



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Pronounced on: 17th November, 2023**

+ W.P.(C) 3592/2022 & CM APPL. 10582/2022 & CM APPL. 44173/2023

ANJALI VAID AND ORS Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus

ADARSH WORLD SCHOOL AND ORS Respondent

Through: Ms. Samdarshi Sanjay and Mr. Ashish Kr. Sharma, Advocates for R-1 and R-2

Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE

Mr. V. Balaji and Mr. Nizamudeen, Advocates for DOE

+ W.P.(C) 8686/2022 & CM APPL. 26198/2022 & CM APPL. 33894/2022 & CM APL.5289/2023 & CM APPL. 14301/2023 & CM APPL. 14302/2023 & CM APPL. 14303/2023

SMT RITU SINGHAL Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus

GOVT. OF N.C.T. OF DELHI & ANR. Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for R-1

Mr. V. K. Tandon and Mr. Pradeep Kumar, Advocates for R-2

Mr. Naushad Ahmed Khan, Advocate



+ W.P.(C) 7349/2023
DILIP SINGH AND ORS. Petitioner
Through: Ms. Niyati Sharma and Mr. Saurabh
K. Kaushik, Advocates

versus

GEETA BAL BHARTI SENIOR SECONDARY SCHOOL
& ORS. Respondents
Through: Ms. Priyanka Garg, Advocate for R-1
and R-2
Mrs. Avnish Ahlawat, SC. With Ms.
Palak Rohmetra, Ms. Laavanya
Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates for
DOE

+ W.P.(C) 13270/2022
SATINDER TANDON Petitioner
Through: Mr. Ashok Aggarwal, Mr. Anuj
Aggarwal, Ms. Shreya Kukreti, Mr.
Kumar Utkarsh, Ms. Shradha
Adhikari and Mr. Manoj Kumar,
Advocates

versus

PRUDENCE SCHOOL & ANR. Respondents
Through: Mr. Gaurav Dhingra, Advocate for
DOE

+ W.P.(C) 10904/2023
MANJU SHARMA Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus



RAVINDRA PUBLIC SCHOOL & ANR. Respondent

Through: Mr. Madhav Khurana, Ms. Jyoti Taneja, Mr. Samarth, Ms. Ishita and Mr. Aakash, Advocates for R-1
Ms. Latika Choudhury, Advocate for DOE

+ W.P.(C) 7402/2018 & CM APPL. 36034/2023
UMESH GAUBA

..... Petitioner

Through: Mr. Ashok Aggarwal, Mr. Anuj Aggarwal, Ms. Shreya Kukreti, Mr. Kumar Utkarsh, Ms. Shradha Adhikari and Mr. Manoj Kumar, Advocates

versus

MODERN CHILD PUBLIC SR SEC SCHOOL
(RECOGNIZED) & ANR

..... Respondent

Through: Mr. Udesb Puri and Mr. K. P. Sundar Rao, Advocates for School
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Mr. Gaurav Dhingra, Advocate for DOE

+ W.P.(C) 10121/2018 & CM APPL. 39503/2018
SAMARTH SHIKSHA SAMITI

..... Petitioner

Through: Ms. Priyanka Garg, Advocate

versus

THE DIRECTOR, DIRECTORATE OF EDUCATION
& ANR

..... Respondent

Through: Ms. Latika Choudhury, Advocate for



DOE

Mr. Rishikesh Kumar, ASC with Ms. Sheenu Priya, Mr. Sudhir Kumar Shukla, Mr. Muhammad Zaid, Mr. Sudhir and Mr. Sumit Choudhary, Advocates for GNCTD

+ W.P.(C) 10221/2018
SH. ASHOK KUMAR MAHESHWARI Petitioner
Through:

versus

DIRECTOR OF EDUCATION AND ORS. Respondent
Through: Mr. Gaurav Dhingra, Advocate for DOE
Ms. Priyanka Garg, Advocate for R-2

+ W.P.(C) 24/2019 & CM APPL. 30696/2019 & CM APPL.54961/2022 & CM APPL. 54962/2022 & CM APL.54974/2022 & CM APPL. 54975/2022
SH. NIRANJAN LAL AND ORS. Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates
versus

D. A. V. PUBLIC SCHOOL AND ORS. Respondent
Through: Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates for R-1 and R-2
Mr. Naushad Ahmed Khan, Advocate for DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE



+ W.P.(C) 16556/2022
MRS. SAVITA KALRA AND OTHERS Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

DAV PUBLIC SCHOOL & ORS. Respondent
Through: Mr. Anurag Lakhotia and Mr. Udit
Dwivedi, Advocates for R-1 and R-2
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 5925/2023
MS. POONAM MITTAL & ANR. Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

GEETA BAL BHARTI SENIOR SECONDARY
SCHOOL & ANR. Respondents
Through: Ms. Priyanka Garg, Advocate for R-1
Ms. Latika Choudhury, Advocate for
DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 4563/2021
RAVINDER KUMAR Petitioner
Through: Mr. Ashim Vachher, Mr. Vinayak



Uniyal and Mr. Kunal Lakra,
Advocates

versus

BALVANTRAY MEHTA VIDYA BHAWAN ANGURIDEVI
SHERSINGH MEMORIAL ACADEMY - MORNING SHIFT &
ORS. Respondents

Through: Ms. Meenakshi Kala, Advocate for R-1
Mrs. Avnish Ahlawat, SC. With Ms. Palak Rohmetra, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for DOE
Ms. Latika Choudhury, Advocate for DOE

+ W.P.(C) 11619/2021 & CM APPL. 35915/2021 & CM APPL. 41443/2021
MINI MONTEIRO & ORS. Petitioner

Through: Mr. Ashok Aggarwal, Mr. Anuj Aggarwal, Ms. Shreya Kukreti, Mr. Kumar Utkarsh, Ms. Shradha Adhikari and Mr. Manoj Kumar, Advocates

versus

GURUSHARAN CONVENT SCHOOL & ORS. Respondent

Through: Ms. Romy Chako, Mr. Jenis Francis, Mr. Rahul Sarkar and Mr. Bindeshwar Sahu, Advocates for R-1 and R-2
Ms. Latika Choudhury, Advocate for DOE



+ W.P.(C) 10152/2022 & CM APPL. 29447/2022 & CM APPL. 13933/2023

KESHU RANI SHARMA AND ORS.

..... Petitioner

Through: Mr. Ravin Rao and Mr. Akshit Rao,
Advocates

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondent

Through: Mr. Naushad Ahmed Khan, Advocate
for DOE

Mr. Gaurav Dhingra, Advocate for
DOE

Mr. Pramod Gupta, Ms. Sanya Jain,
Ms. Utkarsha Srivastava, Ms. Pranjal
Dhankar and Ms. Nicole, Advocates
for R-3 and R-4

+ W.P.(C) 14599/2022

SANGEETA PURI

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarksh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya
Shekhar, Advocates for R-1

Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 14929/2022 & CM APPL. 2539/2023 & CM APPL. 2541/2023

RENU ARORA AND ORS

..... Petitioner



Through: Mr. Ashok Agarwal, Mr. Kumar Utkarksh and Mr. Manoj Kumar, Advocates

versus

ST. MARGARET SENIOR SECONDARY SCHOOL
& ANR.

..... Respondent

Through: Mrs. Avnish Ahlawat, SC. With Ms. Palak Rohmetra, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for DOE
Mr. Gaurav Dhingra, Advocate for DOE

+ W.P.(C) 15614/2022
ASMA SYED

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarksh and Mr. Manoj Kumar, Advocates

versus

ARWACHIN BHARTI BHAWAN SENIOR SECONDARY
SCHOOL & ANR.

..... Respondent

Through: Ms. Latika Choudhury, Advocate for DOE

+ W.P.(C) 15865/2022 & CM APPL. 23315/2023
MRS. REKHA WADHAWAN AND ORS

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarksh and Mr. Manoj Kumar, Advocates

versus



YUVASHAKTI MODEL SCHOOL & ANR. Respondent

Through: Mr. Pramod Gupta, Ms. Sanya Jain,
Ms. Utkarsha Srivastava, Ms. Pranjal
Dhankar and Ms. Nicole, Advocates
for R-1
Ms. Latika Choudhury, Advocate for
DOE

+ W.P.(C) 17738/2022
NEELAM KAUSHIK

..... Petitioner

Through: Ms. Manoranjani Shaw, Advocate
along with petitioner in person

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondent

Through: Ms. Latika Choudhury, Advocate for
DOE

+ W.P.(C) 155/2023
MRS. ARATI BHATIA AND OTHERS

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarksh and Mr. Manoj Kumar,
Advocates

versus

GD GOENKA PUBLIC SCHOOL & ANR. Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. Naushad Ahmed Khan, Advocate
for DOE

+ W.P.(C) 707/2023
MS. SURABHI MEHTA

..... Petitioner



Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

DAV PUBLIC SCHOOL & ORS. Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit
Dwivedi, Advocates for R-1 and R-2
Mr. Naushad Ahmed Khan, Advocate
for DOE

+ W.P.(C) 1120/2023

MRS. NEETA KHANNA & ANR. Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

DAV PUBLIC SCHOOL & ORS. Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit
Dwivedi, Advocates for R-1 and R-2
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. Gaurav Dhingra, Advocate for
DOE

+ W.P.(C) 1124/2023

BIMLA BABBAR & ORS. Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus



DAV PUBLIC SCHOOL & ORS.

..... Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates for R-1 and R-2
Mr. Naushad Ahmed Khan, Advocate for DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE

+ W.P.(C) 1161/2023
MRS KRISHNA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates

versus

DAV PUBLIC SCHOOL & ORS.

..... Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates for R-1 and R-2
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE

+ W.P.(C) 710/2023
MRS. MADHU ARORA & ANR.

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates

versus

DAV PUBLIC SCHOOL & ORS.

..... Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates for R-1 and R-2
Mr. Yeeshu Jain, ASC with Ms. Jyoti



Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 732/2023

MRS. SUDHA MEHTA & ANR.

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

DAV PUBLIC SCHOOL & ORS.

..... Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit
Dwivedi, Advocates for R-1 and R-2
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 712/2023

MRS. NORIN SHARMA & ANR.

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya
Shekhar, Advocates for R-1
Mrs. Avnish Ahlawat, SC. With Ms.
Palak Rohmetra, Ms. Laavanya
Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates for
DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu



Mishra, Advocates for DOE

+ W.P.(C) 1917/2023
MRS. MALA TULI & ORS. Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

GD GOENKA PUBLIC SCHOOL & ANR. Respondent
Through: Mr. Naushad Ahmed Khan, Advocate
for DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 2076/2023
MRS. JYOTI SHARMA & ANR. Petitioner
Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

GD GOENKA PUBLIC SCHOOL & ANR. Respondent
Through: Mrs. Avnish Ahlawat, SC. With Ms.
Palak Rohmetra, Ms. Laavanya
Kaushik, Ms. Aliza Alam and Mr.
Mohnish Sehrawat, Advocates for
DOE
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 2090/2023



MRS. REKHA JARREL & ORS.

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya
Shekhar, Advocates for R-1
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 2091/2023

MRS. PRATIBHA KULSHRESTHA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya
Shekhar, Advocates for R-1
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 2229/2023

MRS. KUSUM GUPTA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,



Advocates

versus

DAV PUBLIC SCHOOL & ORS.

..... Respondent

Through: Mr. Anurag Lakhotia and Mr. Udit Dwivedi, Advocates for R-1 and R-2

+ W.P.(C) 4321/2023
VIKRAM

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya Shekhar, Advocates for R-1
Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Mr. Gaurav Dhingra, Advocate for DOE

+ W.P.(C) 4778/2023
URMIL ARORA AND ORTHERS

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates

versus

GEETA BAL BHARTI SENIOR SECONDARY SCHOOL & ANR.



..... Respondents

Through: Ms. Priyanka Garg, Advocate for R-1
Ms. Latika Choudhury, Advocate for
DOE

+ W.P.(C) 4793/2023
MRS. ANITA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

RYAN INTERNATIONAL SCHOOL & ANR. Respondent

Through: Ms. Romy Chako, Mr. Jenis Francis,
Mr. Rahul Sarkar and Mr. Bindeshwar
Sahu, Advocates
Mr. Gaurav Dhingra, Advocate for
DOE

+ W.P.(C) 5290/2023
VANDANA MALIK AND OTHERS

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

RYAN INTERNATIONAL SCHOOL & ANR. Respondent

Through: Ms. Romy Chako, Mr. Jenis Francis,
Mr. Rahul Sarkar and Mr. Bindeshwar
Sahu, Advocates
Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 5717/2023



VINITA BALONI

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLIC SCHOOL & ANR.

..... Respondent

Through: Mr. Pulkit Tare and Mr. Aditya
Shekhar, Advocates for R-1
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 5767/2023

BHAVAYA TEHRI

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

AHLCON PUBLICSCHOOL & ANR.

..... Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen,
Advocates for DOE

+ W.P.(C) 6447/2023

SULEKHA DAS

..... Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus



ASN SR. SECONDARY SCHOOL AND ORS Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen, Advocates for DOE

+ W.P.(C) 6465/2023
MONICA KAPAHI

..... Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus

ASN SR. SECONDARY SCHOOL AND ORS Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Ms. Latika Choudhury, Advocate for DOE

+ W.P.(C) 6486/2023
AHILYA MINOCHA

..... Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus

ASN SR. SECONDARY SCHOOL AND ORS Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE

+ W.P.(C) 10557/2023
MR. RAVINDRA KUMAR TANWAR AND



OTHERS

..... Petitioners

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

DELHI POLICE PUBLIC SCHOOL AND
OTHERS

..... Respondents

Through:

+ W.P.(C) 10584/2023
CHARANJEET KAUR

..... Petitioner

Through: Mr. Nikhilesh Kumar, Advocate

versus

GURU HARKRISHAN PUBLIC SCHOOL AND
ORS

..... Respondents

Through: Mr. Abinash K. Mishra and Mr.
Gaurav Kr. Pandey, Advocates for R-
2 to R-4

+ W.P.(C) 803/2019
SHAMA PARVEEN

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

SANATAN DHARAM VIDYA BHAWAN

..... Respondent

Through:

+ W.P.(C) 5565/2022 & CM APPL. 16557/2022



MRS. MAMTA KATARIA

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

ST PAULS DIOCESAN SCHOOL & ORS.

..... Respondent

Through: Mr. Prakhara Sharma and Mr. Swapnil
Choudhary, Advocates for R-1 and R-
2
Mr. Yeeshu Jain, ASC with Ms. Jyoti
Tyagi, Ms. Manisha and Mr. Hitanshu
Mishra, Advocates for DOE

+ W.P.(C) 5587/2022 & CM APPL. 16593/2022

MRS. SUSHMITA MASSEY

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

ST PAULS DIOCESAN SCHOOL & ORS.

..... Respondent

Through: Mr. Prakhara Sharma and Mr. Swapnil
Choudhary, Advocates for R-1 and R-
2
Ms. Latika Choudhury, Advocate for
DOE

+ W.P.(C) 6333/2020

MS URMILA

..... Petitioner

Through: Mr. Ashim Vachher, Mr. Vinayak
Uniyal and Mr. Kunal Lakra,
Advocates



versus

BALVANTRAY MEHTA VIDYA BHAWAN ANGURIDEVI
SHERSINGH MEMORIAL ACADEMY MORNING SHIFT & ORS.

..... Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE

+ W.P.(C) 6317/2023 & CM APPL. 44169/2023 & CM APPL. 44170/2023

SUNITA BHATIA

..... Petitioner

Through: Mr. Anil Kumar and Mr. Shailender Sharma, Advocates

versus

DAV PUBLIC SCHOOL AND OTHERS

..... Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. yoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Ms. Latika Choudhury, Advocate for DOE

+ W.P.(C) 11276/2023

MRS SHIKHA MEHRA & ANR.

..... Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar Utkarsh and Mr. Manoj Kumar, Advocates

versus

YUVASHAKTI MODEL SCHOOL & ANR.

..... Respondent

Through: Mr. Pramod Gupta, Ms. Sanya Jain,



Ms. Utkarsha Srivastava, Ms. Pranjal Dhankar and Ms. Nicole, Advocates for R-1

Mr. V. Balaji and Mr. Nizamudeen, Advocates for DOE

+ W.P.(C) 11225/2021 & CM APPL. 3746/2023

VISHWA NATH PRASAD

..... Petitioner

Through: Mr. Ashok Aggarwal, Mr. Anuj Aggarwal, Ms. Shreya Kukreti, Mr. Kumar Utkarsh, Ms. Shradha Adhikari and Mr. Manoj Kumar, Advocates

versus

BAL BHAVAN PUBLIC SCHOOL & ANR. Respondent

Through: Mr. Sudhir Naagar and Mr. Digvijay Chaudhary, Advocates for R-1
Mr. Yeeshu Jain, ASC with Ms. yoti Tyagi, Ms. Manisha and Mr. Hitanshu Mishra, Advocates for DOE
Mr. V. Balaji and Mr. Nizamudeen, Advocates for DOE

+ W.P.(C) 6848/2023

ANNIE DEAN

..... Petitioner

Through: Mr. Shekhar Nanavaty, Advocate

versus

ST MARTIN DIOCESAN SCHOOL AND ANR. Respondent

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi, Ms. Manisha and Mr. Hitanshu



CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. This batch of writ petitions have been filed by various petitioners employed in the respondent schools at various Teaching and Non-teaching posts such as TGT, PET, PGT, PRT, Librarian, Assistant Teacher, NTT, Librarian, Lab Attendant, Lab Assistant, Sports Attendant, Assistant Librarian, Instructor Dance, Driver, Maid, Sweeper, Aaya, Yoga Teacher, Peon, Electrician, Mali, Housekeeper, Nurse etc. against the respondent schools, and also against the Government of NCT of Delhi through the Directorate of Education.

2. The petitioners by way of the above said petitions are seeking benefits of the 6th Central Pay Commission (hereinafter “6th CPC”) along with the arrears, benefits under the 7th Central Pay Commission (hereinafter “7th CPC”) along with the arrears, and retirement benefits such as gratuity, leave encashment, Dearness Allowance (hereinafter “DA”), Medical Allowance (hereinafter “MA”), House Rent Allowances (hereinafter “HRA”), Travel Allowances (hereinafter “TA”), etc., along with the interests and costs which are due as per the guidelines of 7th CPC. Some of the petitioners have also sought the benefits of Modified Assured Career Progression Scheme (hereinafter “MACP”).



