details submitted by the school, was Rs. 18,80,178. Four months' salary on the basis of this works out to **Rs.75,20,712**. Since the funds available with the school as determined by the Committee, were less than the amount which ought to be kept by the school in reserve, the Committee is of the view that no amount, out of the funds available as on 31/03/2008, could be deemed to be available for implementation of VI Pay Commission. Therefore, the only determination that is required to be made is whether the recovery made by the school by way of arrear fee and incremental fee in pursuance of order dated 11/02/2009 was appropriate.

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As per the foregoing discussions, the arrear fee and incremental fee as a result of fee hike effected in terms of order 11/02/2009 was as follows:

(i)	Arrear fee from 01/01/06 to 31/08/08	Rs. 27,95,580
(ii)	Arrear fee from 01/09/08 to 31/03/09	Rs. 23,59,800
(iii)	Incremental fee from 01/04/09 to 31/03/2010	Rs. 37,59,800
	Total	Rs. 89,15,180

The incremental salary as taken by the CAs in the calculation sheet was Rs. 91,83,998. This figure has not been disputed by the school and is based on the information furnished by the school. Hence, the incremental revenue on account of fee hike and the salary hike consequent to implementation of VI Pay Commission, nearly match. The Committee is therefore of the view that the fee hike effected by the school was justified and no interference is called for in so far as tuition fee is concerned. The Committee has taken note of the fact that the school has not yet paid arrears of salary amounting to Rs. 74.63 lacs approximately. However at the same time, the school has not made any claim before the Committee that it be allowed to increase the fee in order to pay the arrears. It appears that the school as well as its staff is reconciled to the position that the arrears of salary may not be paid.

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Development Fee

The school fairly conceded in its written submissions dated 14/03/2013 that it was treating development fee as its income and not as capital receipt. It was further stated that the development fee was not being utilised for purchase or upgradation of furniture and fixture or equipments but was being utilised for meeting recurring expenses like salary. It was further conceded that no depreciation reserve fund or development fund were being maintained by the school. The pre-conditions which have to be fulfilled by the school for charging development fee as per the recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583, are not being fulfilled. Hence, the Committee is of the view that the development fee charged by the school was not in accordance with the law laid down by the Hon'ble Supreme Court. On examination of the financials of the school for the years 2009-10 and 2010-11, it is apparent that the school recovered a sum of **Rs. 31,90,110** as development fee in 2009-10 and **Rs. 33,25,110** in 2010-11. These were unauthorized charges and liable to be refunded to the students.

Recommendations:

In view of the determinations made by the Committee as above, the school ought to refund a sum of Rs. 65,15,220, as mentioned here under, along with interest @ 9% per annum.

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Development fee for 2009-10		**Rs. 31,90,110**
Development fee for 2010-11	.	**Rs. 33,25,110**
Total amount refundable		**Rs. 65,15,220**

Recommended accordingly.

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 27/06/2013

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Birla Vidya Niketan, Pushp Vihar-IV, New Delhi-110017

In response to the Committee's letter dated 19/01/2012, the school submitted copies of the returns filed under Rule 180 of Delhi School Education Rules 1973 for the year 2006-07 to 2010-11, copies of fee statements during those years, details of salary paid to the staff before implementation of VI Pay Commission as well as after its implementation, details of arrears paid on account of retrospective application of VI Pay Commission, statement indicating the extent of fee increased and arrear fee recovered for the purpose of implementation of VI Pay Commission. Based on the documents submitted by the school, it was placed in Category 'B'.

Preliminary examination of the financials of the school was carried out by the Chartered Accountants detailed with this Committee. As the school claimed to have implemented the VI Pay Commission Report and also increased the tuition fee w.e.f. 01/09/2008, the audited balance sheet of the school as on 31/03/2008 was taken as the basis for calculation of the funds available with the school for the purpose of implementation of the VI Pay Commission Report. As per the preliminary calculations made by the CAs detailed with the Committee, the funds available with the school as on 31/03/2008 were to the tune of **Rs. 12,76,73,839**. The arrears of VI Pay Commission paid to the staff were **Rs. 2,23,86,000.** The additional burden on account of increased salary due to

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implementation of VI Pay Commission from 01/09/2008 to 31/03/2010 was **Rs. 2,53,00,108**. The incremental revenue of school on account of increase in fee from 01/09/2008 to 31/03/2010 was **Rs. 1,60,65,305**. The arrear fee recovered by the school was **Rs. 1,30,44,500**. The school was served with a notice dated 26/12/2012 for providing it an opportunity of hearing by the Committee on 23/01/2013 and for enabling it to provide justification for the hike in fee. However, due to certain exigencies, the meeting of the Committee scheduled for that date was cancelled and the school was informed of the same in advance. The hearing was rescheduled for 08/02/2013.

