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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
DIRECTORATE OF EDUCATION  
(PRIVATE SCHOOL BRANCH)  
OLD SECRETARIAT, DELHI-110054

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No. F.DE.15 (186 )/PSB/2019/1045-1049

Dated: 14/3/2019

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172, 173, 175 and 177 of Delhi School Education Rules 1973, Directorate of Education

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has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **G.D Goenka Public School, Plot No. F-18, Karkarduma, Delhi-110092 (School Id: 1001210)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the school vide email dated March 31, 2018. Further, school was also provided opportunity of being heard on May 31, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and clarifications on various issues noted.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school on June 13, 2018 and June 21, 2018 were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

#### **Financial Irregularities**

- I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account. However, in FY 2014-15, the school has utilised development fee for purchase of Library books amounting to Rs. 5,01,754 in contravention of aforesaid clause. Therefore, the school is directed to make adjustment to Development Fund and Development Fund utilisation account for purchase of library books out of development fund in FY 2014-15.
- II. In respect of earmarked levies, school is required to comply with:
  - Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
  - Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';



- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school has charged earmarked levies namely Transportation charges, Health & hygiene fee, Refreshment & meal charges, Safety & security charges and Science fees but these levies are not charged on 'no profit no loss' basis as the school has incurred deficit from these levies. Further, the school is not following the fund-based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General Fund for the deficit incurred on earmarked levies and to follow fund based accounting.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges.

- III. As per section 18(4) of DSEA 1973 and read with Rule 177 of DSER, 1973, the fees/funds collected from the parents/students shall be utilised strictly in accordance with prescribed rules. No amount whatsoever shall be transferred from the School to the society. Further, as per Rule 177 of DSER, 1973 income derived by unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses.

As per school submission, a term loan of Rs. 5,00,00,000 was taken by the society from Punjab National Bank for purchase of furniture and fixture, other

assets and construction of building. And in FY 2011-12, assets were transferred to school accounts which includes Building of Rs. 5,52,74,899.

In FY 2013-14, the outstanding balance of Punjab National Bank Loan was taken over by the ING Vysya Bank. During the period under evaluation, the school has paid Rs. 2,33,84,641 towards principal repayment and Rs. 66,99,440 towards interest thereon. Further, as per the school, society is regularly infusing the funds for repayment of aforesaid loan including interest thereon.

Accordingly, the society has infused Rs. 1,10,82,128 during FY 2014-15 to 2016-17 and balance amount of Rs. 1,90,19,953 was met out of the unsecured loans taken from various parties. The school has received total contribution of Rs. 7,38,24,185 from the Society till FY 2016-17 which is reflecting under the head "Corpus Fund" in the financial statements of FY 2016-17.

It is also pertinent to note that the school has also taken unsecured loans from various parties without executing any formal contract with them to meet capital deficiencies towards working capital requirement and upgradation of infrastructure facilities. The total amount taken during the period was Rs. 1,98,00,000 out of which Rs. 1,90,01,953 was utilised for repayment of the secured loan. Thus the substantial amount of unsecured loan was utilised for repayment of secured loan and interest thereon. Accordingly, the interest paid on unsecured loan amounting to Rs. 24,54,903 during the period from FY 2014-15 to 2016-17 has not been considered in the evaluation of fee increase proposal of the school. Therefore, the school is directed to recover the amount of Rs. 24,54,903 from the society towards the interest paid on unsecured loan in terms of Judgement of Hon'ble High Court dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh wherein it was concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society" and clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". Further, the school is also directed to make adjustment to General Fund for interest charged in income and expenditure account.

The details of total payment made during the period against secured loan and interest on unsecured loan is as under;

a. Payment made against secured loan

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Principal repayment of secured loan	77,71,354	77,77,809	78,35,478	2,33,84,641
Interest paid on secured loan	33,06,496	21,72,526	12,20,419	66,99,440



Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
<b>Total payment including interest on secured loan</b>	<b>1,10,77,850</b>	<b>99,50,335</b>	<b>90,55,896</b>	<b>3,00,84,081</b>
Less: Contribution from society	49,81,388	32,00,000	29,00,740	1,10,82,128
<b>Amount paid out of the unsecured loan</b>	<b>60,96,462</b>	<b>67,50,335</b>	<b>61,55,156</b>	<b>1,90,01,953</b>

b. Interest paid on unsecured loans

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Interest paid on Unsecured Loan	-	9,24,903	15,30,000	<b>24,54,903</b>

- IV. The clause 2 of the Public Notice dated 4 May 1997 State that "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and not by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". Moreover, the Rule 177 of DSER, 1973 state that income derived by unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses.

However, it has been observed that the school has utilized school funds for construction of building in FY 2014-15 and 2015-16 in contravention of aforesaid provisions. Therefore, the school is directed to recover Rs. 73,12,845 from the society towards amount spent on construction of building.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	Total
Construction of Building	72,14,094	98,751	73,12,845

- V. As per Para 99 of Guidance note on "Accounting by school" issued by ICAI, relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".

Taking cognisance from the above para, it has been observed that school has treated the designated fund account as deferred income to the extent of cost of assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Therefore, the school is directed to comply with Guidance Note - 21 issued by ICAI.