3. The petitioners in the connected petitions seek similar reliefs, therefore, this Court deems it appropriate to list out the particulars, which have been gathered from these writ petitions in following manner: —

S.N O.	PETITIO N NO.	STATUS OF EMPLOYME NT	RELIEF SOUGHT	SCHO OL
1.	W.P. (C)- 8686/2022	The petitioner worked from July 2019 as a TGT (Hindi) with respondent school.	- For respondent no. 1 to implement its order dated 22nd November 2021, based on order dated 9th February 2016, passed in Mukesh Verma & Ors. Vs. Director of Education & Ors. - For the payment of salary as per 6th and other benefits. - For payment of 7th pay CPC. - For the benefit of promotion to the post of PGT Hindi.	Private Unaided School
2.	W.P.(C)- 7349/2023	The petitioners' nos. 1, 3, 4, 5, and 6 worked as PET, TGT, PGT, Establishmen t Office, and Chowkidar	- For fixation, the payments in terms of 7th pay CPC from 1st January 2016. - For the payment of arrears of salary, arising there from of superannuation along with interest @ 24% thereupon. - For the payment of	Private Unaided School



		with respondent school, respectively. The petitioner no. 2 retired on 31st July 2021.	benefits of gratuity and leave encashment based on salaries in terms of 7th pay CPC from 1st January 2016. For the payment DA, HRA, TA, and MA as declared and revised by Govt. of Delhi and pay arrears along with interest @ 24% thereupon.	
3.	W.P.(C)-13270/2022	The petitioner worked as PRT with respondent school.	- For re-fixation of the salary and payment of the arrears of salary as per 6th pay CPC. - For re-fixation of the salary and payment of the arrears of salary as per 7th pay CPC. - For the payment of the retiral dues including gratuity, leave encashment along with interest @ 18% thereupon. - For the payment of full salary from 9th February 2018, till 3rd August 2018, as per Rule 121 of Delhi School Education Rules, 1973. - For the payment of full salary from 9th February 2018, till 3rd August 2018, as well as pay costs of Rs. 15,000/- for Order dated	Private Unaided School



			12 th October 2021, passed by Ld. Delhi School Tribunal in Appeal No. 62 of 2018.	
4.	W.P. (C) 10904/2023	The petitioner was working as Librarian with respondent school and continued till the date of her retirement.	- For payment of allowances and other benefits (including arrears of DA) in the terms of 6th pay CPC from 1st January 2006, accompanying with all the consequential benefits along with interest @ 24% thereupon. - For payment of allowances and other benefits including arrears of DA in terms of 7th pay CPC from 1st January 2016, and the consequential benefits along with interest @ 24% thereupon.	Private Unaided School
5.	W.P.(C)-7402/2018	The petitioner worked as Assistant Teacher with respondent school.	- For payment and revision of salary, allowances and other benefits as per 7th pay CPC. - Thus, the 1st up gradation as per ACP scheme and 2nd up gradation according to MACP scheme, with all arrears along with interest @ 24% thereupon.	Private Unaided School



			- For payment of Dearness Allowances as per notification issued by Govt. along with interest @ 24% thereupon. - For payment of earned salary of May 2018, along with interest @ 24% thereupon.	
6.	W.P. (C) 10121/2018	- The petitioner is a registered society under the Societies Act. - The respondent school had worked as Samarth Shiksha Smirti, which is a registered society that runs various schools on a charitable basis.	For setting aside the impugned orders of 9th February 2018, & 31st July 2018, ordained by the 'DoE' in the matter of Ashok Kumar Maheshwari vs. MCL Saraswati Bal Mandir School.	Private Unaided School
7.	W.P. (C) 10221/2018	The petitioner worked with respondents' nos. 2 and 3.	For adhering to the orders passed by respondent no. 1; from respondents' nos. 2 to 4, they have the responsibility to pay the	Private Unaided School



		The respondent no. 4 is the governing society that has control over respondents' nos. 2 and 3.	amount in the name of respondent nos. 2, 3, 4, i.e., due in the name of the petitioner along with the deemed simple interest @ 9% thereupon, from 9th February 2018.	
8.	W.P.(C)-24/2019	The petitioners' nos. 1 to 6 working as TGT, PRT, NTT, Librarian, Lab Attendant, Lab Assistant, Sports Attendant, Assistant Librarian, Instructor Dance, Driver, Maid, Sweeper, Peon, Electrician, Mali, Housekeeper, Nurse, respectively	- For payment of salary, all allowances including arrears of DA as per 6th pay CPC. - For fixation and payment of salary and arrears of salary and all benefits as per 7th pay CPC along with interest as per market rate.	Private Unaided School



		with respondent school.		
9.	W.P.(C)-16556/2022	- The petitioners' nos. 1, 2, 3, 4, and 6 working as PRT, TGT, PGT, and Senior Assistant Teacher with respondent school. - The petitioner no. 5 who has retired on 31st August 2020.	- For payment of salary, allowances and other benefits including arrears of DA as per 6th pay CPC. - For payment of salary, allowances and other benefits including arrears of DA and retirement benefits gratuity and leave encashment as per 7th pay CPC along with interest @ 24% thereupon.	Private Unaided School
10.	W.P.(C)-5925/2023	The petitioners' nos. 1 and 2 working as PGT and TGT with respondent school.	- For fixation of salary and payment of arrears of salary as per 7th pay CPC along with interest @ 24% thereupon. - For payment of DA, HRA, TA and Medical Allowances along with interest @24% thereupon.	Private Unaided School
11.	W.P.(C) 4563-2021	The petitioner is a School Bus Driver	- For fixation of salary and grant benefits as per 6th pay CPC. - For fixation of salary and	Private Unaided School



		working with respondent school.	payment of arrears and other benefits as per 7 th pay CPC interest @ 12% thereupon.	
12.	W.P.(C)11 619-2021	The petitioners' nos. 1 to 14 have been working with respondent school as TGT, PGT, and Non-teaching staff.	- For fixation of the salary and Benefits as per 6th pay CPC. - For fixation of the salary and Benefits as per 7th pay CPC along with appropriate interest thereupon. - For payment of arrears of salary with annual interest @18% thereupon.	Minority Unaided School
13.	W.P.(C)- 3592/2022	The petitioners' nos. 1 to 13 has been working with respondent school as permanent teachers.	- For payment of the arrears as per 7th pay CPC from 1st January 2016, along with interest thereupon. - For release of the arrears as per 7th pay CPC along with payment of arrears of salary with annual interest thereupon.	Private Unaided School
14.	W.P.(C)- 10152/2022	The petitioners' nos. 1 to 67 working with respondent no. 4 as PGT, TGT, PRT, PPT, Lab Assistant,	For payment of the arrears as per 7th pay CPC from 1st January 2016, to March 2019, Bonuses, PF, LTC, and MACPS along with interest @ 18% thereupon.	Private Unaided School



		Librarian, Steno and Account Clerk.		
15.	W.P.(C)- 14599/202 2	The petitioner is working with respondent school as Pre-Primary Teacher.	For revised pay scale, benefits as 7th pay CPC and payment of gratuity at enhanced rate along with interest as per market rate.	Private Unaided School
16.	W.P.(C)- 14929/202 2	The petitioners' nos. 1 to 47 working with respondent school as Teaching and Non-teaching staff.	- For payment of the arrears of salary at 7th pay CPC 1st March 2016, till 31st July 2021, and DA @ 17% instead of 38%. - For Payment of arrears of TA, DA, HRA to petitioners from 1st August 2021. - For payment of Bonus which is due since 2013, till date.	Private Unaided School
17.	W.P. (C) 15614/202 2	The petitioner worked with respondent school as PGT Commerce.	- For payment to Petitioner arrears of salary arising out of 7th pay CPC from 1st January 2016, along with interest @ 24% thereupon. - For payment to DA, HRA, and TA as declared	Private Unaided School



			and revised by the Govt. Delhi along with interest @ 24% thereupon.	
18.	W.P. (C) 15865/2022	- The petitioner No. 1 has been working with respondent school as TGT (Science) since 16th July 1991. - The petitioner no. 2 initially joined as TGT; afterwards she was promoted to post-PGT (Commerce) since 1st July 1999. - The petitioner no. 3 worked as Assistant Teacher with respondent school from 2nd July 2007 - The	- For payment to petitioners' arrears of salaries arising out of 6th pay CPC from 1st January 2006, along with interest @ 24% thereupon. - For payment to petitioners' arrears of salaries arising out of 7th pay CPC from 1st January 2016, along with interest @ 24% thereupon. - For payment to petitioner DA as declared and revised along with interest @ 24% thereupon. - For payment to petitioner arrears of salaries arising out of 6th pay CPC from 1st January 2006, along with interest @ 24% thereupon. - For payment to petitioner arrears of salaries I terms of 7th pay CPC along with interest @ 24% from 1st January 2016.	Private Unaided School



		petitioners' nos. 4, 5, 8, and 13 worked as PRTs with respondent school from 13th July 1994, 06th July 1991, 2nd July 1997, and 10th August 1993 respectively. • The petitioner no. 6 appointed as Assistant Teacher, afterwards promoted to TGT (Hindi) 13th July 1994. Later promoted to PGT (Hindi) 1st August 2016, since 12th September 1991. • The petitioner no. 7 appointed	
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		as PRT 1st September 2014, and afterwards promoted to TGT (Science), since 3rd July 1995. • The petitioner no. 9 appointed as Assistant Teacher on 1st August 2016 ,and working since 8th July 1993. • The petitioner no. 10 appointed as TGT (Maths) on 1st September 2014, afterwards promoted to PGT (Maths), and working since 30th June 2008. • The petitioner no.	
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		11 appointed as PRT on 5th July 1998, afterwards promoted to PGT (English), and working since 25th July 1992. • The petitioner no. 12 appointed as TGT (English) on 5th July 1998, afterwards promoted to PGT (English), and working since 25th July 1992. • The petitioner no. 14 working as PRT, and retired on 31st May 2001, and working since 12th June 1991. • The petitioner no.	
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		15 appointed as TGT (Library) on 1 st November 1991. Unfortunately died on 10 th May 2021, and before her death she worked as Senior Librarian in respondent school.		
19.	W.P.(C)-17738/2022	The petitioner is working with respondent no. 2 as Teacher.	- For payment of all allowances including TA, DA, HRA, conveyance, and pay grade, ACP/MACD as per 5th, 6th, and 7th pay CPC along with interest @ 24% thereupon. - For payment of arrears of allowances and other benefits as per 5th pay CPC.	Private Unaided School
20.	W.P. (C) 155/2023	The petitioners' nos. 1, 2, 3 and 5 have been working as TGTs with respondent school.	- For payment to petitioners' recommendations of 7th pay CPC arrears of DA from 1st January 2016. - For payment of dues to petitioners in regard TA, MA & SA along with the	Private Unaided School



		The petitioner no. 4 has been working as PGT with respondent school.	- interest @ 24% thereupon. - For payment to petitioner no. 4 all arrears of salary which was deducted @ 33% from June 2020, till January 2022.	
21.	W.P.(C)-707/2023	The petitioner is working with respondent school as PRT (English).	For payment of salary as per 7th pay CPC arrears of salary and allowances with interest @ 24%.	Private Unaided School
22.	W.P.(C)-1120/2023	The petitioners' nos. 1 and 2 worked as Senior Teaching Staff with respondent school.	- For payment of arrears of salary and allowances with interest @ 24% thereupon, as well as the benefits as per 6th pay CPC. - For payment of gratuity and leave encashment based on their salaries as per 6th pay CPC along with interest @ 24% thereupon.	Private Unaided School
23.	W.P.(C)-1124/2023	The petitioners' nos. 1, 2 and 3 worked as PRT, TGT, and Nurse	- For payment of salary and arrears of salary along with arrears of all allowances along with DA as per 6th pay CPC. - For payment of salary and	Private Unaided School



		respectively with respondent school.	arrears of salary along with arrears of all allowances along with DA as per 7 th pay CPC with interest @ 24% thereupon.	
24.	W.P.(C)-1161/2023	The petitioner worked as Aaya with respondent school.	- For payment of salary and arrears of salary and all allowances along with DA as per 6th pay CPC. - For payment of salary and arrears of salary and all allowances along with DA as per 7th pay CPC with interest @ 24% thereupon.	Private Unaided School
25.	W.P.(C)-710/2023	The petitioners' nos. 1 and 2 worked as PGT and Non-teaching staff respectively with respondent school.	- For payment of salary and arrears of salary along with arrears of all allowances along with DA as per 6th pay CPC. - For payment of salary and arrears of salary along with arrears of all allowances along with DA as per 7th pay CPC with interest @ 24% thereupon.	Private Unaided School
26.	W.P.(C)-732/2023	The petitioners' nos. 1 and 2 worked as PGT with respondent	- For payment of salary and arrears of salary, arrears of all allowances along with DA as per 6th pay CPC. - For payment of salary and	Private Unaided School



		school.	arrears of salary, arrears of all allowances along with DA as per 6 th pay CPC with interest @ 24% thereupon.	
27.	W.P.(C)-712/2023	The petitioners' nos. 1 and 2 worked as TGT and Yoga teacher with respondent school.	- For fixation of the salary, payment of gratuity and leave encashment and pay the arrears of DA, HRA, TA as per 7th pay CPC with interest @ 24% thereupon. - For payment of benefits of gratuity and leave encashment as per 7th pay CPC. - For payment of DA, HRA and TA at the rate declared and revised by Govt. of NCT Delhi along with interest @24% thereupon.	Private Unaided School
28.	W.P. (C) 1917/2023	The petitioners' nos. 1, 2, 3, and 4 had retired from their service, wherein they worked as TGTs with the respondent school.	- For payment of arrears of salaries in terms of 7th pay CPC to the petitioners till date of their superannuation as well as allowances such as DA, HRA, TA, and MA along with the interests @ 24% thereupon. - For payment of the benefits of gratuity and leave encashment based on their salaries regarding	Private Unaided School



			7 th pay CPC from 1 st January 2016.	
29.	W.P. (C) 2076/2023	The petitioners' nos. 1 and 2 worked as PGT (Commerce), PGT (Biology), respectively with respondent school.	- For payment arrears of salaries in terms of 7th pay CPC to all petitioners from 1st January 2016, along with interest @ 24% thereupon. - For payment of TA, MA and SA due to the Petitioners along with interest @ 24% thereupon.	Private Unaided School
30.	W.P. (C) 2090/2023	The petitioners' nos. 1, 2 and 3 had retired from the service of respondent, wherein they worked as PRTs with respondent school.	- For payment of arrears of salaries in terms of 7th pay CPC to the petitioners till date of their superannuation as well as allowances such as DA, HRA, TA, and MA along with the interests @ 24% thereupon. - For payment of the benefits of gratuity and leave encashment based on their salaries regarding 7th pay CPC from 1st January 2016.	Private Unaided School
31.	W.P. (C) 2091/2023	The petitioner joined as Librarian TGT on 3rd April 1995,	For payment to petitioner in terms of 7th pay CPC from 1st January 2016, also pay arrears of salary till date of superannuation and pay DA, HRA & TA	Private Unaided School



		afterwards promoted to the post of Senior Librarian PGT on 1st November 2007. In addition, on 15th June 2020, the petitioner superannuated from the service.	along with interests @ 24%, thereupon. For payment of the benefits of gratuity and leave encashment based on salaries on recommendations of 7th pay CPC.	
32.	W.P. (C) 2229/2023	The petitioner joined respondent school on the post of PRT, afterwards promoted to the post of TGT. In addition, on 30th June 2017, the petitioner superannuated from employment as Senior TGT.	- For payment of allowances and other benefits including arrears of DA in terms of 6th pay CPC from 1st January 2006, along with interest @ 24% thereupon. - For payment of the benefits of gratuity and leave encashment based on salary of 7th pay CPC and pay, allowances including DA from 1st January 2016, along with interest @ 24% thereupon.	Private Unaided School



33.	W.P. (C) 4321/2023	The petitioner has been working as PGT (Mathematics) with respondent school, upon the submission of resignation notice, he was relieved from service.	For payment to the petitioner in terms of 7th pay CPC from 1st January 2016, including arrears of salaries till 31st March 2021, along with interest @ 24% thereupon. For payment of DA, HRA and TA as per declared and revised by Govt. Of Delhi along with interest @ 24% thereupon.	Private Unaided School
34.	W.P.(C)- 4778/2023	The petitioners' nos. 1, 2, 3, 4 and 5 worked as TGT Librarian with respondent school.	- For payment of arrears of salary and grant benefits of gratuity and leave encashment, DA, HRA, TA and MA as per revised rates as per 7th pay CPC along with interest @ 24% thereupon. - For payment of arrears of salary and grant benefits of gratuity and leave encashment, DA, HRA, TA and MA as per revised rates of Govt. of NCT of Delhi along with interest @ 24% thereupon.	Private Unaided School
35.	W.P.(C)- 4793/2023	The petitioner	For payment of arrears of salary, 50% of remaining	Private Unaided



		worked as Assistant Teacher with respondent school.	leaves encashment, benefits of gratuity and TA, DA, HRA as per 7 th pay CPC along with interest @ 24% thereupon.	School
36.	W.P.(C)-5290/2023	The petitioners' nos.1, 2, 3, 4, 5, and 6 worked as PRT, TGT, and Assistant Teacher with respondent school.	For fixation of the salary and payment of the arrears of salary, DA, HRA and TA and grant the benefits of gratuity and leave encashment in terms with 7th pay CPC along with interest @ 24% thereupon.	Private Unaided School
37.	W.P.(C)-5717/2023	The petitioner worked as TGT with respondent school.	For fixation of the salary and payment of the arrears of salary, and grant of the benefits of gratuity and leave encashment, DA, HRA, and TA as per 7th pay CPC along with interest @ 24% thereupon.	Private Unaided School
38.	W.P.(C)-5767/2023	The petitioner worked as TGT with Respondent school.	- For payment of arrears of salary, as per 7th pay CPC along with interest @ 24% thereupon. - For payment of DA, HRA, TA, and gratuity for the service period from 13th July 2013, to 31st March 2014, and grant of benefits along	Private Unaided School



			with interest @ 24% thereupon.	
39.	W.P.(C)-6447/2023	The petitioner worked as TGT with respondent school and retired on 31st November 2020.	- For payment of arrears of salary and all benefits as per 6th pay CPC along with interest thereupon. - For payment of arrears of salary, all benefits and arrears of gratuity as per 7th pay CPC along with interest thereupon. - For payment of arrears of gratuity in terms of 7th pay CPC along with interest thereupon.	Private Unaided School
40.	W.P. (C) 6465/2023	The petitioner appointed on probation as PRT by respondent nos. 1 and 2 on 3rd January 1994.	- For respondent nos. 1 and 2 to implement the 7th pay CPC under the directions of respondent school vide order dated 17th October 2017, from 1st January 2016, thus directed to pay all arrears, arrears of gratuity as per 7th pay CPC along with interest. - For respondent nos. 1 and 2 to pay arrears of 6th pay CPC from 1st January 2006, along with interest.	Private Unaided School
41.	W.P. (C) 6486/2023	The petitioner appointed on probation as PRT	For respondent nos. 1 and 2 to implement the 7th pay CPC under the directions of respondent school vide order dated 17th October	Private Unaided School