On 08/02/2013, Sh. C.S. Chhajar, Manager Finance and Sh. S.K. Goel, Accounts Officer of the school appeared with Sh. H.D. Sharma, Advocate. They were provided with a copy of the preliminary calculations prepared by the CAs detailed with the Committee and were partly heard by the Committee on such calculations. They requested for some time to be given to respond to the calculations. At their request, the hearing was adjourned to 11/03/2013. Since the school was also charging development fee, they were requested to give specific replies to the following queries:

(a) How development fee was treated in the books of accounts?

(b) How development fee was utilised?

(c) Whether separate development fund and depreciation reserve fund accounts were maintained?

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On 11/03/2013, Sh. S.K. Goel and Sh. H.D. Sharma appeared before the Committee and were heard. The school filed written submissions dated 11/03/2013 along with its own calculations of availability of funds vis a vis additional liability on account of implementation of VI Pay Commission Report. It was claimed that the school was required to maintain funds for provision of gratuity and leave encashment and such provisions should have been accounted for in determining the availability of funds since the provisions were realistic and based on actuarial valuations. However the actuarial certificates were not filed. Further, the reconciliation of incremental revenue and increased salary post implementation of VI Pay Commission vis a vis the figures in the audited financials had not been filed. The school sought some time to file these details and accordingly the school was given liberty to file the same within one week. However, no further hearing was claimed and the same was concluded. Vide letter dated 16/03/2013, the school filed the requisite details and reconciliations along with a revised calculation sheet.

Submissions:-

Certain submissions were made by the school with regard to the discrepancies in the calculations made by the CAs attached with the Committee vide written submissions dated 11/03/2013 and the school filed its own calculation sheet. Even as per the calculation sheet submitted by the school, the school had surplus fund

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amounting to Rs. 8,47,71,797 after meeting all liabilities of VI Pay Commission. Included in this amount was the arrear fee recovered amounting to Rs. 1,01,69,809 and the incremental fee for the period 01/09/2008 to 31/03/2010 amounting to Rs. 1,51,45,045 recovered in terms of the order dated 11/02/2009 issued by the Director of Education. Hence apparently, the school was admitting that there was no need for it to hike any fee as it possessed sufficient funds of its own. This calculation sheet was revised by the school which was submitted on 16/03/2013 and even as per the revised calculation sheet, the school had surplus fund to the tune of Rs. 8,28,27,562. However, in this calculation sheet, the school reflected the recovery of arrear fee of Rs. 1,01,42,246 and incremental fee the period 01/09/2008 to 31/03/2010 at Rs. 52,32,745. Hence even as per the revised calculation sheet submitted by the school itself, the school had sufficient funds of its own and there was no need to hike any fee.

It was also submitted vide written submissions dated 11/03/2013 that the variance in the figures taken by the CAs attached with the Committee vis a vis the actual figures, were on account of the fact that the school had not recovered any arrears or fee hike from students of EWS category and wards of staff members. A fee hike of only of Rs. 235 per month per student was effected as against Rs. 400 which was permissible.

With regard to development fee, it was submitted that the same was capitalized and utilised for addition of furniture and fixture, office

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and school equipments etc. It was further contended that the development fund collected by the school was fully utilised and <u>hence there was no need to maintain any depreciation reserve fund.</u>

Rule 177 of Delhi School Education Rules 1973 was relied upon to state that the school is considering in going for expansion through acquisition of land and building and addition to existing building as the number of students was increasing by about 10% every year. It was submitted that the school has earmarked a special reserve of Rs. 10.00 crores in 2008-09 to meet contingent expenditure and any unforeseen eventuality.

In sum and substance, the submission of the school was that though it had surplus funds, the same were kept in reserve for any future contingency and for expansion of school through acquisition of land and building and making addition to existing building.

In the revised calculation sheet submitted by the school, for some inexplicable reasons the fee hike for 01/04/2009 to 31/03/2010 was shown as NIL.

<u>Discussion and Determinations:</u>

The Committee has examined the financials of the school, reply to the questionnaire, the preliminary calculations sheet prepared by the CAs detailed with the Committee, the submissions of the school and the calculations and revised calculations of available funds vis a

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vis the liability on account of implementation of VI Pay Commission, as submitted by the school.