- VI. As per Rule 177 of DSER, 1973 income derived by unaided recognized schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. However, following observations have been noted:

- a. During FY 2016-17, school has utilised school funds for purchase of bus of Rs. 22,00,000 before providing for statutory liabilities towards employee benefits as required by Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 22,00,000 from the society for the amount spent by school on purchase of bus in FY 2016-17.
- b. The school has taken loans before FY 2014-15 for purchase of vehicles upon which the school has paid Rs. 15,54,483 towards principal repayment and Rs. 1,21,695 towards interest thereon without complying the provisions of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 16,76,178 from society for payment of loan and interest thereon. Further, the school is also directed to make adjustment to General Fund for interest charged in income & expenditure account.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	Total
Principal repaid on vehicle loan	13,59,705	1,94,778	15,54,483
Interest paid on vehicle loan	1,10,171	11,524	1,21,695

- VII. During FY 2016-17, the school has utilized depreciation reserve fund for upgradation of fixed assets amounting to Rs. 81,65,555. But, this utilization is neither reflecting on the face of the financial statement nor reflecting in fixed assets schedule which indicates that the school has diverted its funds. Therefore the school is directed to recover Rs. 81,65,555 from the society for the amount utilized for purchase of fixed assets out of depreciation reserve fund in FY 2016-17.

**Other Irregularities:**

- I. On review of the financial statements for FY 2014-15, 2015-16 and 2016-17, it has been noted that the school has shown fixed Assets purchased out of the general fund at WDV and fixed assets purchased out of the development fund at the Gross value. Therefore, school is not following uniform practice for presentation of fixed assets and thus, the school is directed to follow uniform practice for disclosure of fixed assets in financial statements.
- II. On review of fee structure for FY 2016-17, it has been observed that the school is collecting one-time charge of Rs. 16,500 in the name of Orientation charges at the time of admission from the new student which is in the nature of capitation fee. Therefore, the school is directed to stop collection of one time charges from the student.
- III. As per Order no. F.DE. /15/Act-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order no. F.DE. /15/Act-I/WPC-4109/Part/13/6750 dated 19.02.2016, schools which have been allotted land by the land-owning agencies on the condition to seek prior sanction of Director of Education for increase in fee, are required to submit their proposals for prior approval for academic session 2016-17 online through website of the Directorate. However, on review of the fee receipts provided by the school it has been observed that the school has increased the fee in all heads in FY 2016-17 without obtaining prior approval from Directorate of Education. Therefore, the school is directed to roll back the increase fee or adjust the excess amount collected by the school against the future fee receivable from the students.
- IV. In respect of caution money the following has been observed:
  - a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon.
  - b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number



of student left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined.

- V. The school is not charging depreciation on building as required by Accounting Standard -6 on "Depreciation Accounting" or Revised Accounting Standard -10 "Property, Plant and Equipment". Therefore, school is directed to comply with the accounting standard issued by ICAI.
- VI. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total students	882	1017	1120
Total number of EWS	23	54	79
% of EWS to total number of students	3%	5%	7%

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to Rs. **23,19,80,637** out of which cash outflow in the year 2017-18 is estimated to be Rs. **22,22,12,082**. This results in net surplus of amounting to Rs. **97,68,555**. The details are as follows:

Particulars	Figures (Rs.)
	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	70,45,326
Investments as on 31.03.17 as per audited Financial Statements	54,04,331
Add: Amount recoverable from society against interest paid on unsecured loan	24,54,903
Add: Amount recoverable from society against construction of building	73,12,845
Add: Amount recoverable from society against purchase of bus in FY 2016-17	22,00,000
Add: Amount recoverable from society against principal repaid on loan taken for purchase of vehicles	15,54,483
Add: Amount recoverable from society against interest paid on loan taken for purchase of vehicles	1,21,695

Particulars	Amount
Add: Amount recoverable against utilisation of Depreciation reserve fund in FY 2016-17	81,65,555
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, G.D Goenka Public School	1,00,000
Less: Fixed Deposit with Bank in the joint name of DDE and Manager, G.D Goenka Public School	1,80,000
Less: Development Fund as on 31.03.2017	4,72,477
Less: Caution money liability as on 31.03.2017	4,81,500
<b>Total</b>	<b>3,30,25,161</b>
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	19,65,78,044
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	23,77,432
<b>Estimated availability of funds for FY 2017-18</b>	<b>23,19,80,637</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 2	22,22,12,082
<b>Net Surplus</b>	<b>97,68,555</b>

**Note 1:** As per form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3 months' salary and this amount should be invested in joint name of Dy. Director (Education) and manager of the school. However, the school has first time created the provision for three months' salary reserve amounting Rs. 60,00,000 in budget for FY 2017-18 without earmarking the fund as per the aforesaid provisions. Therefore, the same has not been considered in the evaluation of fee increase proposal.

**Note 2:** The school has proposed interest on loan of Rs. 26,00,000 in budget for FY 2017-18 without complying Rule 177 of DSER, 1973. Therefore, the same has not been considered in the evaluation of fee increase proposal.

- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and

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allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7<sup>th</sup> CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, it is also noticed that the school has contravened provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from the society is Rs. 2,18,09,481. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within sixty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, since sufficient funds are available with school after meeting all expenditures for the year 2017-18, the school is hereby directed to make equivalent investments against the provision for Gratuity and Leave Encashment with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect statutory liabilities. The provisions for gratuity and leave encashment are to be on actuarial valuation basis.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7<sup>th</sup> CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **G.D Goenka Public School, Plot No. F-18, Karkarduma, Delhi-110092 (School Id: 1001210)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7<sup>th</sup> CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.




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3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

This order is issued with the prior approval of the Competent Authority.

  
(Yogesh Pratap)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

To  
The Manager/ HoS  
GD Goenka Public School,  
Plot No. F-18, Karkarduma  
Delhi – 110092, (School Id: 1001210)

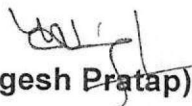
No. F.DE.15 (186)/PSB/2019/1045-1049

Dated: 14/3/2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

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(Yogesh Pratap)

Deputy Director of Education  
(Private School Branch)  
Directorate of Education, GNCT of Delhi