		(Science) by the respondent nos. 1 and 2 on 3 rd July 1991.	2017, from 1 st January 2016, thus directed to pay all arrears, arrears of gratuity as per 7 th pay CPC along with interest. • For directing respondent nos. 1 and 2 for payment of arrears of 6 th pay CPC from 1 st January 2006, along with interest.	
42.	W.P.(C)-10557/2023	• The petitioners' nos. 1 to 61 worked as TGT, PRT, NTT, Librarian, and Lab Assistant with respondent school.	• For payment of the arrears of salary as per 6 th pay CPC. • For payment of the arrears of salary 1 st July 2021, and onwards till date from 1 st January 2016, to 31 st March 2019, benefits of gratuity, DA, HRA, TA and grant of benefits as per 7 th pay CPC along with interest @ 24% thereupon.	Private Unaided School
43.	W.P.(C)-10584/2023	• The petitioner worked as establishment In charge with respondent school.	• For release of the gratuity as per revised norms, grant the terminal benefits, gratuity, leave encashment, payment of the arrears TA/DA, interest etc. as per 6 th pay CPC. • For release of the gratuity as per revised norms,	Minority Unaided School



			grant the terminal benefits, gratuity, leave encashment, payment of the arrears TA/DA, interest etc. as per 7 th pay CPC.	
44.	W.P.(C)-803/2019	The petitioner worked as Nursery Teacher with respondent school.	- For payment of the arrears of salary and grant of benefits of gratuity and leave encashment, DA, HRA, TA and as per revised rates as per 6th pay CPC. - For payment of the arrears of salary and grant of benefits of gratuity and leave encashment, DA, HRA, TA and as per revised rates as per 7th pay CPC along with interest @ 24% thereupon.	Private Unaided School
45.	W.P. (C) 5565/2022	The petitioner worked as a Librarian since 1st January 2000, with respondent school.	- For payment of arrears of salary arising out of 6th pay CPC from 1st January 2016, along with interest @ 24% thereupon. - For fixation the payment in terms of 7th pay CPC from 1st January 2016, and pay arrears of salaries along with interest @ 24% thereupon. - For payment of DA as	Private Unaided School



			declared and revised by Govt. Delhi also arrears along with interest @ 24% thereupon. For restoration of the salaries of the Petitioner for month of February 2020, along with interest @ 24% thereupon.	
46.	W.P. (C) 5587/2022	The petitioner worked as Assistance Teacher since 1st April 2009, with respondent school.	- For payment of arrears of salary arising out of 6th pay CPC from 1st January 2016, along with interest @ 24% thereupon. - For fixation the payment to petitioner in terms of 7th pay CPC from 1st January 2016, and pay arrears of salaries arising there from along with interest @ 24% thereupon. - For payment of DA to the petitioner as declared and revised by Govt. Of Delhi and pay arrears along with interest @ 24% thereupon.	Private Unaided School
47.	W.P.(C)-6333/2020	The petitioner working as Art & Craft Teacher with respondent school.	For fixation of salary and payment of arrears of salary, other allowances, and benefits NPL Bonus, LTC etc. as per 7th pay CPC along with interest @ 12% thereupon.	Private Unaided School



48.	W.P.(C)- 6317/2023	The petitioner worked as Assistant Teacher with respondent school.	- For payment of arrears of salary, arrears of all allowances and DA and grant of benefit of gratuity and leave encashment as per 7th pay CPC with interest @ 24% thereupon. - For payment forthwith to the petitioner interim amount already released to other employees as per 7th pay CPC. - For payment to grant the above benefits to the petitioner with 24% interest thereupon.	Private Unaided School
49.	W.P.(C)- 11276/2023	The petitioners' nos. 1 and 2 worked as TGT and Assistant teacher with respondent school.	- For payment of the arrears of salary as per 6th pay CPC along with interest @ 24% thereupon. - For payment of the arrears of salary as per 7th pay CPC along with interest @ 24% thereupon. - For payment of arrears of salary which was illegally deducted along with interest @ 24% thereupon.	Private Unaided School
50.	W.P.(C)- 11225/202	The petitioner	For fixation of salary and pay the salary and other	Private Unaided



	2	worked as Lab Attendant with respondent school.	benefits including arrears of DA etc. in as per 6 th pay CPC. • For fixation of salary and pay the salary and other benefits including arrears of DA etc. as per 7 th pay CPC.	School
51.	W.P.(C)-6848/2023	• The petitioner worked as TGT with respondent school.	• For payment of arrears of salary and arrears of all allowances along with DA as per 7 th pay CPC with interest @ 9% thereupon.	Minority Unaided School

4. The instant batch of petitions are bifurcated into the following categories:

1. First set of writ petition pertain to the allegations made on behalf of some of the petitioners with respect to the failure on the part of the respondent schools and Directorate of Education (“hereinafter “DoE”) in proper implementation of the recommendations of the 6th CPC which has led to non-payment of arrears.
2. Second set of writ petition pertains to the submissions made on behalf of some of the petitioners that they are entitled to the salary and arrears, as per the recommendations of 7th CPC, and the same has not been implemented upon them, and in some cases only partially implemented.



3. Third set of writ petition pertains to the grievances of the petitioners who are retired and are seeking the arrears of retirement/terminal benefits as per the recommendations of 6th and 7th CPC such as DA, TA, MA etc.

5. It is the unanimous submissions of the learned counsel appearing on behalf of the petitioners that the respondent schools, contrary to the notifications issued by the DoE, have unnecessarily held the salaries and other consequential benefits of the Teaching and Non-Teaching staff, for which they are legally entitled to.

6. Pursuant to the alleged inaction and non-compliance of the directions of DoE on behalf of the respondent schools, the petitioners have prayed before this Court for issuance of directions to the respondent schools to pay the petitioners their salaries, retirement/terminal benefits and arrears along with the interests and costs accrued in terms of the 6th CPC and 7th CPC.

7. Since the grievance of the petitioners in this batch of petitions is similar/identical, this Court deems it appropriate to decide the issues framed hereinbelow by way of this common judgment. Hence, for the sake of convenience and for the purposes of adjudication of the peculiar issues involved, this Court has culled out the facts from writ petition bearing W.P. (C) No. 3592/2022.

FACTUAL MATRIX

8. The petition bearing W.P (C) No. 3592/2022, under Article 226 of the Constitution of India, has been filed on behalf of the petitioners seeking the following reliefs:



*“a) Issue a writ of mandamus, order or direction, directing the Respondent No. 1 and 2 to implement the 7th Pay Commission as directed by the Respondent No.3 vide order dated 17.10.2017 w.e.f. 1.1.2016 and consequently direct the Respondent No. 2 and 3 to pay all arrears as per 7th Pay Commission along with interest from 1.1.2016 till payment to the Petitioners No. 1 to 6;
b) Issue a writ of mandamus, order or direction, directing the Respondent No. 1 and 2 to release arrears towards 7th Pay Commission along with interest to Petitioner Nos. 7 to 13 from 1.1.2016 to September 2019;
c) Issue a writ of mandamus, order or direction, directing the Respondent No.3, after hearing both the parties, pass a speaking and reasoned order on the complaint dated 13.3.2021 within a period of four weeks;
d) Pass such other order or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”*

9. The petitioners in the instant writ petition are seeking direction to implement the recommendation of 7th CPC and to pay arrears along with the interests, etc. The petitioners are stated to be the permanent teachers of respondent no. 1, namely Adarsh World School which is a private unaided recognized school and is run by the respondent no. 2 society, namely Sri Sankara Education Society. The respondent no. 3 is the Education Department, i.e., the Directorate of Education which regulates and governs the functioning of the schools recognized by it.

10. It is stated that the respondent no. 3 passed an order bearing no. DE.15(318)/PSB/2016/19786, dated 17th October 2017, whereby, it directed all the unaided private recognized school to implement 7th CPC



recommendation w.e.f., 1st January 2016, and also framed guidelines for the same.

11. By way of the above said order, the respondent no. 3 directed to pay the first installment by 31st January 2018, and second installment by 30th June 2018. The respondent no. 3 again issued an order dated 9th October 2019, thereby, directing all the recognized unaided private schools to comply with the directions to implement the recommendation of 7th CPC. Thereafter, in October 2019, the respondent no. 1 & 2, implemented the recommendation of 7th CPC and paid the salary in terms of the recommendation of 7th CPC.

12. It has been stated by the petitioners that, the respondent school paid the salary as per the guidelines only to the petitioner nos. 7 to 13, however, petitioner nos. 1 to 6 were not paid in terms of 7th CPC. Further, the respondent nos. 1 & 2 did not pay the arrears of 7th CPC to the petitioner nos. 7 to 13 from 1st January 2016, till September 2019.

13. Meanwhile, in January 2019, the respondent no. 1 convened a meeting and informed the petitioners and other employees that they will take 50% as cash back from their salary, to which the petitioners opposed vehemently and refused.

14. Pursuant to the above, the petitioners lodged a complaint dated 13th March 2021, before the respondent no. 3. Subsequently, a representation dated 22nd November 2021, was made before the respondent no. 3 requesting it to pass a direction to the respondent no. 1 & 2, to implement the 7th CPC



recommendation. The said representation was also sent to the respondent no. 1, but to no avail.

15. Thereafter, the respondent no. 3, in response to the RTI application made by the petitioners, sent a reply dated 6th December 2021, and enclosed a letter dated 1st October 2021, written to the respondent no. 1, wherein, the DoE had communicated to the respondent school regarding the complaint made by the petitioners against the respondent school.

16. The petitioners have further stated that the respondent no. 3 has neither passed any speaking order nor has taken any decision on the representation dated 22nd November 2021, hence, aggrieved by the same, the petitioners have approached this Court seeking implementation of the recommendations as per the 7th CPC, in their favour, claiming that they are legally entitled to the same.

SUBMISSIONS

(On behalf of the petitioners)

17. Learned counsel appearing on behalf of the petitioners submitted that the non-implementation of the 7th CPC recommendations by the respondent no. 1 & 2 despite notification by the respondent no. 3 DoE, is a blatant violation of Article 14, 16 and 21 of the Constitution of India.

18. It is submitted that the respondent DoE had passed an order dated 17th October 2017, whereby, it had directed all the private unaided recognized



schools, such as the respondent no. 1, to implement the recommendations of the 7th CPC, to its employee.

19. It is further submitted that despite the above said directions issued by the DoE, the respondent school has failed to comply with the same in its true spirit. The said direction has not been fully implemented till date *qua* the petitioner nos. 1 to 6. The respondent no. 1 school has adopted pick and choose method illegally and arbitrarily, since it has implemented the above said directions only *qua* the petitioner nos. 7 to 13.

20. It is submitted that the petitioners are entitled for equal pay in accordance with the guidelines of 7th CPC and the same is mandated by the statutory provision mentioned under Section 10 of the Delhi School Education Act, 1973, (hereinafter “DSE”).

21. It is also submitted that according to Section 10 of the DSE, a recognized private school’s pay scale and allowances, medical services, pension, gratuity, provident fund, and other permitted benefits must not be less than those of the employees in the same position at the schools run by the appropriate authority.

22. It is further submitted that violation of such express provisions is a flagrant abuse of the law and the same is also arbitrary in nature.

23. It is submitted that the petitioners are entitled to the arrears of their benefits/salaries w.e.f. 1st January 2016, and the respondent no. 1 school is duty bound to implement the same to all its employees in terms of the guidelines recommended in the 7th CPC.



24. It is submitted that the respondent no. 1 being an unaided private recognized school, has an obligation enjoined upon it under the DSE that it cannot evade its statutory responsibility and is bound to pay the statutory dues to the petitioners.

25. It is submitted that all the similarly situated schools have implemented the 7th CPC and have also cleared the arrears. It is thus, imperative for the respondent nos. 2 and 3 to implement the 7th CPC and clear all the arrears towards the same.

26. It is also submitted that the denial of any such implementation as submitted above, is violative of Articles 14 and 16 of the Constitution of India as well as of Section 10 of DSE.

27. It is submitted that the respondent school apart from not implementing the recommendations, are also illegally taking cash back from the petitioners from their salary, and such type of actions is unlawful and amounts to extortion. It is submitted that this type of practice needs to be stopped and such exploitation of the teachers/employees is to be viewed seriously.

28. It is submitted that the respondent school has initiated disciplinary proceedings against some of the petitioners and the same is baseless due to the reason that it has been initiated as a counterblast to the instant petition.

29. It is submitted that the teachers of Private Unaided or Private Unaided Minority Schools are entitled for the same perks and salary at par with the employee of government schools at the same position. It is further submitted that the conduct of the respondent unaided minority schools in not adhering to the mandate of the statute is a gross abuse of law.



30. It is submitted that the law of limitation is not applicable to the facts and circumstances of the present case, and in support of his arguments, the learned counsel for the petitioner has placed reliance upon the judgment passed in the matter of *Keraleeya Samajam v. Pratibha Dattatray Kulkarni*, 2021 SCC OnLine SC 853; *Randhir Singh v. Union of India*, (1982) 1 SCC 618; *Kuttamparampath Sudha Nair v. Sri Sathya Sai Vidya Vihar*, 2021 SCC OnLine Del 2511 and *Frank Anthony Public School Employees' Assn. v. Union of India*, (1986) 4 SCC 707.

31. It is submitted that and the observations made in the matter of *State of Orissa v. Mamata Mohanty*, (2011) 3 SCC 436, is misplaced as in that case the notification was challenged after a period of 14 years before the High Court unlike in the instant petition.

32. Therefore, in view of the foregoing submissions, it is submitted that the instant petition may be allowed and the reliefs as prayed for be granted.

(On behalf of the respondent nos. 1 & 2)

33. Learned counsel appearing on behalf of the respondent no. 1 & 2 vehemently opposed the instant petition and submitted that the same is liable to be dismissed on the ground of limitation and also being devoid of any merits.

34. It is submitted that the writ petition seeking the aforesaid directions have been filed in February 2022, therefore, after the period of 3 years from 17th October 2017, when the DoE issued guidelines for implementation of 7th CPC. Henceforth, this Court has to first examine the issue whether the petitioners have approached the Court after substantial delay and laches. In



support of its arguments, the respondent has relied upon the judgments *State of Orissa v. Mamata Mohanty*, (2011) 3 SCC 436 and *Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu*, (2014) 4 SCC 108.

35. It is submitted that this Court under Article 226 of the Constitution of India, has the discretion to refuse to exercise its jurisdiction in favour of a party who files writ petition after considerable delay and is otherwise guilty of laches. In such cases, the Court should exercise such discretion with utmost caution and care.

36. It is submitted that the respondent no. 1 & 2 are conceding to the fact that they are bound by the provisions of DSE, however, the obligations towards such mandatory provisions could not be fulfilled due to some major hindrances on the part of the DoE, i.e., the respondent no. 3.

37. It is submitted that the respondent school could not adhere to the statutory provisions in implementing the recommendations of the 7th CPC in its entirety due to the lack of funds available with them.

38. It is submitted that the respondent school has made numerous requests to the DoE to hike the tuition fees due to the economic difficulties it is facing, but to no avail. Further, due to the denial by the respondent no. 3 DoE to not hike the tuition fees, the school is unable to release the arrears of petitioner nos. 7 to 13, w.e.f. 1st January 2016, up to September 2019, and enhance the salaries and other allowances of petitioner nos. 1 to 6 w.e.f. 1st January 2016, till date.



39. It is submitted that the respondent no. 1 & 2, in compliance of Rule 180 (1) of Delhi School Education Rules, 1973 (hereinafter “DSER”), have been regularly filing its (i) financial accounts, receipts and payment accounts along with the income and expenditure, and balance sheet duly audited by a Chartered Accountant; (ii) budget estimates of receipts and payments for that particular session; (iii) enrolment of students, (iv) certificate of scholarship concessions given by school; (v) staff statement as on the end of a particular financial year, (vi) schedule of fee for that session & (vii) statement of disbursement of salary. It is therefore submitted that the respondent no. 1 & 2 has been adhering to the statutory mandate under the DSE and DSER.

40. It is also submitted that from the bare perusal of the financial statement for the year 2019-2020, it is apparent that the respondent no. 2 had an amount of Rs. 56,18,789,04/-, in excess of expenditure over income. Then, the respondent no. 2 had an amount of Rs. 4,60,377.39/- in excess of expenditure over income; for the year 2020-2021. Further, the respondent no. 2 had an amount of Rs. 29,82,452.10/- in excess of expenditure over income; for the year 2021-2022.

41. It is further submitted that in the preceding 3 financial years, the respondent no. 2 has been running into losses and has not been able to meet its expenditures, and the same is evident from the abovementioned financial statements.

42. It is also submitted that during the period of pandemic, the respondent school had to suffer from the economic slowdown. During the said period,



DoE had issued various guidelines *vide* order dated 18th April 2020, 13th August 2020, 28th August 2020 and 1st July 2021, and the respondent school despite being unable to meet the expenses sufficiently, duly abided by the same.

43. It is further submitted the issue of financial crunch has been brought into the knowledge of the DoE numerous times and despite that, it has been adamant to not hike the tuition fee or any other component to recover the losses.

44. It is submitted that in absence of collection of school fees and other components as per the directions issued by the respondent no. 3, the collection of funds decreased substantially, thereby, effecting the financial position of the respondent no. 1, leading to difficulty in complying with directions to implement the recommendations of the 7th CPC.

45. It is further submitted that in order to cover the gap between the income and expenditure, and to generate funds, the respondent no. 2 made a proposal for enhancement of fee for the academic session 2022-23, however, no enhancement has been approved so far.

46. It is submitted that no cash backs are being taken from the petitioners and the same is merely a baseless allegation against the respondent school. Further, the respondent no. 2 is making payments towards the salaries of the petitioners in compliance to the directions issued by the respondent no. 3 DoE, only after making statutory deductions.

47. It is submitted that the respondent school is unable to meet its day-to-day expenditures and hence, the prayer of the petitioners as to their



entitlement under the 7th CPC, are not denied but the respondent no. 1 & 2 undertakes to pay in the event of either the pending application for enhancement of tuition fee is allowed by the respondent no. 3 or they are able to arrange funds from other sources.