As would be apparent from the submissions of the school as recorded above, the school is not at issue regarding the surplus funds available with it prior to implementation of VI Pay Commission Report as well as after its implementation. As per the school's own revised calculation sheet as filed on 16/03/2013, the funds available with the school as on 31/03/2008 were **Rs. 11,07,93,943**, while the total impact of implementation of VI Pay Commission Report was **Rs. 4,33,41,372.** Hence the funds available with the school were much more than its additional liability on account of implementation of VI Pay Commission Report. The only issues that require to be determined are whether the school had funds available even after setting apart provision for future contingencies and whether the school could retain funds for acquisition of land and building for its future expansion and hike the fee for meeting its liabilities under the VI Pay Commission.

The Committee has taken a consistent view that the schools ought to maintain a reserve equivalent to four months' salary to meet any future contingency. The post implementation monthly salary bill submitted by the school for the month of April 2009 shows that the monthly salary liability of the school was Rs. 34,72,736. Based on this, the Committee is of the view that the school ought to retain funds to the tune of Rs. 1,38,90,944 for meeting any future contingency. As regards liabilities for gratuity and leave encashment,

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the school has already provided for the same in its own calculation sheet. Hence the Committee is of the view that out of the funds amounting to Rs. 11,07,93,943, the available funds for implementation of VI Pay Commission were **Rs. 9,69,02,999**. This was more than double the amount that was required to implement the VI Pay Commission Report.

So far as the submission of the school that the school had to keep funds for acquisition of land and building for future expansion, the Committee is of the view that even as per Rule 177 of Delhi School Education Rules, 1973 which was relied upon by the school, the funds for expansion can only come out of savings and savings for this purpose have to be calculated after payment of salaries and allowances. Hence payment of salary and allowances has to be given precedence over any expenditure for expansion or acquisition of school building.

With regard to the NIL hike in fee for the period 01/04/2009 to 31/03/2010, the Committee is at a loss to understand as to how that could be so. In the schedules of fee for the years 2008-09 and 2009-10 filed by the school, the tuition fee for 2008-09 is shown at Rs. 1,825 per month while in 2009-10 the same is shown at Rs. 2,060 per month. This clearly shows that there was a hike of Rs. 235 per month in tuition fee during the year 2009-10. The fee hike effected in 2009-10 was given retrospective effect from 01/09/2008. It appears that the school is claiming that since the hike had become effective from

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01/09/2008, the same had the effect of hiking the fee for the year 2008-09 and since no further hike was allowed in 2009-10, there was no hike in the year 2009-10. This is a fallacious argument. The fee hike effected in terms of order dated 11/02/2009 was for the period 01/09/2008 to 31/03/2010 i.e. for 19 months and not for 9 months upto 31/03/2009. It is not the case of the school that w.e.f. 01/04/2009, the fee level was reverted to what prevailed before 01/09/2008. Hence the figure of incremental revenue for the period 01/09/2008 to 31/03/2010 is taken by the Committee at Rs.1,51,45,045, as per the original calculation submitted by the school.

In view of the foregoing discussion , the Committee is of the view that the school had sufficient funds of its own and there was no need for it to hike any fee for implementation of VI Pay Commission Report.

Hence, the arrear fee recovered amounting to Rs. 1,01,42,246 and the incremental fee for the period 01/09/2008 to 31/03/2010 recovered as per the order dated 11/02/2009 amounting to Rs.1,51,45,045 was not justified and ought to be refunded along with interest @ 9% per annum.

Development Fee

The argument of the school that since the development fund had been fully utilised, there was no need for it to maintain any depreciation reserve fund goes against the grain of the

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recommendations of the Duggal Committee which were affirmed by the Hon'ble Supreme Court in the case of Modern School vs. Union of India & Ors. (2004) 5 SCC 583. It would be apposite to reproduce here below the relevant portions of the Duggal Committee Report and the judgment of the Hon'ble Supreme Court.

The Duggal Committee in paragraphs 7.21 and 7.22 of its report stated as follows:

> *"7.21* ***Provided a school is maintaining a depreciation reserve fund equivalent to depreciation charged in the revenue accounts,*** *schools could also levy, in addition to the above four categories, a Development fee annually, as a capital receipt not exceeding 10% of the total annual tuition fee for supplementing the resources for purchase, upgradation and replacement of furnitures, fixtures and equipment. At present these are widely neglected items, notwithstanding the fact that a large number of schools were levying charges under the head 'Development Fund'.*
>
> *7.22 Being capital receipts, these should form a part of the Capital Account of the school. The collection in this head along with any income generated from the investment made out of this fund should however, be kept in a separate Development Fund Account with the balance in the fund carried forward from year to year.*
>
> *7.23 In suggesting rationalization of the fee structure with the above components, the committee has been guided by the twin objectives of ensuring that while on the one hand the schools do not get starved of funds for meeting their legitimate needs, on the other, that there is no undue or avoidable burden on the parents as a result of schools indulging in any commercialization.*
>
> *7.24 Simultaneously, it is also to be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the Society out of the fee and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of the facilities including building, on a land which had been given to the Society at concessional rate for carrying out a "philanthropic" activity. One only wonders what then is*

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the contribution of the society that professes to run the school.