48. It is therefore submitted that in view of the foregoing submissions, the instant petition is liable to be dismissed.

(On behalf of the respondent no. 3)

49. Learned counsel appearing on behalf of respondent no. 3 submitted that the respondent no. 1 is an unaided private school which is recognized by the DoE under the provisions of DSE and DSER. The respondent no. 2, i.e., the managing committee of respondent no. 1 school is bound to comply with the provisions of DSE and DSER, and also by the orders and notifications issued by the DoE.

50. It is submitted that the managing committee of the respondent school is the appointing authority of its employees and is bound to follow the statutory provisions of the DSE and DSER in managing the day-to-day affairs of the school and to release all the benefits to its employees which are envisaged in DSE and DSER, and the directions issued by the respondent no. 3 in this regard from time to time.

51. It is submitted that as per sub-rule (xviii) of Rule 50 of DSER, the respondent no. 3, DoE may pass direction to any private unaided recognized school to furnish such reports and information as may be required by the Director from time to time, and to comply with such instructions of the



appropriate authority or the Director, as may be issued to secure the fulfillment of the condition of recognition of school or the removal of deficiencies in the working of the school.

52. It is also submitted that the respondent no. 3, school has to abide by the terms and conditions of the employment and provisions of Section 10 of DSE which prescribes that a recognized private school's pay scale and allowances, medical services, pension, gratuity, provident fund, and other permitted benefits should not be less than those of the employees in the same position in the schools run by the appropriate authority.

53. It is submitted that the DoE has issued various office orders with respect to the implementation of 7th CPC recommendations in the schools including private unaided schools. DoE vide order dated 25th August 2017, issued directions to the private unaided schools for implementation of recommendation of 7th CPC w.e.f., 1st January 2016, in their schools and to pay the salaries, allowances etc. to its employees.

54. It is further submitted that similar directions were also issued by the DoE vide order dated 9th October 2019, whereby, the managing committees of all the private unaided schools were directed to implement the Central Civil Services (Revised Pay) Rules, 2016, with respect to their regular employees of the corresponding status as adopted by DoE for employees of the school owned by appropriate authority.

55. Therefore, in view of the foregoing submissions, it is submitted that the respondent no. 1 school is bound to fix the pay of the petitioners in terms of 7th CPC w.e.f. 1st January 2016, and to pay their salaries and arrears



accordingly. Henceforth, the instant petition may be allowed and the reliefs as prayed for may be granted by this Court.

56. In rejoinder, it has been submitted on behalf of the petitioners that it is a matter of inquiry for the respondent no. 3 to scrutinize the financials of respondent no. 1 and 2 as well as the allegation pertaining to paucity of funds of the respondent school. It is submitted that if there was scarcity of funds then nothing prevented the respondent school to apply for the enhancement of fee in the year 2017 or 2018 or 2019 or 2020 or 2021. It is therefore submitted that the application filed by the respondent school for hike in the tuition fee is only an afterthought of the respondent school, and the respondent school is merely trying to evade from its liability and responsibility, to which it is obligated to comply with.

57. In the present batch, the petitioners have filed their respective writ petitions, wherein, they have raised their pleas that the arrears of salaries and other benefits have not been paid to them as per the recommendations of 6th and 7th CPC. The respondents have filed their respective counter affidavits and the petitioners have also filed their rejoinders. The written submissions filed by the petitioners and the respondents in their respective petitions are also on record.

ANALYSIS AND FINDINGS

58. The matter was heard at length with arguments advanced by the learned counsels on both sides. This Court has also perused the entire material on record and has duly considered the factual scenario of the matter,



judicial pronouncements relied on by the parties as well as pleadings presented by the learned counsel of the parties.

59. It is pertinent to mention herein that by way of this combined judgment, this Court will be dealing with various issues pertaining to the present batch of petitions. Upon perusal of the contents of the petitions, as enumerated in the tabulated figure mentioned hereinabove, this Court has been able to draw out the following common issues required to be adjudicated in this petition:

1. Applicability of the recommendations of 7th CPC on the recognized private unaided schools and recognized private unaided minority schools along with the arrears of 6th CPC (salaries, arrears of salaries and retirement/terminal benefits).
2. Delay and laches –
 - i. in claiming the arrears of retirement/terminal benefits;
 - ii. in claiming the arrears of salaries *qua* the 6th CPC;
 - iii. in claiming the arrears of salaries, allowances etc. *qua* the 7th CPC.

60. Before proceeding to discuss the issues and relevant legal propositions involved *qua* the instant batch of petitions, it is prudent to set out the relevant facts and submissions advanced on behalf of the parties in their pleadings and during the course of arguments.



61. It is the case of the petitioners that even though the DoE has implemented the recommendations of 7th CPC upon the employees of the recognized private unaided schools and recognized private unaided minority schools, there is still willful and intentional disobedience on behalf of the respondent schools and their management and they have not been willing to comply with the directions of the DoE.

62. Pursuant to recommendations of the 7th CPC, respondent DoE issued notification dated 17th October 2017, whereby, all the private recognized schools were asked to implement the same. The relevant portion of the said notification has been reproduced herein for reference:

*“...In continuation of this Directorate's OrderNo.DE.15(318)/PSB/2016/18117 dated 25/08/2017 and in exercise of the powers conferred under section 17(3)and section 24(3), of the Delhi School, Education Act, 1973 read with sub sections 3, 4 and 5 of Section 18 of the Delhi School Education Act, 1973 and with rules 50, 177 and 180 of the Delhi School Education Rules, 1973 and in continuation of the previousordersNo,DE.15/Act/DuggaI.Com/203/99/23039-23988 dated 15.12.1999, F.DE15/Act/2K/243/KKK/883-1982 dated 10.02.2005, DE.15/Act/2006/738-798dated 02.02.2006, relevant paras of F.DE/15 (56)/Act/2009/778 dated11.02.2009, F.DE-15/ACT-I/WPC-4109/13/6750 dated 19.02.2016, F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16.04,2016 &F,DE/PSB/2017/16604 dated 03/07/2017, I, Saumya Gupta, Director of Education, hereby issue following directions to all the Unaided Private Recognized Schools in the National Capital Territory of Delhi for the implementation of **7th Central Pay Commission's Recommendations** under Central Civil Services (Revised Pay) Rules,2016 with effect from 01.01.2016.*



1. General Instruction for ALL Private Unaided Recognized Schools, irrespective of land status:-

- (a) A fee hike is **not mandatory** for recognized unaided schools in the NCT of Delhi.*
- (b) All schools must, first of all, explore the possibility of utilizing the existing reserves to meet any shortfall in payment of salaries and allowances, as a consequence of increase in the salaries and allowances of employees.*
- (c) The schools should not consider the increase in fee to be the only source of augmenting their revenue. They should also venture upon other permissible measures for increasing revenue receipts.*
- (d) Interest on deposits made as a condition precedent to the recognition of the schools and as pledged in favour of the Government should also be utilized for payment of arrears in the present case.*
- (e) A part of reserve fund which has not been utilized for years together may also be used to meet the short fall before proposing a fee hike.*
- (f) Fees/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution.*
- (g) The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for D.A., bonus, etc., and all terminal benefits as also the expenditure of revenue nature concerning the curricular activities. No fees in excess of the amount so determined or determinable shall be charged from the students/parents.*
- (h) No school student, who is appearing in Board examination, shall be denied admit card, school leaving*



certificate or any other document, or be disallowed from appearing in the Board Examination on account of any non-payment or delayed payment arising out of this order.

(i) Every recognized unaided school covered by the Act, shall maintain the accounts on the principles of account applicable to non-business organization/not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of Balance Sheet, Profit & Loss Account and Receipt and Payment Account every year as per proforma prescribed by the department vide order No. F.DE-IS/ACT-I/WPC-4109/Part/13/790S-7913 dated 16/04/2016.

(j) Every recognized unaided school covered by the act, shall file a statement of fees latest by 31" March every year before the ensuing session under section 17(3) of the Act as per proforma prescribed by the department vide order no. F./DE/PSB/2017/16604 dated 03/07/2017.

(k) Though, increase in tuition fee is not the only option to implement the recommendations of 7th Central Pay Commission's Recommendations, nevertheless, if the Managing Committee of the School after exploring and exhausting all the possibilities as per the conditions mentioned above feels it necessary to increase the tuition fee ,the managing committee of the school shall hold a meeting with the group of teachers and parents which would include at least one parent representative from each section of the school and will present the detailed budget of the school, financial statements of the previous year, requirements of funds for implementation of 7th Central Pay Commission's Recommendations, availability of cash/reserve fund/savings with the School Fund account etc as well as present the proposal for fee hike, if any with justification with all the documents mentioned in Annexure A. Inputs would be solicited from the parents and teachers'



representatives. Either the managing committee can take their suggestions into consideration and revise their proposal, or record their dissent. Director of Education's nominee (DE's Nominee) to remain present in the meeting. The minutes and attendance sheet of this meeting countersigned by DE's Nominee including details of parents invited for meeting along with photographs of the meetings shall be submitted by the school to the DDE(District) concerned. It is hereby clarified that presentation of the proposal for increase in fee before the representatives of the parents comprising of each section shall not be construed as seeking the approval of the parents representatives in view of the judgment dated 12/08/2011 of Hon'ble High Court in WPC7777/2009 titled as Delhi Abhibhavak Mahasangh Vs. GNCTD.

(L) For the purpose of increase in tuition fee w.e.f. 01/01/2016 in terms of mid-session increase, the approval of the undersigned is not required under sub-section (3) of section 17 of DSEAR,1973 in light of the order dated 30.03.2017 of Hon'ble High Court in WPC2637/17 in the matter of Action Committee Unaided Recognized Schools Vs Directorate of Education.

The relevant part of Hon'ble High Court Order is as under:-

"Keeping in view the importance and relevance of 31st March, 2017 in section 17(3J) if the Act find to balance the equities, this Court directs that in the event the Seventh Pay Commission is directed to be implemented in private unaided schools by the respondent, then petitioner schools would have an option within two weeks from the date of implementation of the Seventh Pay Commission to intimate the revised fee schedule and the same shall be taken as having been filed on 3d March,2017. "....."



63. It has been also submitted on behalf of the petitioners that, admittedly the respondent schools are governed by the DSE and Section 10 of the said Act applies with all force. Paucity of funds cannot be a ground for permitting the schools not to pay the salary as well as the emoluments to its employees. The petitioner in this regard has placed reliance upon the judgments passed by a Coordinate Bench of this Court in the matter of ***Kuttamparampath Sudha Nair (Supra)*** and ***Shikha Sharma v. Guru Harkrishan Public School, 2021 SCC OnLine Del 5011***.

64. It has been further argued on behalf of the petitioners that the respondent schools have failed to comply with the provisions of Section 10 of DSE despite them being legally bound to implement the recommendations of 7th CPC, at par with the counter parts serving in other schools run by the appropriate authority. The impugned action of the respondent schools in not paying the petitioners' pay, allowances, leave encashment, gratuity and other benefits in terms of the said pay commission in the proper pay-scale pertaining to their posts at par with the counterpart employee of the corresponding posts of the schools of the appropriate authority. Furthermore, in not paying the petitioner the arrears of wages and benefits is illegal, unjustified, and unconstitutional, it violates Article 14 and 21 of the Constitution of India and Section 10 of the Delhi School Education Act, 1973.

65. It has been submitted during the course of the arguments that the petitioners have been deprived of their salary which they are duly entitled to



receive from the respective dates of their initial appointments. Consequently, the petitioners are also entitled to receive appropriate interest upon the arrears due from the school.

66. It has been also submitted on behalf of the petitioners that the arrears pertaining to the salaries, retirement/terminal benefits and other arrears are being denied to them on the premise that the concerned respondent schools are under a financial constraints and do not have sufficient funds to pay the arrears as per the revised pay scale. The petitioners whilst opposing the said contention advanced by the respondent schools have submitted that the same is legally unsubstantial. Reliance has been placed upon the judgments passed in the matters in *Shikha Sharma (Supra)* and *Kuttamparampath Sudha Nair (Supra)*.

67. Further, with regard to the issue of minority unaided schools, it has been submitted on behalf the petitioners that the respondent schools have been refusing to refix and pay the salary and allowance in terms of 7th CPC on two grounds, i.e., *firstly*, the respondent no. 1, school is in a financial crunch and due to the said paucity of funds it is unable to make the said payment and *secondly*, the respondent no.1, school is an unaided minority institute and therefore, not bound to pay the salaries or other dues in terms of 7th CPC as they do not come under the ambit of Section 10 of DSE.

68. It has been submitted on behalf of the petitioners that the Hon'ble Supreme Court as well as this Court in varied cases have already dealt with these issues and it would be safe to assert that both the above issues. i.e., with respect to the paucity of funds of a school as well as with respect to the



schools being an unaided minority institute is no more *res integra*. It has also been submitted that a Coordinate Bench of this Court in the judgment of ***Omita Mago v. Ahlcon Public School, 2022 SCC OnLine Del 5020***, which has been upheld by the Division bench of this Court in ***Ahlcon Public School v. Omita Mago, 2023 SCC On Line Del 368*** has squarely covers both the mentioned issues and has held that paucity of funds or financial crunch of the school cannot be a ground for non-payment of the benefits of 7th CPC to the petitioner therein. The Court also upheld that the pay and allowances of the employees of unaided minority schools cannot be less than those of the employees of the government run schools and therefore, the employees of the unaided private school, be it unaided minority schools, are entitled to the benefits as is being given to the employees of the government run schools.

69. It has been further contended by the petitioners that the arguments with regard to the delay and laches in raising their claims cannot be sustained before this Court. In order to strengthen the said submissions, reliance has been placed upon the judgment passed by a Coordinate Bench of this Court in **W.P (C) No. 6841/2022** titled ***Mukesh Kumar Verma Vs. Lions Public School & Ors.*** It has been submitted that the Coordinate Bench of this Court while placing reliance upon the judgment passed by the Hon'ble Supreme Court in the matter of ***Keraleeya Samajan (Supra)***, held that limiting the claim of arrears to three years prior to filing the writ petition is untenable.



70. The respondents whilst vehemently opposing to the claims of the petitioners have submitted that the claim raised by the petitioners are barred by delay and laches. It has been submitted that the revised pay scale came in the year 2016, and since the writ petitions in the instant batch of petitions were filed beyond the period of 3 years, the same are barred by the law of limitation. Further, few of the petitioners are also claiming for payment of their arrears such as salaries, retirement/terminal dues, DA, TA, MA, etc., with respect to the recommendations of 6th CPC and 7th CPC, and the said claims are being preferred after the expiry of more than 5 to 10 years which is a far-fetched claim considering the unreasonable delay in seeking redressal.

71. It has been submitted to the effect that that the principles of delay and laches would certainly apply to the claims in the instant petitions. The petitioners have been nothing but negligent and there has been no substantial reasoning placed on record on their behalf that could explain the delay in filing the instant batch of writ petitions.

72. It has been submitted that the casual approach of the petitioners as well as their lack of action and negligence in pursuing the case altogether is evident and apparent on the face of the record. As per the settled principles of law, the Court can only condone a delay if there is a sufficient cause behind such delay. Reliance in this regard has been placed upon the judgment passed in the matter of *Mamata Mohanty (Supra)*. The Hon'ble Supreme Court in the said judgment has held that a petition should not be considered ignoring the delay and laches, in case the petitioner approaches



the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish as a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in the cases where some diligent person had approached the Court within a reasonable time.

73. The respondent has also relied upon the judgment passed by the Hon'ble Supreme Court in the matter of ***Chennai Metropolitan Water Supply & Sewerage Board (Supra)***, wherein, it was held that it is the duty of the Court to scrutinize whether the delay is to be ignored without any justification.

74. The respondent school in its rival submissions has also stated that the fee is the only source of revenue for the schools and a compatible fee structure conducive to meeting the remuneration and the benefits accrued from service to the staff, with infrastructural facilities, with all modern learning tools and provisions for future growth is the only requisite.

75. It has been admitted during the course of the arguments, that even though the respondent schools are bound by the provisions of Section 10 of the DSE and the finances of the respondent schools do not allow the implementation of the 7th CPC and the sole reason for the same is that the DoE has not taken any decision on the proposal for fee hike.

76. In this context, the attention of this Court is drawn to the fee structure of the schools. It is argued that the main source of income is through tuition fee however, the school is not permitted to increase the tuition fee therefore, there is a paucity of funds with the schools. Further, the schools admit the



students under the Economic Weaker Section category who get fee concession therefore; the school is undergoing a financial crisis. It has also been submitted that the Shailja Committee was formed to discuss and look into the aspects of amendments necessary for the proper functioning of the schools and for justified implementation of the Delhi Government policies, and in this regard the said committee had suggested for the revision of the school fee, but no effective action has been taken place till date. Learned counsel further submits that the situation has worsened on account of the Covid-19 pandemic and at present, the schools are not in a position to bear the burden of disbursing the benefits of 7th CPC.

77. Some of the respondent schools have raised the plea that salaries and other arrears are due *qua* some of the petitioners because it was found at a later stage that their initial appointments are either illegal or invalid, or pursuant to some disciplinary proceedings various petitioners were terminated. Therefore, such petitioners cannot be paid as per the recommendations of 7th CPC.

78. Learned counsel appearing on behalf of the DoE supports the case of the petitioners and submitted that it is the statutory obligation of the schools to fix the salaries and allowances of the petitioners in consonance with the recommendations of 6th and 7th CPC.

79. It is further submitted that the DoE, vide order dated 19th August 2016, in exercise of its powers conferred under Sections 17 (3), 24 (3), and 18 of the Delhi School Education Act, 1973, read with Rules 50, 177, and 180 of the Delhi School Education Rules, 1973 adopted the Central Civil



Services (Revised Pay) Rules, 2016, under which benefits of 7th CPC are paid to the government employees. Directions were accordingly issued, whereby, vide order/notification dated 25th August 2017, 17th October 2017, and 9th October 2019, the respondent schools were directed to implement the 7th CPC failing which necessary action shall be taken as per the provisions of DSE and DSER against the defaulting Schools.

80. During the course of argument, on merits, the stand of the DoE is that the schools are bound to comply with the provisions of Section 10 (1) of DSE and to pay the salaries to its employees at par with those paid to the employees of schools run by the government or aided by the government and failure to do so, makes it liable for cancellation of its recognition under Section 4 of DSE and taking over of the management under Section 20 of DSE. It is also stated that financial crisis cannot be a ground to escape the liability arising from the mandate of Section 10 (1) of DSE.

81. Reliance on behalf of the respondent DoE has been placed upon the judgments *Sadhna Payal v. Director of Education, 2010 SCC OnLine Del 80, Kuttamparampath Sudha (Supra)*. It has been stated on behalf of the DoE that in the said judgments, the Courts have a categorical finding that paucity of funds or financial crunch of an employer cannot be an answer to non-compliance of a statutory mandate.

82. The respondent DoE, in view of the aforesaid submissions has submitted before this Court that in light of the judgments passed in the matters of *Shikha Sharma (Supra)*, *Frank Anthony Public School Employees Association (Supra)*; *Unichovi vs. State of Kerala, AIR 1962*



SC 12, *Hydro (Engineers) Private Ltd vs. Workmen* 1969 (1) SCR 156 and *Air Freight Ltd. vs. State of Karnataka*, 1996 (6) SCC 547, there is a clear mandate to follow Section 10 (1) of DSE by the private unaided schools and the unaided minority schools having approval under the statutory provisions.

83. The DoE's final submission so far as revision of the fee is concerned, there is a clear mandate and due procedure required to be followed by the respondent schools from time to time, which shall in no way be an impediment in implementation of mandate of Section 10 (1) of DSE and consequently 6th and 7th CPC and to pay the arrears due.

84. Before adjudication of the petitions on merits. This Court deems it fit to state the objective behind the implementation of the Pay Commission.

Concept of Pay Commission

85. The Constitution of India establishes a framework that embodies the principles of social welfare and justice. The Preamble of the Constitution of India enunciates about the nation as a "sovereign, socialist, secular, and democratic republic," underscoring its socialist commitment, which encompasses the pursuit of social justice and welfare. Furthermore, the Directive Principles of State Policy, as enshrined in Part IV of the Constitution of India, set forth guidelines for the legislature to be followed in shaping policies and legislation. These principles emphasize the State's responsibility to promote the welfare of the people, secure a just and equitable distribution of resources, and protect the rights of marginalized and disadvantaged groups. While they are not enforceable by the Courts, they provide a moral and ethical imperative for the government to work towards



the realization of social welfare objectives. Consequently, the Constitution reflects a legal and constitutional framework that aspires to establish a society founded on the principles of social welfare and economic well-being for all its citizens.

86. Article 38 of the Constitution of India outlines a significant Directive Principle of State Policy. In essence, it emphasizes that the State should make every effort to ensure the well-being of its citizens by establishing a social order characterized by justice in its various dimensions: social, economic, and political. The term "justice" here encompasses the idea of fairness and equality, and the Constitution of India calls for this sense of justice to be embedded in all aspects of the nation's institutions and life. The Constitution of India includes justice in all three aspects i.e., social justice, economic justice and political justice. Social justice refers to the equitable treatment and opportunities for all members of society, irrespective of their background or circumstances. Economic justice aims to reduce disparities in wealth and income, ensuring that the benefits of economic progress are shared by all. Political justice emphasizes a fair and inclusive political system where all the citizens have a voice and can participate in the decision-making processes of the country.

87. Article 43 of the Constitution outlines the State's commitment to improve the welfare and well-being of workers, both in agricultural and industrial sectors, and promote economic activities in rural areas, particularly through cottage industries. The State is obligated to work towards ensuring that all workers, regardless of whether they are engaged in



agriculture, industry, or other occupations, receive a "living wage." i.e., a wage that is sufficient to cover the basic needs of a worker and their family, ensuring a decent standard of living. Hence, the Article 43 entitles the people of the nation to wage that not only covers their basic needs but also includes in its ambit the other needs of the people.

88. The Pay Commission has been constituted with the aim of enforcing the concept of India being a Welfare State and with aim of promoting justice amongst the various people in all the spheres i.e., economically, socially and politically. It is a body under the Department of Expenditure (Ministry of Finance) which assess and recommends the changes to the salary structure of the employees of the public sector. They are constituted for a period of 10 years and the first pay commission was constituted in the year 1946.

89. The aim of the pay commissions has been enunciated by the Hon'ble Supreme Court in the judgment of ***Maharashtra State Financial Corpn. Ex - Employees Ass. v. State of Maharashtra***, 2023 SCC OnLine SC 100, and the relevant paragraphs of the same are as follows:

“29. That on whether, and what should be the extent of pay revision, are undoubtedly matters falling within the domain of executive policy making. At the same time, a larger public interest is involved, impelling revision of pay of public officials and employees. Sound public policy considerations appear to have weighed with the Union and state governments, and other public employers, which have carried out pay revision exercises, periodically (usually once a decade, for the past 50 years or so). The rationale for such periodic pay revisions is to ensure that the salaries and emoluments that public employees enjoy, should keep pace with the increased



cost of living and the general inflationary trends, and ensure it does not adversely impact employees. Pay revisions also subserve other objectives, such as enthusing a renewed sense of commitment and loyalty towards public employment. Another important public interest consideration, is that such revisions are meant to deter public servants from the lure of gratification; of supplementing their income by accepting money or other inducements for discharging their functions.

30. Article 43 of the Constitution¹⁰ obliges the state to ensure that all workers, industrial or otherwise, are provided with a living wage and assured of a decent standard of living. In this context, the need for providing a mechanism to neutralize price increase, through dearness allowance has been emphasized, in past decisions of this court. In Hindustan Lever Ltd. v. B.N. Dongre¹¹, the court explained that if pay packets are “frozen”, the purchasing power of the wage would shrink, and there would be a fall in real wages, which needs to be neutralized. The court also noted neutralization of wages, through dearness allowance is on a “sliding scale” with those at the lowest wage bracket, getting full neutralization and those in the highest rungs being given the least of such allowance:

“Workers are therefore concerned with the purchasing power of the pay-packet they receive for their toil. If the rise in the pay-packet does not keep pace with the rise in prices of essentials the purchasing power of the pay-packet falls reducing the real wages leaving the workers and their families worse off. Therefore, if on account of inflation prices rise while the pay-packet remains frozen, real wages will fall sharply. This is what happens in periods of inflation. In order to prevent such a fall in real wages different methods are adopted to provide for the rise in prices. In the cost-of-living sliding scale systems the basic wages are automatically adjusted to price changes shown by the cost-of-living index. In this way the



purchasing power of workers' wages is maintained to the extent possible and necessary. However, leap-frogging must be avoided. This Court in Clerks & Depot Cashiers of Calcutta Tramways Co. Ltd. v. Calcutta Tramways Co. Ltd. [AIR 1957 SC 78], held that while awarding dearness allowance cent per cent neutralisation of the price of cost of living should be avoided to check inflationary trends. That is why in Hindustan Times Ltd. v. Workmen [AIR 1963 SC 1332] Das Gupta, J. observed that the whole purpose of granting dearness allowance to workmen being to neutralise the portion of the increase in the cost of living, it should ordinarily be on a sliding scale and provide for an increase when the cost-of-living increases and a decrease when it falls. The same principle was reiterated in Bengal Chemical and Pharmaceutical Works Ltd. v. Workmen [AIR 1969 SC 360] and Shri Chalthan Vibhag Khand Udyog Sahakari Mandli Ltd. v. G.S. Barot, Member, Industrial Court, Gujarat [(1979) 4 SCC 622] and it was emphasised that normally full neutralisation is not given except to the lowest class of employees and that too on a sliding scale.”

31. Therefore, the state and public employers have an obligation to address - as a measure of public interest, the ill-effects of rise in the cost of living, on account of price rise, which results in fall in real wages. This obligation should be discharged on a periodic basis. Yet, there cannot be any straitjacket formula as to when such pay revisions are to be made and to what extent revisions should take place. As a general practice, the Union and state governments have been undertaking such exercises each decade.”

90. The concept of pay commission has been further reiterated by the Division Bench of this Court in the judgment dated 16th September 2022,



passed in *Vidya Bharti School v. Directorate of Educations & Ors., LPA no. 541/2018*, wherein, the Division Bench held as follows:

“6.....Pay revision in terms of the Pay Commission Recommendations is a matter of public policy, with objective of ensuring that with the passage of time the purchasing power of the government employee is not denuded by inflation and other related factors. It can hardly be anyone’s case and will be against public policy that the remuneration of teachers and employees of a school be, for all times, below the standards fixed by the government. The after-effects of such monetary relinquishment on the employees, their families and their financial planning would be dire. Nobody would ordinarily volunteer for such financial deprivation and yet be expected to discharge their duties as teachers with the same devotion and dedication as before the pay revision. The individual remuneration and relinquishment of rights by each teacher, for all times, is not evidenced.”

91. The Hon’ble Supreme Court has extensively dealt with the aim of implementation of the Pay Commissions in the aforesaid judgment. It was held that the pay commission is established for the purpose of revision of the pay taking into account the inflationary trends and the increase in cost of living over a period of time.

92. The Court delved into the aspect if the pay package is frozen at a specific amount, then the same will lead to shrinkage of the real wages of the workers. As due to inflation, the cost of living rises, whereas the wages remains same which negatively affects the spending capacity of the workers and as a result lowers his standard of living. Moreover, it affects not only on



the worker but also the well- being of the worker's family who is dependent on him.

93. Moreover, the Court emphasised on the concept of dearness allowances provided to the workers which can neutralise the effect of the rising costs of living and stand guard on against any deterioration in the standard of living of the worker. The Courts therefore, held that the State shall ensure that the workers are being provided with the requisite dearness allowance.

94. The Hon'ble Court further held that pay revisions also promote a loyalty and commitment amongst the employees of any organisation. As the public servants are satisfied from their earning and therefore, do not seek any other means of employment to supplement their salaries for the purpose of affording a decent standard of living. Furthermore, such pay revisions ensures that the State is discharging its obligation to provide decent amount of wages as well as a decent standard of living, as enshrined in Article 43 of the Constitution.

95. Lastly, the Courts emphasised on the needs of the Pay Commissions to revise the salaries as well as other allowances on periodic basis as the Executive deems it fit.

ESSENTIAL FEATURES OF THE PAY COMMISSION

96. The pay commission incorporates the three essential ingredients which are inclusiveness, comprehensibility and adequacy. The three requirements have been enunciated in detail as follows:



- Inlusiveness – Pay Commission shall ensure that there is inclusiveness which implies that the broad patterns of pay scales adopted for the civil services will be uniformly applied everywhere, especially in areas where some autonomy has been provided. Hence, there should be uniformity of implementation of the pay commission across various sectors.
- Comprehensibility – The Pay Scale must provide a structure of the total remuneration payable to the employees of the public sector which can be easily comprehended. The various allowances along with the remuneration and any ancillary allowances should not make the pay scale incomprehensible. This would ensure that the employees have the prior knowledge and understanding, regarding the total remuneration and various allowances they will receive at a certain post.
- Adequacy – The principle pertaining to adequacy has to be examined in two parts. Firstly, the employee who is being appointed at certain position has the requisite qualifications as per the duties and responsibilities of the said position. Secondly, there should be an adequate amount of salary fixed in a manner that various needs of the person are getting fulfilled from his wages.



AIM OF SEVENTH PAY COMMISSION

97. The latest Pay Commission i.e., 7th Pay Commission was set up in the year 2014 and the recommendations of the pay commission came into effect in the year 2016.

98. The salient features of the 7th Pay Commission are to examine and review the existing pay structure and to recommend changes in the pay, allowances and other facilities as are desirable and feasible for civil employees as well as for the Defence Forces, having due regard to the historical and traditional parities.

99. It aims at promoting the equality in various spheres amongst people and ensures that the public interest is taken care of. Furthermore, it aims at balancing the interest of the various stakeholders and therefore, ensures that apart from the worker, the interest of the organisation and the interest of State has been taken into consideration. Hence, it ensures that the Government has the requisite funds to provide the workers with pay as revised by it otherwise; the revised pay will just be a false promise to the workers on paper which could not be implemented due to paucity of funds.

100. The Pay Commission has ensured that the pay scale should be linked with the need to attract the most suitable talented candidate to the government service and promote efficiency, accountability and responsibility in the work culture.



101. Since, this Court has deliberated upon the concept of pay commission and its various factors that ultimately explain its importance; therefore, it is now apposite to deal with the issues framed hereinabove.

ISSUES FOR ADJUDICATION

102. The relevant submissions and issues have been addressed herein above. At this juncture, it is imperative to frame the following issues for adjudication of the instant batch of petitions and the same are as follows:

- A) Whether paucity of funds can be a ground for non-implementation of 6th and 7th CPC by any recognized school?*
- B) Whether it is mandatory for the private unaided school to implement the recommendations of 6th and 7th CPC?*
- C) Whether it is mandatory for the private unaided minority School to implement the recommendations of 6th and 7th CPC?*
- D) Whether the Writ Petitions are hit by delay and laches and claim can be restricted to 3 years only?*

103. Now adverting to the adjudication of the issues enumerated hereinabove.

A) Whether paucity of funds can be a ground for non-implementation of 6th and 7th CPC by any recognized school?

104. During the course of the argument the respondent schools have duly accepted the fact that the petitioners are entitled to the salary and



emoluments as per the recommendations of the pay commission. However, the schools does not have the requisite funds to pay the petitioners as per the recommendations of the pay commissions.

105. It was also pointed out by the schools that the proposal for enhancement of the fees was sent by the Schools to the DoE and the school's proposal has been denied by DOE.

106. The respondent schools have raised ground before this Court that according to Section 17 and 18 of the DSE, read with the Rule 177 of the DSER, that until the schools were permitted to hike their fees, the issue of payment of revised salary to the petitioners does not arise.

107. Therefore, the schools have raised a ground that there is a direct nexus between the fees hike not being permitted by the DoE to the Schools and the School not being in a position to revise the pay of petitioners as per the recommendations of the Pay Commission.

108. Before delving into the merits of the case, it is pertinent for this Court to reiterate the settled position of law regarding the question of whether the issue of paucity of funds can be a ground for non-implementation of 6th and 7th Pay Commission.

109. In the judgment passed by the Hon'ble Supreme Court in the matter of ***Haryana State Minor Irrigation Tubewells Corpn. v. G.S. Uppal, (2008) 7 SCC 375***, the Hon'ble Court has dealt with the issue of a corporation running under losses and was unable to bear the financial burden on account of revision of pay scales. Whilst adjudicating upon the said case, the Hon'ble Supreme Court rejected the contention *qua* the paucity of funds and



held that the employees have a vested right of being entitled to revision of pay. Relevant paragraph of the said judgment is reproduced as under:

“33. The plea of the appellants that the Corporation is running under losses and it cannot meet the financial burden on account of revision of scales of pay has been rejected by the High Court and, in our view, rightly so. Whatever may be the factual position, there appears to be no basis for the action of the appellants in denying the claim of revision of pay scales to the respondents. If the Government feels that the Corporation is running into losses, measures of economy, avoidance of frequent writing off of dues, reduction of posts or repatriating deputationists may provide the possible solution to the problem. Be that as it may, such a contention may not be available to the appellants in the light of the principle enunciated by this Court in M.M.R. Khan v. Union of India [1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541] and Indian Overseas Bank v. Staff Canteen Workers' Union [(2000) 4 SCC 245 : 2000 SCC (L&S) 471] . However, so long as the posts do exist and are manned, there appears to be no justification for granting the respondents a scale of pay lower than that sanctioned for those employees who are brought on deputation. In fact, the sequence of events discussed above clearly shows that the employees of the Corporation have been treated on a par with those in Government at the time of revision of scales of pay on every occasion.

34. It is an admitted position that the scales of pay were initially revised w.e.f. 1-4-1979 and thereafter on 1-1-1986. On both these occasions, the pay scales of the employees of the Corporation were treated and equated on a par with those in Government. It is thus an established fact that both were similarly situated. Thereafter, nothing appears to have happened which may justify the differential treatment. Thus, the Corporation cannot put forth financial loss as a ground only



with regard to a limited category of employees. It cannot be said that the Corporation is financially sound insofar as granting of revised pay scales to other employees is concerned, but finds financial constraints only when it comes to dealing with the respondents who are similarly placed in the same category. Having regard to the well-reasoned judgment of the Division Bench upholding the judgment and order of the learned Single Judge, we are of the view that the impugned judgment warrants no interference inasmuch as no illegality, infirmity or error of jurisdiction could be shown before us.”

110. The Hon’ble Supreme Court has emphasized on the issue that despite the fact that a corporation is running into losses, the same does not render the employee of the said corporation being denied revision of pay as sanctioned to them. Furthermore, the Hon’ble Court held that there should be no discrimination between the employees working in the corporation to that of the Government employees.

111. The Court further held that an employee who has been appointed at a sanctioned post irrespective of the said employee working in a government organization or public corporation, the employee is entitled to be paid the salary along with the allowances on the said sanctioned post and nothing less than that.

112. The principle pertaining to the rights of the employees being entitled to revision in pay scale as per the recommendations of prescribed pay scale irrespective of the fact that there is no increase in the school fees has been dealt with by the Division Bench of this Court in ***Rukmani Devi Jaipuria***



Public School v. Sadhna Payal, 2012 SCC OnLine Del 6535, wherein the Court observed as follows:

“2. We are informed that the appellant school has already implemented the recommendations of the 5th Pay Commission and has given revised pay scale to the respondent teachers w.e.f. 1.4.1997. It has to be given w.e.f. 1.1.1996 on parity with the pay scales granted to the government teachers. The right of the teachers of the appellant’s school to get revision in the pay scale from the effective date i.e. 1.1.1996 cannot be denied merely because the appellant could not shift this burden on the student by enhancing the fee which is totally immaterial and irrelevant when the question of revision of pay scale of the teachers is there. We are informed that for the period 1.1.1996 to 31.3.1997, 50% of the arrears has been paid which shall be adjusted from the arrears which are to be worked out.”

113. Furthermore, a Coordinate Bench of this Court in the judgment passed in the matter of ***Deepika Jain v. Rukmini Devi Public School, 2013 SCC OnLine Del 3801***, has held that paucity of funds cannot be taken as a ground to not pay the salary and emoluments as per the pay commission recommendation. The Court also dealt with the issue pertaining to the nexus between the hike of fee and paucity of funds and the same being a requisite for implementation of recommendations of pay commission. The relevant paragraph is reproduced below:

“3. I have held in many cases, including the case of Meenu Thakur v. Somer Ville School W.P. (C) 8748/2010 decided on 13.2.2013 that paucity of funds is not a ground to not pay amounts as per the 6th Pay Commission Report and the order of the Director of Education dated 11.2.2009. A Division Bench of this Court in LPA 286/2010 titled



as Rukmani Devi Jaipuria Public School v. Sadhna Payal decided on 11.5.2012 has also held that paucity of funds is not a ground not to make payments as per the 6th Pay Commission Report.

4. Counsel for respondent no.1-school seeks to draw attention of this Court to paras 7,8 etc of the order of the Director of Education dated 11.2.2009 and argues that unless there is a fee hike and parents deposit the higher tuition fees, there is no liability of the school to make payment in terms of the order of the Director of Education dated 11.2.2009.