As a follow up to the recommendations of the Duggal Committee, the Director of Education issued an order dated 15/12/1999 giving certain directions to the schools. Direction no. 7 was as follows:

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

The recommendations of the Duggal Committee and the aforesaid direction no. 7 of the order dated 15/12/1999 issued by the Director of Education were considered by the Hon'ble Supreme Court in the case of Modern School vs. Union of India and ors. (supra). One of the points that arose for determination by the Hon'ble Supreme Court was:

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

The Hon'ble Supreme Court while upholding the recommendations of the Duggal Committee and the aforesaid direction of the Director of Education observed as follows:

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

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

As would be evident from the recommendations of the Duggal Committee Report and the observations of the Hon'ble Supreme Court on the same, there is no room for any doubt that separate fund accounts are required to be maintained for development fee and depreciation reserve. The purpose of maintaining a depreciation reserve fund is to ensure that the schools have sufficient funds at their disposal when the need arises to replace the assets acquired out of development fund. In the absence of such funds being available,

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the students would be burdened with development fee all over again at the time of replacement of such assets. Hence, the contention of the school that since development fund had been fully utilised, there was no need to maintain any depreciation reserve fund is rejected, being untenable and against the law laid down by the Hon'ble Supreme Court. The Committee is, therefore of the view, that the collection of development fee by the school was not justified. Perusal of the balance sheet of the school as on 31/03/2010 shows that the school recovered a sum of **Rs. 1,42,51,320** as development fee during 2009-10. The school did not furnish its balance sheet for the year 2010-11. However, from the fee structure of 2010-11 submitted by the school, it is apparent that the school was charging Rs. 340 per month i.e. Rs. 4,080 per year as development fee. The student strength as on 30/04/2010 was 3775 as per the return of the school under Rule 180. Hence the school must have collected a sum of Rs. 1,54,02,000 as development fee in 2010-11, barring certain exceptions on account of EWS students. The Committee is of the view that the development fee collected by the school in 2009-10 and 2010-11 without fulfilling the necessary pre conditions of maintaining depreciation reserve fund was not justified and ought to be refunded along with interest @ 9% per annum.

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Recommendations:

In view of the determinations made by the Committee as above, the school ought to refund the following sums along with interest @ 9% per annum.

Arrear fee for the period 01/01/2006 to 31/08/2008	**Rs.1,01,42,246**
Incremental fee for the period 01/09/2008 to 31/03/2010	**Rs.1,51,45,045**
Development fee for 2009-10	**Rs.1,42,51,320**
Development fee for 2010-11	**Rs.1,54,02,000**
Total	**Rs.5,49,40,611**

Recommended accordingly.

Sd/- Sd/- Sd/-

Dr. R.K. Sharma
Member

CA J.S. Kochar
Member

Justice Anil Dev Singh (Retd.)
Chairperson

Dated: 27/06/2013.

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Amity International School, Saket, New Delhi-110017

In response to the questionnaire dated 27/02/2012 issued by the Committee, the school vide letter dated 14/03/2012 stated that it had implemented the VI Pay Commission w.e.f. 01/04/2009 and had also paid the arrears on account of retrospective implementation of VI Pay Commission w.e.f. 01/01/2006. With regard to increase in fee, the school stated that the fee had been increased @ Rs. 500 per month per student w.e.f. 01/09/2008, in accordance with the order dated 11/02/2009 issued by the Director of Education and it had also recovered arrears of fee from students in accordance with the said order. It also submitted a statement showing the pre and post increase salary, arrears of salary and pre and post increase fee and also the arrears of fee recovered. Based on this reply submitted by the school, it was placed in Category 'B'.

On perusal of the returns of the school, filed under Rule 180 of Delhi School Education Rules 1973, it was observed by the Committee that in none of the returns of five years which were examined by the Committee, the school had submitted its audited Income and Expenditure account and Balance Sheet. Every year in the covering letter, while filing the returns, the school stated that the final accounts were under preparation and would be submitted in due course. No objection was ever taken by the Dy. Director of Education (South) regarding non submission of these vital documents. So much