5. I am afraid I cannot agree with the argument because paras 1 to 3 of the circular dated 11.2.2009 make it clear that a fee hike is not mandatory and schools have to explore payment from the existing funds and the existing reserves to meet any shortfall in payment of salaries and allowances etc as a consequence of increase in the salaries and allowances of employees. It is further made clear in para 3 of the circular that fee hike.”

114. This Court observed in the aforesaid judgment that the employees of the school are entitled to pay and emoluments as per the Pay Commission recommendations and the school was directed to make arrangement from its existing reserves for the same.

115. In view of the aforesaid precedents, the aspect of financial wherewithal cannot be taken into account to exempt the school from implementation of the recommendation of the Pay Commission. The



employees of the school have a vested right of being paid the salary and emoluments as per the recommendations of the Pay Commission.

116. In the instant petition, the respondent DoE issued notification dated 17th October 2017, whereby, all the private recognized schools were directed to implement the recommendations of the Pay Commission. Hence, the said recommendations are binding on the schools as per the notification irrespective it being run by the appropriate authority or any private body. Moreover, the recommendations of the Pay Commission have to be retrospectively implemented from the date of the said recommendations.

117. As discussed in the foregoing paragraphs, the schools does not have the capacity to pay the staff of their schools as per the recommendations of the Pay Commission due to the reason that they have not been able to hike the fees of the students. Therefore, they do not have the requisite finances to pay the staff as per the recommendations of the Pay Commission.

118. The issue pertaining to whether denial of permission for hiking the school fees can be a ground for non- implementation of the Pay Commission has been dealt with by the Division Bench of this Court in the judgment of ***Greenfields Public School v. Anchla*, 2023 SCC OnLine Del 5177**, and it was held as follows:

“29. It is true that the aforesaid statutory provisions of law make it mandatory for a school to file with the Directorate of Education, a full statement of fee to be levied during the ensuing Academic Session, and except with the approval of the Director, the school cannot charge fee in excess of the fee as stipulated by the Education Department. However, the said provision does not benefit the case of the Appellant School. The



issue regarding applicability of Section 17(3) has been dealt in judgment of the Division Bench of this Court in the case of Ahlcon Public School (supra), wherein a similar plea was raised and the Division Bench directed the Employer School therein to pay salaries of its employees as per the recommendations of the 7th Pay Commission. Therefore, the aforesaid plea raised by the Appellant School is of no consequence.

30. Learned Counsel for the Appellant School has relied upon a judgment delivered by the Hon'ble Supreme Court in the case of Godawat Pan Masala Products I.P. Ltd. v. Union of India, (2004) 7 SCC 68. The Appellant relies on the said judgment to contend that the Act, 1973 should be read harmoniously and Sections 10 & 17 of the Act, 1973 should be read together in a harmonious manner.

31. This Court has carefully gone through the said judgment delivered by the Hon'ble Supreme Court and is of the view that the school in question cannot escape from its liability of paying higher pay scale to the Respondents herein by taking a plea that there is a correlation between Section 10 and 17 of the Act, 1973. In the considered opinion of this Court, there is no direct linkage, correlation and inter-dependence in respect of payment of salary and right to revise its fee, especially in light of the fact that the School is at present paying salary to its current employees as per the recommendations of the 7th Pay Commission, but not to the Respondents herein as they have superannuated, and therefore, the question of setting aside the Impugned Judgment delivered by the learned Single Judge does not arise.”

119. In the aforementioned paragraph, it is evident that the Division Bench of this Court observed that there is no direct nexus between the payment of



salary in accordance with pay commission recommendations and the right to revise school fee by the schools. The Court further held that the schools cannot shun their liability of implementation of Pay Commission recommendations by merely taking the ground of need for hiking the school fees. Hence, the schools are duty-bound to implement the recommendations of the Pay Commission and the staff of the school has a vested legal right of being paid in accordance with the same.

120. Now adverting to the adjudication of the issue in the batch matter.

121. This Court is of the opinion that in case a school is running into losses or does not have the financial capacity to pay its employees, the same would not preclude its liability for paying its employees their salary and other benefits in accordance with the recommendations of the Pay Commission.

122. Moreover, if the schools are granted waiver from implementation of the recommendations of the pay commission, then the same would result in the school's employee salary be given as per the whims and fancies of the school. They may also force the staff to work at lesser pay than the pay as stipulated by Section 10 of DSE which states that the salary as well as the other allowances of the employees of recognized school should not be less than that of the employees of the corresponding status in schools run by the appropriate authority.

123. It is pertinent to point out that any employee working with an organization has the reasonable expectation of being paid salary decently so that he is able to afford a decent standard of living from the said income. In case, the employee is not paid adequately, the same may render the



employee unmotivated to work and the employee may not give his best in the organization. Moreover, such events might render the employee looking for other suitable jobs to supplement his/ her income.

124. Such events are very undesirable keeping in mind the future of the children of the nation as the same could lead to a poor quality of education being provided to them. The Students of the Schools are the future of this nation and there should be no compromise in educating the future generation

125. The State has duty to consider not merely the welfare or financial condition of the organization but it has to also ensure that the welfare of the employees of the said organization is also taken care of. It should ensure that they are not exploited by the organization by way of coercing or forcing them to work at a pay scale which is inadequate keeping in view the inflationary trends and the prevalent general standard of living in the nation.

126. In the instant batch of petition, this Court specifically observes that if the staff of the school being paid less is against the objectives of the pay commission which ensures that the employees of the schools shall be paid a decent amount of salary as well as the employees shall be able to afford a decent standard of living.

127. According to Constitution, India being a welfare State shall ensure the well- being of the subjects of the State. Moreover, as per Article 43 the State should ensure that the employees of the State are being paid enough to afford a good standard of living and paying inadequate salary is a violation of the said Article.



128. Moreover, the schools have to comply with Section 10 of the DSE, and ensure that the employees of the schools shall be paid at par with the aided school irrespective of the fact that the schools do not possess the requisite funds.

129. In view of the aforesaid discussions, the paucity of funds cannot be ground for denial of arrears of salaries and emoluments as per the 7th Pay Commission. This Court is of the view that the schools have no other alternative but to pay their staff the arrears of salaries and emoluments as fixed by the 7th Pay Commission and no school can seek waiver of implementation of Pay Commission by citing any reason whatsoever.

130. Accordingly, issue 'A' is decided by this Court in favor of the petitioners whereby the Schools are directed to ensure that they pay the staff as per the recommendations of the Pay Commission and for the same they may arrange finances either from the reserves or any other way of funding. They shall ensure that the staff of the school are not paid inadequately.

B) Whether it is mandatory for the private unaided school to implement the recommendations of 6th and 7th CPC?

131. It is a contention raised by the learned counsel on behalf of the respondent- unaided recognized school that private unaided schools are not bound by the recommendations of the Pay Commission. It was further contended by them that the unaided recognized schools need not pay the same salary to their staff as is payable to the employee of the aided schools.

132. It is further contended by that the unaided schools are not bound by Section 10 of the DSE and have the autonomy to fix the salary and



emoluments to their employees in accordance with the funds available with the school.

133. Before delving into the case on merits, it is pertinent to discuss whether the employees of the private unaided school are entitled to the same salary and emoluments which are payable to the employee of the school owned by the appropriate authority

134. It is necessary to discuss Section 10 of DSE which governs the aspect of salaries and allowances of every school recognized by the DoE. Section 10 of the DSE is reproduced as follows:

“10. Salaries of employees-(1) The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority : Provided that where the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognised private school are less than those of the employees of the corresponding status in the schools run by the appropriate authority, the appropriate authority shall direct, in writing, the managing committee of such school to bring the same up to the level of those of the employees of the corresponding status in schools run by the appropriate authority : Provided further that the failure to comply with such direction shall be deemed to be non-compliance with the conditions for continuing recognition of an existing school and the provisions of section 4 shall apply accordingly.

(2) The managing committee of every aided school shall deposit, every month, its share towards pay and allowances, medical facilities, pension, gratuity, provident fund and other



prescribed benefits with the Administrator and the Administrator shall disburse, or cause to be disbursed, within the first week of every month, the salaries and allowances to the employees of the aided schools.”

135. Under the Section 10 of DSE vests powers with the “appropriate authority” to direct that management of the school to disburse the pay and other benefits at par with the school under its management. The DSE has also defined the term “appropriate authority” under Section 2(e) of DSE as follows:

“e) "appropriate authority" means :-

- i. in the case of a school recognised or to be recognised by an authority designated or sponsored by the Central Government, that authority;*
- ii. in the case of a school recognised or to be recognised by the Delhi Administration, the Administrator or any other officer authorised by him in this behalf;*
- iii. in the case: of a school recognised or to be recognised Municipal Corporation of Delhi, that Corporation;*
- iv. in the case of any other school, the Administrator or any other officer authorized by him in this behalf; ”*

136. As per Section 10 of DSE, the legislature aimed at ensuring that the pay and allowances as well as other prescribed benefits of the employees of any recognized school must not be less than the employees of same status in the schools which are owned/ operated by the Appropriate Authority.

137. It was the intent of the legislature that the students studying in any schools not owned/ operated by the Appropriate Authority must not bereft of



a quality education on the ground that the employees of the schools are being paid inadequately

138. The aforesaid section aimed at providing the requisite infrastructure in terms of human resources to the students of the unaided recognised school. It aimed at ensuring that competent staff gets the same salary and emoluments at the unaided school and is not demotivated to join private schools as they might get paid lower than the salary and emoluments paid in the aided school.

139. Hence, it aims at ensuring that there is uniformity in terms of the competency of the staff appointed at any school.

140. The applicability of Section 10 of DSE, to unaided school has been discussed by the Coordinate Bench of this Court in the judgment of ***Smt. Mamta Chaturvedi v. The Management of New Greenfield Public School and Anr***, 2013 SCC OnLine Del 3270, and it was held as follows:

“4. In my opinion, the writ petition is bound to be allowed for the reasons stated hereinafter : -

- (i) *Though the respondent No. 1-school states that the petitioner is only a contractual employee, however, Supreme Court in its judgment in the case of Management Committee of Montfort Senior Secondary School v. Shri Vijay Kumar, (2005) 7 SCC 472 has held that services of a teacher have a statutory flavor in accordance with the Delhi School Education Act and Rules, 1973 and such services can only be terminated by following the provisions of Rules 118 to 120 of the Delhi School Education Rules, 1973. Therefore, the contention of the respondent No. 1-school that petitioner is a*



contractual employee does not take the case of the respondent No. 1 further to hold that the petitioner is not entitled to benefits of permanent employment in terms of Delhi School Education Act and Rules, 1973. Section 10(1) of the Delhi School Education Act, 1973 hence entitles the petitioner to the monetary benefits claimed.

- (ii) *Even if the petitioner has been treated as an ad hoc or contractual employee such employment actually can be said to be equal to the services of a probationer. I have recently held in the case of Hamdard Public School v. Directorate of Education in W.P. (C) No. 8652/2011 decided on 25.7.2013 that the probation period can be upto three years, from three years to five years for the reasons which are justiciable in Court, and in rarest of rare cases for six years. In the present case, employment of the petitioner with the respondent No. 1-school is well over six years. Petitioner will therefore get benefit of ratio of the judgment in the case of Hamdard Public School (supra) and she would therefore be deemed to have been confirmed in her post w.e.f the fourth year after her joining the services.*
- (iii) *Contention of the respondent No. 1 that since it is an unrecognized school and therefore provisions of Section 10 of the Delhi School Education Act, 1973 will not apply is an argument without substance in view of Division Bench judgment of this Court in the case of Social Jurist, a Civil Rights Group v. GNCT 147 (2008) DLT 729 which holds that the provisions of Delhi School Education Act and Rules, 1973 apply even to unrecognized schools which are run in Delhi.”*



141. The principle has been reiterated by this Court in the judgment of ***Nutan Gulati v. Director of Education and Ors., 2013 SCC OnLine Del 2507***, and the following was held:

“7. In my opinion, the argument urged on behalf of the petitioner merits acceptance and I do not agree with the argument urged on behalf of respondent no. 2-school for the reason that so far as the applicability of Section 10(1) is concerned, the same quite clearly and categorically as per its literal interpretation gives whatever benefits are available to employees of Government schools would also be available to teachers/employees of unaided private schools in Delhi. Section 10(1) does not restrict benefits only to salary/monetary benefits as the expression used in Section 10(1) is “other prescribed benefits”. Respondent no. 2 is unaided private school in Delhi and therefore, it is bound by the provision of Section 10(1) to give benefits to its teachers which are those as granted to teachers of the Government schools. Since in Government schools as per circular of Director of Education dated 21.1.2011 librarians are to have all benefits applicable to teachers in teaching category, the petitioner who is a librarian will also get all benefits as those granted to a teacher in an unaided private schools. The argument of the respondent no. 2 on the basis of the expression “Administrator” as found in Section 2(e)(ii) of the Delhi School Education Act and Rules, 1973 is misconceived because the expression “Administrator” is used in this provision with respect to the authority which runs/owns the school and not with respect to issuance of circulars for being applicable to schools, and which is the prerogative of the Director of Education/authority which governs the school under the provisions of the Delhi School Education Act and Rules, 1973.”



142. On perusal of the aforesaid paragraphs, it is clear that this Court by way of aforesaid judgments has time and again reiterated the scope of Section 10 of the DSE and held that the employees of the unaided recognized schools are entitled to the same salary and emoluments as that of the school operated by the appropriate authority i.e., schools receiving grants/ aided by Central Government, Delhi Government or Municipal Corporation of Delhi.

143. The Division Bench of this Court recently enunciated the scope of Section 10 of the DSE in the judgment of ***D.A.V. College Managing Committee, Through Its General Secretary v. Seema Anil Kapoor and Another***, 2023 SCC OnLine Del 2314, and held as under:

“11. It is manifest from a reading of the aforesaid provision that the obligation to release pay and allowances on terms and at par with those paid to teachers and staff employed in schools run by the Central Government, State Government or a Municipal Corporation is essentially placed upon the employer. Recommendations of a CPC once accepted are liable to be factored in by the employer itself. Those benefits are not dependent upon an assertion of a right by the employee but are those which must automatically be implemented once those recommendations come to be accepted by the competent authority. Viewed in that light, it is evident that benefits flowing from a CPC report are not dependent upon a claim being raised but are those which must necessarily be implemented and released by an employer of its own volition. It is this feature which distinguishes claims flowing from the recommendations made by a CPC from individual assertions that may be raised by an employee with respect to salary or other allowances.



144. Section 10 of DSE aims to grant similar service conditions to the staff of unaided school to ensure that there is no compromise in the quality of education being delivered to the students of the school.

145. Moreover, the legislature aims that there should be no discrimination of salary and other emoluments which are given to an employee of the Government-aided school and any other recognized school. It aims at ensuring that there is no exploitation of the employees working in unaided school.

146. Section 10 of DSE confers the employees of unaided school a legal vested right to be entitled to salary not less than the salary paid to the employee of the aided school at the same position.

147. Now adverting to the facts of the instant petition, the respondent schools which are unaided recognized private school are included within the ambit of Section 10 of the DSE. The grounds pleaded by the unaided recognized schools that they are not governed by Section 10 of the DSE with the recommendations of 7th CPC does not hold any water.

148. This Court observes that any unaided recognized school shall be governed by the Section 10 of the DSE regarding the salaries and emoluments of the staff of the said school and the same shall be equivalent to person at the same position in an aided school.

149. Accordingly, issue 'B' is decided.



C) Whether it is mandatory for the unaided minority School to implement the recommendations of 6th and 7th CPC?

150. The unaided minority schools have been defined in Section 2 (x) of DSE as per which the schools which are usually governed by a minority community and does not receive any aid. The aforesaid provision has been reproduced herein below as follows:

“unaided minority school” means a recognized minority school which does not receive any aid.

151. The case of the respondent unaided minority schools is that the said schools are not governed by the Section 10 of the DSE. Moreover, they have the fundamental right which gives them autonomy to function and manage their own affairs. Therefore, an objection was raised that the school has an authority to determine the salaries and emoluments payable to its staff and the same falls within the ambit of the administration of the minority unaided educational institute.

152. To buttress their contention, the respondents has referred to the following Articles from the Constitution of India, which have been reproduced herein below:

“Article 26

26. Freedom to manage religious affairs - *Subject to public order, morality and health, every religious denomination or any section thereof shall have the right*

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and



(d) to administer such property in accordance with law.

Article 30

30. Right of minorities to establish and administer educational institutions-

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.”

153. It is contended by the respondent minority unaided school that under Article 26 and Article 30 of the Constitution of India guarantees that the school have the right to establish and administer their own school for the purpose of preservation of their language, religion, script or culture. Moreover, the Constitution guarantees the minority protection to ensure that there is preservation, and that it strengthens the integrity and unity of the nation.

154. Furthermore, the respondent school have referred to the following provision of the Delhi School Education Act, 1973, which is as follows:

“3. Power of Administrator to regulate education in schools.—



- (1) *The Administrator may regulate education in all the schools in Delhi in accordance with the provisions of this Act and the rules made thereunder.*
- (2) *The Administrator may establish and maintain any school in Delhi or may permit any person or local authority to establish and maintain any school in Delhi, subject to compliance with the provisions of this Act and the rules made thereunder.*
- (3) *On and from the commencement of this Act and subject to the provisions of clause (1) of article 30 of the Constitution, the establishment of a new school or the opening of a higher class or the closing down of an existing class in any existing school in Delhi shall be subject to the provisions of this Act and the rules made thereunder and any school or higher class established or opened otherwise than in accordance with the provisions of this Act shall not be recognised by the appropriate authority.”*

155. The respondent has further contended that as per Section 3 of DSE, the respondent has been given right to establish and maintain the school as well as regulate the education in that school. Moreover, the aforesaid section is subjected to Article 30 of the Constitution of India for the purpose of the administration of the school. Hence, the minority respondent school have the autonomy in the administration of their school.

156. Section 10 of DSE is not applicable to the unaided minority school, since these schools have right to administer the salary and the emoluments payable to the staff of the school.



157. Before adjudicating upon the question of law, this Court will first discuss the law laid down by the Hon'ble Supreme Court and this Court pertaining to whether unaided minority schools are bound to implement Section 10 of DSE as well as recommendations of the Pay Commission.

158. In the judgment of ***Frank Anthony Public School Employees' Association (Supra)***, the Hon'ble Supreme Court that Section 10 of the DSE is applicable to the unaided minority Schools. The relevant paragraphs of the judgment are reproduced as under:

"20. Thus, Sections 8(1), 8(3), 8(4) and 8(5) do not encroach upon any right of minorities to administer their educational institutions. Section 8(2), however, must, in view of the authorities, be held to interfere with such right and, therefore, inapplicable to minority institutions. Section 9 is again innocuous since Section 14 which applies to unaided minority schools is virtually on the same lines as Section 9. We have already considered Section 11 while dealing with Section 8(3). We must, therefore, hold that Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions have to pay to obtain aid from the Government.

21. The result of our discussion is that Section 12 of the Delhi School Education Act which makes the provisions of Chapter IV



inapplicable to unaided minority institutions is discriminatory and void except to the extent that it makes Section 8(2) inapplicable to unaided minority institutions. We, therefore, grant a declaration to that effect and direct the Union of India and the Delhi Administration and its officers, to enforce the provisions of Chapter IV [except Section 8(2)] in the manner provided in the chapter in the case of the Frank Anthony Public School. The management of the school is directed not to give effect to the orders of suspension passed against the members of the staff.

22. After the arguments of both sides were fully heard, Shri Sushil Kumar who appeared for the institution along with Mr Anthony submitted that according to the instructions of the Council for the Indian School Certificate Examination, "the staff must be paid salaries and allowances not lower than those paid in comparable Government schools in the State in which the school is located" and in view of this instruction it was not necessary for us to go into the question of the applicability of Section 10 to minority institutions. We do not attach any significance to this last minute, desperate submission. It is not clear whether the instruction is a condition imposed by the Council pursuant to Section 19 of the Delhi School Education Act. There is no way by which the staff can seek to enforce the instruction. Nor is the instruction of any relevance since it is not the case of the respondents that the institution is paying or is agreeable to pay the scales of pay stipulated in the instruction.

23. We must refer to the submissions of Mr Frank Anthony regarding the excellence of the institution and the fear that the institution may have to close down if they have to pay higher scales of salary and allowances to the members of the staff. As we said earlier the excellence of the institution is largely dependent on the excellence of the teachers and it is no answer to the demand of the teachers for higher salaries to say that in view of the high reputation enjoyed by the institution for its



excellence, it is unnecessary to seek to apply provisions like Section 10 of the Delhi School Education Act to the Frank Anthony Public School. On the other hand, we should think that the very contribution made by the teachers to earn for the institution the high reputation that it enjoys should spur the management to adopt at least the same scales of pay as the other institutions to which Section 10 applies. Regarding the fear expressed by Shri Frank Anthony that the institution may have to close down we can only hope that the management will do nothing to the nose to spite the face, merely to "put the teachers in their proper place". The fear expressed by the management here has the same ring as the fear expressed invariably by the management of every industry that disastrous results would follow which may even lead to the closing down of the industry if wage scales are revised."

159. The Hon'ble Supreme Court held that Section 12 of the DSE is discriminatory and as such bad in law. Hence, Sections 8 to 11 of the DSE (except Section 8 (2) of the DSE) is applicable to the minority Schools. Section 10 of the DSE, therefore, is applicable on unaided minority schools and therefore, the said schools have to pay their staff in accordance with the recommendations of the Pay Commissions.

160. The Hon'ble Supreme Court in ***T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481***, held that the right to administer an educational institution has to be regulated and these schools can be bound by certain regulatory measures as prescribed by governing body to ensure the maintenance of administrative policies. The relevant paragraphs of the judgment are reproduced herein below:



“50. The right to establish and administer broadly comprises the following rights:

- (a) to admit students;*
- (b) to set up a reasonable fee structure;*
- (c) to constitute a governing body;*
- (d) to appoint staff (teaching and non-teaching); and*
- (e) to take action if there is dereliction of duty on the part of any employees.*

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53. With regard to the core components of the rights under Articles 19 and 26(a), it must be held that while the State has the right to prescribe qualifications necessary for admission, private unaided colleges have the right to admit students of their choice, subject to an objective and rational procedure of selection and the compliance with conditions, if any, requiring admission of a small percentage of students belonging to weaker sections of the society by granting them freeships or scholarships, if not granted by the Government. Furthermore, in setting up a reasonable fee structure, the element of profiteering is not as yet accepted in Indian conditions. The fee structure must take into consideration the need to generate funds to be utilized for the betterment and growth of the educational institution, the betterment of education in that institution and to provide facilities necessary for the benefit of the students. In any event, a private institution will have the right to constitute its own governing body, for which qualifications may be prescribed by the State or the university concerned. It will, however, be objectionable if the State retains the power to nominate specific individuals on governing bodies. Nomination by the State, which could be on a political basis, will be an inhibiting factor for private enterprise to embark upon the occupation of establishing and administering educational institutions. For the same reasons, nomination of teachers either directly by the department or through a service commission will be an unreasonable inroad and an



unreasonable restriction on the autonomy of the private unaided educational institution.

54. The right to establish an educational institution can be regulated; but such regulatory measures must, in general, be to ensure the maintenance of proper academic standards, atmosphere and infrastructure (including qualified staff) and the prevention of maladministration by those in charge of management. The fixing of a rigid fee structure, dictating the formation and composition of a governing body, compulsory nomination of teachers and staff for appointment or nominating students for admissions would be unacceptable restrictions.

55. The Constitution recognizes the right of the individual or religious denomination, or a religious or linguistic minority to establish an educational institution. If aid or financial assistance is not sought, then such institution will be a private unaided institution. Although, in Unni Krishnan case [(1993) 1 SCC 645] the Court emphasized the important role played by private unaided institutions and the need for private funding, in the scheme that was framed, restrictions were placed on some of the important ingredients relating to the functioning of an educational institution. There can be no doubt that in seeking affiliation or recognition, the Board or the university or the affiliating or recognizing authority can lay down conditions consistent with the requirement to ensure the excellence of education. It can, for instance, indicate the quality of the teachers by prescribing the minimum qualifications that they must possess, and the courses of study and curricula. It can, for the same reasons, also stipulate the existence of infrastructure sufficient for its growth, as a prerequisite. But the essence of a private educational institution is the autonomy that the institution must have in its management and administration. There, necessarily, has to be a difference in the administration of private unaided institutions and the government-aided institutions. Whereas in the latter case, the Government will have greater say in the administration, including admissions



and fixing of fees, in the case of private unaided institutions, maximum autonomy in the day-to-day administration has to be with the private unaided institutions. Bureaucratic or governmental interference in the administration of such an institution will undermine its independence. While an educational institution is not a business, in order to examine the degree of independence that can be given to a recognized educational institution, like any private entity that does not seek aid or assistance from the Government, and that exists by virtue of the funds generated by it, including its loans or borrowings, it is important to note that the essential ingredients of the management of the private institution include the recruiting students and staff, and the quantum of fee that is to be charged.

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63. It was submitted that for maintaining the excellence of education, it was important that the teaching faculty and the members of the staff of any educational institution performed their duties in the manner in which it is required to be done, according to the rules or instructions. There have been cases of misconduct having been committed by the teachers and other members of the staff. The grievance of the institution is that whenever disciplinary action is sought to be taken in relation to such misconduct, the rules that are normally framed by the Government or the university are clearly loaded against the management. It was submitted that in some cases, the rules require the prior permission of the governmental authorities before the initiation of the disciplinary proceeding, while in other cases, subsequent permission is required before the imposition of penalties in the case of proven misconduct. While emphasizing the need for an independent authority to adjudicate upon the grievance of the employee or the management in the event of some punishment being imposed, it was submitted that there should be no role for the Government or the university to play in relation to the imposition of any penalty on the employee.



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66. *In the case of private unaided educational institutions, the authority granting recognition or affiliation can certainly lay down conditions for the grant of recognition or affiliation; these conditions must pertain broadly to academic and educational matters and welfare of students and teachers – but how the private unaided institutions are to run is a matter of administration to be taken care of by the management of those institutions.*

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139. *Like any other private unaided institutions, similar unaided educational institutions administered by linguistic or religious minorities are assured maximum autonomy in relation thereto; e.g. method of recruitment of teachers, charging of fees and admission of students. They will have to comply with the conditions of recognition, which cannot be such as to whittle down the right under Article 30.”*

161. This Court has time and again reiterated that Section 10 of the DSE is applicable on the unaided recognized schools too. The Courts aim at ensuring that there should be a balance between the autonomy given to the schools for the purpose of the establishment of the educational institution and on the other hand, regulation by the authority to ensure that there is adequate quality of education maintained in the school by making the unaided minority schools bound by certain regulations.

162. This Court in the case of ***Guru Harkishan Public School v. Director of Education, (2015) 221 DLT 448***, passed a judgment on the similar lines to the judgment of the Hon’ble Supreme Court in ***Frank Anthony Public School Employees' Association (Supra)*** and held as follows:



“35. The court further held that ‘mere prescription of scales of pay and other conditions of service would not jeopardise the right of the management of minority institutions to appoint teachers of their choice. The excellence of the instruction provided by an institution would depend directly on the excellence of the teaching staff, and in turn, that would depend on the quality and the contentment of the teachers. Conditions of service pertaining to minimum qualifications of teachers, their salaries, allowances and other conditions of service which ensure security, contentment and decent living standards to teachers and which will consequently enable them to render better service to the institution and the pupils cannot surely be said to be violative of the fundamental right guaranteed by Article 30(1) of the Constitution. The management of a minority Educational institution cannot be permitted under the guise of the fundamental right guaranteed by Article 30(1) of the Constitution, to oppress or exploit its employees any more than any other private employee. Oppression or exploitation of the teaching staff of an educational institution is bound to lead, inevitably, to discontent and deterioration of the standard of instruction imparted in the institution affecting adversely the object of making the institution an effective vehicle of education for the minority community or other persons who resort to it. The management of minority institution cannot complain of invasion of the fundamental right to administer the institution when it denies the members of its staff the opportunity to achieve the very object of Article 30(1) which is to make the institution an effective vehicle of education’.

36. Thus, Section 8(1), 8(3), 8(4) and 8(5) were held not to encroach upon any right of the minorities to administer their educational institutions. However, Section 8(2) was held to be not applicable to minority institutions.

37. The Court finally held that ‘Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority



schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions have to pay to obtain aid from the Government’.

37. The Court finally held that ‘Section 12 which makes the provisions of Chapter IV inapplicable to unaided minority schools is discriminatory not only because it makes Section 10 inapplicable to minority institutions, but also because it makes Sections 8(1), 8(3), 8(4), 8(5), 9 and 11 inapplicable to unaided minority institutions. That the Parliament did not understand Sections 8 to 11 as offending the fundamental right guaranteed to the minorities under Article 30(1) is evident from the fact that Chapter IV applies to aided minority institutions and it cannot for a moment be suggested that surrender of the right under Article 30(1) is the price which the aided minority institutions.’

163. It is also imperative to refer to the judgment passed by the Coordinate Bench of this Court in the matter of **Shikha Sharma (Supra)**, wherein this Court has dealt and summarized the position of implementation of recommendations of the Pay Commission by the unaided minority school and the relevant paragraphs of the same are as follows:

“23. The said Section contemplates that the pay and allowances of the employees of the recognised private Schools could not be less than that of the employees of the Government run Schools.



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26. So, it is clear that the pay and allowances of the employees of unaided minority Schools cannot be less than those of the employees of the Government run Schools. There is no dispute that the benefits of 6th and 7th CPC have been given to the employees of the Government run Schools. If that be so, the employees of the unaided minority Schools are also entitled to get the benefits of the recommendations as made by the 6th and 7th CPC reports. So, this plea of Mr. Abinash Kumar Mishra is liable to be rejected. The plea of Mr. Mishra, that till such time the DoE grants approval to the Schools to collect the arrears of fees, the Schools must not be directed to pay the benefits of 7th CPC is concerned, the same is unmerited. The employees are entitled to equal pay and other benefits, by operation of Section 10 of the DSE Act, in other words, by operation of law, the said benefits are payable. The same does not pre-suppose the approval being granted by the Director to the Schools to claim higher fee or arrears thereof.”

164. The Coordinate Bench of this Court while summarizing, the issue pertaining to application of Section 10 of DSE held that the unaided minority schools are bound by Section 10 and shall ensure that the salary as well as the emoluments paid to the staff of the unaided private school shall at be par to the salary and emoluments paid to the staff of aided school at the same position.

165. This Court has further passed the judgment on similar lines in the matter of ***Kuttamparampath Sudha Nair (Supra)***, wherein it was held as follows:

23. The issue again came up before the Supreme Court in Raj Soni v. Air Officer Incharge (Administration), (1990) 3 SCC



261 where the Supreme Court reiterated and re-affirmed the inflexible nature of the liability that was binding on a recognized school under the provisions of the DSEA&R and significant would it be to note that the Supreme Court categorically held that recognized private schools in Delhi, whether aided or otherwise, are governed by the provisions of DSEA&R. Relevant para of the judgment is as under:—

“11. The recognized private schools in Delhi whether aided or otherwise are governed by the provisions of the Act and the Rules. The respondent-management is under a statutory obligation to uniformly apply the provisions of the Act and the Rules to the teachers employed in the school. When an authority is required to act in a particular manner under a statute it has no option but to follow the statute. The authority cannot defy the statute on the pretext that it is neither a State nor an “authority” under Article 12 of the Constitution of India.”

24. *In P.M. Lalitha Lekha v. Lt. Governor in W.P. (C) No. 5435/2008 decided on 02.02.2011 although the question involved was counting of service of the Petitioner therein for computing her pension and in that context was different on facts, but the point of law was the same as the one arising in the present petition. Co-ordinate Bench of this Court examined the provisions of Section 10(1) of the DSEA&R and observed that the first proviso to Section 10(1) clearly obliges the DOE to direct the management of all recognized private schools to bring all benefits, including inter-alia pensionary benefits, to the same level as that of the employees of corresponding status of the schools run by the Director of Education. The second proviso enables the DOE to withdraw the recognition of the school under Section 4 of the DSEA&R in case the management fails to comply with the directions and serves a salutary purpose and empowers the DOE to issue directions aimed at fulfilling the object of Section 10(1) of the DSEA&R. It was also*



held that the mandate of Section 10(1) is unambiguous, regardless of whether the school receives grant-in-aid or not. It was also held that it must be kept in mind that the Delhi School Education Act contemplates unaided private schools also, as they are also granted recognition and therefore the mandate of Section 10(1) would apply to them with full rigour. Relevant paras of the judgment are as under:—

“11. The first proviso to Section 10 of the Delhi School Education Act, 1973 clearly obliges the Director of Education to direct the management of all recognized private schools to rectify any deficiency and to bring all benefits, including, inter alia, pensionary benefits up to the same level as those of employees of corresponding status of the schools run by the Director of Education. The second proviso further provides that in case the management of the school fails to comply with such directions, recognition of the school can be withdrawn under the powers given in S.4 of the Delhi School Education Act, 1973. This serves a salutary purpose and further empowers the Director of Education to issue appropriate directions aimed at fulfilling the object of Section 10(1) of the Act.

12. The school has been given certain privileges, including recognition, on condition, inter alia, that it complies with Section 10(1). Due to the non-compliance of the conditions by the respondent school the petitioner cannot be made to suffer. If the respondent school does not come forward to honor its employees' entitlement in this behalf, then, steps need to be taken by the appropriate authority to ensure compliance.

13. The payment of pension for the period before the grant-in-aid came into the picture has to be rendered by the school, but post such grant, the liability shifts to the



respondent. This is because the mandate of Section 10(1) is unambiguous. Regardless of whether it receives grant-in-aid or not. So long as it is a recognized private school, pension and other benefits of its employees must be the same as those admissible to employees of the Authority's schools. Under the first proviso, it is the respondent's duty to ensure that such payment is made. Under the Second proviso the respondent can take action if those directions are not followed. The respondents in no circumstance can be absolved from their duty.

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15. In this context, it must be kept in mind that the Delhi School Education Act contemplates unaided private schools also. Even such schools are granted recognition. The mandate of Section 10(1) applies with full rigour to them also."

(emphasis supplied)

25. Recently, a Division Bench of this Court in Dhanwant Kaur Butalia v. Guru Nank Public School in LPA 499/2013 decided on 14.01.2016 reiterated and re-enforced that Section 10(1) with its consequential resultant mandate that scales of pay, allowances, medical facilities, gratuity, etc., paid to the Government schools should be paid to employees of corresponding status in private recognized schools, would apply to all unaided schools. Section 10(1) is a statutory purity and also a minimum standard which all recognized schools have to adhere to.

26. In the appeal before the Division Bench, the Appellant was aggrieved by an order of the learned Single Judge whereby her claim for increase of salary, consequent to implementation of 6th CPC recommendation, was rejected. The Appellant invoked provisions of Section 10(1) of DSEA&R and also relied on



earlier judgments of this Court wherein it was consistently ruled that unaided schools have an obligation to ensure that emoluments of teachers and other employees are at par with those in the schools established and maintained by the appropriate Government. Judgments of this Court in Gurvinder Singh Saini v. Guru Harkishan Public School in W.P. (C) 12372/2009 decided on 02.09.2011, Deepika Jain v. Rukmini Devi Public School in W.P.(C) 237/2013 decided on 23.09.2013 and the judgment of Division Bench in Guru Harkishan Public School v. Gurvinder Singh Saini in LPA 58/2012 decided on 05.09.2012, were cited by the Appellant and taken note of by the Division Bench.

27. As the issue before the Division Bench concerned benefits under 6th CPC, reliance was placed on the CCS (Revised Pay) Rules, 2008 and Office Memorandum dated 30.08.2008 referring to the said Rules. Based on this, a Circular was issued by the Competent Authority under the DOE on 15.10.2008, directing the managements of all private recognized (aided as well as unaided) schools to implement 6th CPC recommendations. After a conjoint reading of the circulars and the Pay Rules, the Division Bench held as follows:—

“6. The Court also notices that the pre-existing Section 12 which had excluded the application of Section 10 and other provisions of the Chapter, to unaided minority schools was set aside by the Supreme Court in Frank Anthony School Employees Association v. Union of India (1986) 4 SCC 707 : AIR 1987 SC 311. The Supreme Court expressly considered the impact of Section 10 and whether it had the effect of eroding the minority character of schools entitled to protection under Article 30 and concluded that it did not. The said judgment has been constantly followed and it was not overruled but was approved in TMA Pai Foundation's case (supra). Section 10 with its consequential resultant mandate is that scales



of pay, allowances, medical facilities, gratuity, provident fund “and other prescribed benefits” which employees of “corresponding status” in schools of the appropriate government are to be granted to employees of all unaided schools.

7. This ipso facto ought to clinch the case in favour of the present appellant. Section 10 is a statutory purity and also a minimum standard which all recognized schools have to adhere to.

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“10. The said office memorandum of 30.08.2008 also referred to the Central Civil Service Revised Pay Rules, 2008. The effect of all these office memoranda (dated 11.09.2008, 22.09.2008 and 15.10.2008) is that the managements of all private recognized schools aided as well as unaided had to implement the 6PC Recommendations, in the manner stipulated by Section 10 of Delhi Education Act. Circular dated 15.10.2008 was categorical in this regard. It reads as under:

“Section 10(1) of Delhi School Education Act 1973 provides that:

“The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority.”

Therefore, the Management of all private recognized, (Aided as well as unaided) schools are directed to implement the Sixth Pay Commission recommendations - fixation of pay and payment of arrears in accordance with circular no. 30-3(17)/Cood/Cir/2008 dated 22.09.2008



vide which it has been implemented in r/o employees of Government Schools.

This issue with prior approval of competent Authority.”

11. A co-joint reading of all circulars would immediately reveal that the 6PC recommendations were accepted and the Central Government formulated the revised pay rules with effect from 01.01.2006. The rules were published in 2008. Nevertheless, the entitlement following from it accrued to all with effect from 01.01.2006. The only exception was that certain types of allowances i.e. HRA, children's education allowance, special compensatory allowance etc. were to be paid prospectively with effect from 01.09.2008 (refer para 3 of OM dated 30.08.2008). In all other respects, the pay parity mandated for government of NCT teachers was to apply to teachers and staff members of unaided schools - minority and non-minority schools.

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13. In the present case, Section 10 remains on the statute book; it was declared to be applicable to all unaided schools including minority schools, from 1986 onwards i.e. with the declaration of the law in Frank Anthony School Employees Association's case (supra). There is no dispute that the 6PC recommendations were to be implemented from the date the Government of NCT implemented it. Such being the case, the respondent school in the present case could not have claimed ignorance of application of Section 10 and stated that it was obliged to pay arrears or implement the 6PC recommendations with effect from the date later than that applicable in the case of Government of NCT teachers and teaching staff in its schools.



14. As a consequence and in the light of the previous order of this court in Gurvinder Singh Saini's case (supra) and Uma Walia's case (supra) the impugned order and judgment of learned Single Judge is hereby set aside. The respondent is directed to disburse all the arrears of salary and allowances payable pursuant to 6PC recommendations - to the appellant except those expressly denied by virtue of the Central Government's Office Memorandum dated 30.08.2008, within six weeks from today."

28. Contention of learned counsel for the School that Section 10(1) does not specifically include unaided private schools may seem attractive at the first blush, if one was to superficially look at the provisions of the Section, where the words used are 'recognized private school'. However, the contention cannot be accepted in view of the various judicial pronouncements where the provision of Section 10(1) has been interpreted to include both aided and unaided schools. The Division Bench in Dhanwant Kaur (supra) has clearly held that the mandate of Section 10(1) would apply to all unaided schools as the minimum standard that the provision ensures must be adhered to by all recognized schools.

29. In Dev Dutt Sharma v. Managing Society National Public School in W.P. (C) 11563/2009 decided on 02.07.2010, a Co-ordinate Bench of this Court pronounced that the mandate of Section 10(1) is unambiguous, regardless of whether the institution receives grant-in-aid or not. Since the Act itself contemplates unaided private schools for recognition, mandate will apply with full rigour to them. The Supreme Court in Frank Anthony (supra) held that impact of Section 10(1) would not have the effect of eroding the minority character of the Minority Institutions, who are entitled to protection under Article 30(1) of the Constitution of India.



30. Additionally, it may be noted that this is also the understanding of the DOE which is implicit in the various Circulars issued by them from time to time in this regard. Vide order dated 19.08.2016, DOE, in exercise of powers conferred under Sections 17(3), 24(3) and 18 of the Delhi School Education Act, 1973 read with Rules 50, 177 and 180 of the Delhi School Education Rules, 1973 adopted the CCS (Revised Pay) Rules, 2016, under which benefits of 7th Pay Commission are paid to the Government employees. Directions were accordingly issued by the DOE, vide Circular dated 17.10.2017 to all the unaided private recognized schools to extend the benefits of 7th CPC to its employees in accordance with Section 10(1) at par with the Government employees. By another order dated 09.10.2019, the DOE reiterated its directions to the unaided schools to comply with the mandate of Section 10(1), failing which necessary action shall be taken as per provisions of DSEA&R against the defaulting Schools.....

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33. The Court notes that the DOE has consistently taken a stand that the private recognized unaided schools are bound to comply with provisions of Section 10(1) and this is discernible from Circular dated 15.10.2008 issued by the DOE after the CCS (Revised Pay) Rules, 2008 were notified, pursuant to 6th CPC. The Circular was taken note of by the Division Bench in Dhanwant Kaur (supra) and is extracted in the earlier part of the judgement. This obviates any doubt that provisions of Section 10(1) of the DSEA&R shall apply to the Respondent/School and it is under a statutory obligation to pay the revised salaries and emoluments under 7th CPC to the Petitioners, in accordance with the various DOE circulars and orders referred and alluded to above.”

166. In view of the aforesaid judgments, the law with regard to unaided minority schools is settled and the said schools fall under the ambit of



Section 10 of DSE. Hence, they are liable to follow the recommendations of the pay commissions and accordingly, pay the staff of their school at par with the employees of the government aided schools.

167. Education is an invincible weapon for empowering the next generation of the nation and the nation by of regulation authority has to exercise certain control to ensure that there is uniform quality of education is provided to every student of the country. The aspect of autonomy in administration of unaided or aided school therefore, does not come into play since the state has to ensure that there is quality education provided to the children. Hence, the unaided minority schools are bound by certain regulations of the appropriate authority.

168. The schools shall ensure that there is an adequate compensation paid to the staff of the school. Since, in the school the future generations of the country are being taught and if the teachers are not paid decently they might not be able to perform their best in imparting knowledge to the students.

169. The payment of adequate salary to the staff of the school acts as a motivating factor for the teachers in giving their best in teaching the children.

170. This Court is of the view that the unaided minority schools are bound by the Section 10 of DSE and hence, the staff of the unaided minority school is entitled to salary and emoluments at par with the salary and emoluments as payable to the employee at the same position of the school owned by the competent authority.



171. Therefore, the unaided minority schools are duty bound to pay their employees as per the recommendations of the Pay Commissions along with the pending arrears. The employees of the unaided minority schools have a vested right to claim the arrears and dues in accordance with the Pay Commission.

172. Accordingly, issue 'C' is decided.

D) Whether the Writ Petitions are hit by delay and laches and claim can be restricted to 3 years only?

173. It is the contention of the respondent schools that the dues of the employees of the schools shall be limited to dues of 3 years prior to filing of the petition. Since there is unexplained delay and laches in filing the petition and hence, the petitioner cannot circumvent the provisions of Limitation Act and claim arrears of 6th and 7th CPC.

174. The respondent schools have further pleaded that it is a settled law that even in cases of continuing actions, the benefits of the arrears have to be limited to three years.

175. Before advertng to the adjudication of the petition on facts, this Court deems it necessary to state the position of law whether the Writ Petitions are hit by delay and laches and claim can be restricted to 3 years only.

176. It is a settled position of law that due to lapse on behalf of schools in non- payment of the benefits to its employees, the same cannot be used to the advantage of the schools by restricting dues to 3 years. The Schools are obligated to arrears of its employees to them in this regard.



177. The Hon'ble Supreme Court in the judgment of ***Keraleeya Samajam & Anr. V Pratibha Dattatray Kulkarni (Dead) through LRs & Ors., Special Leave Petition (C) No. 21660-21661 of 2019*** dated 28th June 2019, has dealt with the issue of limitation of claiming the arrears and held that such contentions are untenable in the eyes of law and held as follows:

“4. Therefore the entitlement of the teacher's salaries as per the 5th and 6th Pay Commission to the teaching and non-teaching staff of the second petitioner - school is not required to gone into and only issue which is required to be considered is whether the arrears ought to have been restricted to three years preceding the filing of the writ petition?

5. Having heard Shri Shekhar Naphade, learned Senior Advocate appearing on behalf of the petitioners and learned counsel appearing on behalf of the respondents and considering orders passed in earlier round of litigations which ended up to this court the liability of the management to pay the salaries to the teaching and non-teaching staff as per the 4th Pay Commission and 5th Pay Commission ended in favour of the teaching and non-teaching staff working with the petitioners. Therefore as and when the 6th Pay Commission recommendations was made applicable as such it was the duty cast upon the petitioners' institution to pay the salary/wages to the teaching and non-teaching staff as per the applicable pay scale as per the 6th Pay Commission recommendation and for which the staff was not required to move before the Deputy Director (Education) again and again. Therefore, the submissions on behalf of the petitioners that as the respondents approached the Deputy Director (Education) subsequently and therefore the question with respect to the limitation will come into play and therefore the respondents shall be entitled to the



arrears of last three years preceding the filing of the writ petitions cannot be accepted.

6. The respondents were compelled to approach the Deputy Director only when the petitioners though were required to pay the wages as per the applicable rules and as per the recommendation of 6th Pay Commission, failed to make the payment, the respondents were compelled to approach the Deputy Director (Education) thereafter. Therefore for the lapse and inaction on the part of the petitioners, the respondents cannot be made to suffer and deny the arrears of the salaries as per the 6th Pay Commission recommendation, which otherwise they are entitled to. Every time the teachers were not supposed to approach the appropriate authority for getting the benefit as and when there is a revision of pay as per the pay commission recommendations.”

178. The Division Bench of this Court while upholding the judgment passed by the Coordinate Bench of this Court in the matter of **Vidya Bharti School (Supra)**, also held that the arguments pertaining to the issue of delay on the part of the employees in claiming their dues and arrears cannot be accepted and as such the concerned employees cannot be made to suffer. The relevant paragraph of the said judgment has been reproduced as under:

“6. The respondents were compelled to approach the Deputy Director only when the petitioners though were required to pay the wages as per the applicable rules and as per the recommendation of 6th Pay Commission, failed to make the payment, the respondents were compelled to approach the Deputy Director (Education) thereafter. Therefore for the lapse and inaction on the part of the petitioners, the respondents cannot be made to suffer and deny the arrears of the salaries as



per the 6th Pay Commission recommendation, which otherwise they are entitled to. Every time the teachers were not supposed to approach the appropriate authority for getting the benefit as and when there is a revision of pay as per the pay commission recommendations....”

179. At this point, reliance is placed upon the judgment passed by the Hon’ble Supreme Court in the matter of ***State of Kerala v. M. Padmanabhan Nair, (1985) 1 SCC 429***, whereby, the Hon’ble Court, with regard to the aspect of delay in claiming the ‘retirement benefits’, has held that the same cannot be denied to the concerned employee as it is their right. The relevant paragraph is mentioned herein below:

“1. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.”

180. In view of the foretasted precedents, it is settled position of law that the claims of the employees shall not be restricted to the claims up to three years from filing of the writ petition. Hence, they may claim benefits as are due to them and the schools are obligated for paying the same.

181. Moreover, the employees of the school should not be at the mercy of the schools for the purpose of receiving the pension and other retiral benefits which are due to them and the same should not be hindered merely by the



fact that the benefits accrue for the period of three years or more before the filing of the petition.

182. Hence, the schools are liable to pay for all the dues of its employees, irrespective of the fact whether the said dues pertain to three year or are prior to that.

DELAY AND LATCHES CAN BE CONDONED IN CASES WHERE THERE IS FINANCIAL LOSS CAUSED TO THE EMPLOYEE

183. It is a settled principle of law that in cases where there is delay and latches attached to the employee who will be at very disadvantageous position if his claims are not allowed, then the Courts under its extraordinary power in writ jurisdiction may condone such delay.

184. The Hon'ble Supreme Court in the judgment of *Union of India and Ors. vs. Tarsem Singh (2008) 8 SCC 652*, summarized the settled principles in the following manner:

7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim



will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

185. The Hon’ble Supreme Court has enunciated the principle that in case of claims pertaining to continuing wrong and the claims have been filed after a long delay, then such continuing wrongs will create a continuing injury.

186. There is an exception to the said rule, that in case such re-opening of the claims will affect the rights of the third party which are duly settled, then such belated claims may not be entertained.

187. In the instant batch of the petitions, the claims of the petitioners are with regard to the non- implementation of the recommendation of the Pay Commission. Hence, the petitioners are not being paid salary and emoluments in accordance with the recommendation of the Pay Commission.

188. This Court is of the view that the claims of the petitioners do not hinder the settled rights of the third parties. Moreover, the issue of limitation does not come into play since there is a continuing wrong done to the petitioners.



189. Under Article 226, the High Court has to act as the Court of equity and shall ensure that the rights of the various parties before this are not prejudiced. It may condone delay and laches in raising the claims if there is a substantial reasoning to the same.

190. This Court is of the opinion that delay should not defeat equity especially in the instant batch of petitions wherein a grave financial loss would be caused to the petitioners in case their claims are not being allowed merely on the ground of delay and laches.

191. In light of the foregoing discussions of facts and law, this Court is of the considered view that the schools are liable to pay all the dues of its employees, irrespective of the time period to which it pertains.

192. Therefore, the contention of the schools that dues before 3 years are hit by delay and laches hold no merit, and the same is, hereby, rejected being unsubstantial.

193. Accordingly, issue 'D' is decided.

CONCLUSION

194. This Court observes that it is a sorry state of affairs that the staff of the school instead of contributing towards the education of the children, are before this Court seeking payment of their salary and emoluments as per Pay Commissions recommendations, which they are duly entitled to.

195. Various judgments have been passed by this Court pertaining to the implementation of the recommendations of the Pay Commission, however, the same has not been implemented till date due to the issue of lack of financial resources with the schools.



196. The main reason for non- implementation of the Pay Commission is that the schools have not been able to hike the fee. The regulating authority, i.e., the DoE is also not able to ensure that there is implementation of the recommendations of the Pay Commission since the DoE can only de-recognize the school in case there is non – compliance with its order. De-recognition of the school is not always the ideal situation as the same would affect the children studying in the school and employment of the staff of the school. Therefore, directing DoE to ensure that there is implementation of pay commission recommendation by de – recognition of school is not the best solution to the issues.

197. This Court has categorically discussed and established that the petitioners’ grievances are valid and non-compliance of the notification issued by the DoE for implementation of recommendations of 7th CPC violates the petitioners’ rights enshrined under the Constitution of India.

198. Accordingly, this Court is of the considered view that this is a fit case to exercise its extraordinary writ jurisdiction and to ensure that there is implementation of the recommendations of Pay Commission. This Court shall ensure that the arrears of the petitioners’ are being duly paid to them whilst ensuring that the schools have the requisite funds to pay the same to their staff.

199. This Court deems it necessary to authorize and constitute independent Committee for meticulous inspection of the claims raised by the petitioners and the members thereto, and shall decide the same keeping in mind the various factors.



200. In the interest of justice, this Court is directing the Government of National Capital Territory of Delhi to constitute a 'High-Powered Committee' unless the same is already constituted, to supervise the implementation of recommendations and guidelines prescribed in the 6th and 7th CPC with regards to the salaries and arrears thereto, retirement/terminal benefits, arrears of allowances etc. and to draw up a plan of action which may help in achieving results at the ground level.

201. The various stakeholders are also directed to render full cooperation to the aforesaid High-Powered Committee bearing in mind that the issues being examined is the one which concerns all and sundry.

202. Since the facts and circumstances are peculiar to each stakeholder, therefore, the said Committee before passing any order, is directed to scrutinize the various aspects and only after due assessment of the eligibility, validity of appointment, amount, period of calculation, revision of fee etc., it shall pass the orders. The Committee shall undertake an exercise of identification of the issues and claims of the stakeholders individually.

203. The objectives of the Committee are summarized herein below:

- The Committee must ensure that the staff of the school should not be left on a wing and a prayer. It must be ensured that the rightful dues of the staff should be paid to them without any further delay.



- The Committee must devise a mechanism that the staffs of the schools are being paid their dues irrespective of the fact that the schools do not have the requisite funds.
- The Committee must ensure that the grievances of the superannuated employees of the schools are also being addressed by it. Moreover, the Committee must ensure that the retirement/terminal benefits to which the employees are entitled to shall be duly paid to them.
- The Committee must look into the aspect that whether the staff of the schools who have been illegally appointed are entitled to the arrears of the 6th and 7th Pay Commissions.
- The Committee shall ensure that there is a mechanism that in future too if any dispute arises pertaining to the implementation of recommendations of Pay Commission, the same may be addressed by way of the High-Powered Committee. Hence, the Committee shall ensure that there is a redressal of not merely the present disputes but also of the future dispute, that may arise.

204. In view of the above, the High-Powered Committees shall be constituted at two levels, *first* at the ‘Central level’ and *second* at the ‘Zonal level’. Details of the said Committees are as follows:

1. Zonal level-

(i) Members –



- Zonal head of the concerned zone, i.e., the Zonal Education Officer.
- One representative of the schools.
- One reputed Chartered Accountant recommended by the Institute of Chartered Accountants of India.

(ii) This Committee shall deal with the issue of fee hike; salaries and other benefits due in terms of 7th CPC; arrears of salaries and other benefits due in terms of 6th CPC; arrears of retirement/terminal benefits due in terms of 6th CPC and 7th CPC.

(iii) It is directed that the Zonal level Committee shall convene the first meeting within eight weeks and shall, after hearing the parties, decide the claims of the various stakeholders in accordance with the observations made by this Court hereinabove and also in accordance with the law, expeditiously, preferably within eight weeks of receiving the claim.

(iv) This Committee shall recommend its findings to the Committee constituted at the Central level for final decision.

2. Central level-

(i) Members –



- The Secretary of Education shall be the head of this Committee.
- The Director of Education, DoE.
- One reputed Chartered Accountant recommended by the Institute of Chartered Accountants of India.
- One representative from the schools.
- A reputed academician appointed by the Secretary in consultation with the other members. In the case of any disagreement on the appointment of the concerned academician, the recommendation of the Secretary shall prevail.

(ii) This Committee, after receiving the recommendations of the Zonal level Committee shall decide the issue recommended to it, expeditiously, preferably within six weeks from the date of receiving the said recommendation.

205. The DoE is directed to issue a notification within two weeks from the date of pronouncement of this judgment, for the purpose of convening zonal committee, wherein, various stakeholders including teaching and non-teaching staff of several schools, who are aggrieved by the non – implementation of the Pay Commission shall file their claim before the concerned Zonal Committee.



206. This Court is of the opinion that by way of the said Committee the grievances of the various stakeholders will be addressed and the recommendations of the Pay Commissions will be implemented in accordance with the law and the observations/directions made by this Court in the foregoing paragraphs.

207. In view of the aforesaid terms, the instant batch of petitions stand disposed of along with pending applications, if any.

208. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

NOVEMBER 17, 2023

gs /rishu/divyanshi