

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

No. F.DE.15(704) / PSB / 2022 / 4300-4304

Dated: 07/06/22

ORDER

WHEREAS, **G.D. Goenka Public School (School ID-1617179), A-2 Paschim Vihar, Delhi-110063** (hereinafter referred to as "School"), run by the St. Martins Educational Society (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): 'the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'

Section 24(1): 'every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed'

Rule 180 (3): 'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorized by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.



AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"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 High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 & 2019-20.

AND WHEREAS, in pursuance to Order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2019-20.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the School was also provided an opportunity of being heard on 21.20.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues were noted. During the aforesaid hearing, compliances against Order No. F.DE.15(254)/PSB/2019/1035-1039 dated 14.03.2019 issued for academic session 2017-18, was also discussed and submissions taken on record.

AND WHEREAS, the response of the school along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school, were evaluated by the team of Chartered Accountants, the key findings noted are as under:



A. Financial Observations

1. Direction no. 2 included in the Public Notice dated 4.05.1997 states, *"it is the responsibility of the society who has established the school to raise such 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"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Accordingly, based on the aforementioned public notice and High Court Judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

Rule 177 of DSER, 1973 states *"(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

- a) *award of the scholarships to students,*
- b) *establishment of any other recognised school, or*
- c) *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:

- a. *pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,*
- b. *the needed expansion of the school or any expenditure of a development nature,*
- c. *the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,*
- d. *co-curricular activities of the students,*
- e. *reasonable reserve fund, not being less than ten percent, of such savings."*

Therefore, as per Rule 177 of DSER, 1973 income derived by an unaided recognised private school by way of fees should be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same



society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at as per the conditions laid down in Rule 177 of DSER, 1973.

The DoE in its order no. FDE15(17) PSB/2019/1035-1039 dated 14.03.2019 issued post evaluation of fee increase proposal for FY 2017-18, note that the school made additions to the school building amounting to INR 91,74,635 and INR 3,74,91,640 in FY 2014-15 and 2015-16 respectively and purchased bus for INR 33,63,133 in FY 2014-15 by taking loan and the school had paid INR 2,35,28,067 towards principal repayment and interest cost the aforesaid loan during FY 2014-15 to FY 2016-17 out the school funds. The above payment was made without complying with the provision of Rule 177 of the DSER, 1973, Accordingly, the school was directed to recover this amount from the Society which is still pending for recovery.

However, on review of the audited Financial Statements of FY 2017-18 & 2018-19, it has been noted that the School has paid principal repayment of loans (Secured & Unsecured) of INR 5,65,00,000 and INR 66,50,910 towards interest on the aforesaid loans out the school funds. For making this payment the school has utilized its development fee and surplus of earmarked levies. Thus, the school has utilized its fund in contravention of the above mentioned and provisions and Ruel 176 of the DSER, 1973. Accordingly, total amount of INR 8,66,78,977 (INR 2,35,28,067 plus INR 5,65,00,000 plus INR 66,50,910) paid by the school towards principal repayment of loans and interest thereon is recoverable from the Society being the properly of the Society. This amount has been included in the calculation of fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

2. Para 57 of Accounting Standard 15- 'Employee benefits' issued by the Institute of Chartered Accountants of India states *"An Enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date"* Accounting Standard 15 further states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."*

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

Also, Para 7.14 of the Accounting Standard 15 defines the "Plan assets" comprised of:

- (a) assets held by a long-term employee benefit fund; and
- (b) qualifying insurance policies."

On review of the audited financial statements, it has been noted that the School has obtained actuarial valuation with respect to its liability towards retirement benefits and has not reported the whole amount in its audited financial statements. However, the school has not invested equivalent amount in a fund that qualify as "plan assets" within the meaning of AS-15. The summary of total liability and amount of invested in plan assets for FY 2016-17, FY 2017-18 and FY 2018-19 are as follow:



Years	Value by the Actuary	Provision in Books	Diff	Investments
2016-17	-	-		-
2017-18	2,55,33,031	1,90,24,011	65,09,020	-
2018-19	2,81,77,752	1,88,94,411	92,83,341	-

Since, the school has not invested equivalent amount of its liability in plan asset within the meaning of AS-15. Therefore, provision of INR 1,88,94,411 made by the school towards retirement benefit as on 31.03.2019 has not been considered while deriving the fund position of the school. Also, amount of INR 60,00,000 proposed by the school in its budget has not been considered while deriving the fund position of the school. From fund position table derived below, it can be seen that the school has sufficient surplus funds after meeting all its routine expenditures. Therefore, the school is hereby directed to report the total provision as determined by the actuary in its audited financial statements and invest the fund which quality as plan assets within the meaning of AS-15 and submit the compliance status within 30 days from the date of issue of this order.

3. 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.

Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings.*" Further, direction no. 2 included in the Public Notice dated 4.05.1997 states, "*it is the responsibility of the society who has established the school to raise such 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*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*"

On review of the audited Financial Statements of the school for FY 2017-18 and FY 2018-19, it has been noted that the school has utilized Development Fee for repayment of loan taken for construction of Building and purchase of Buses amounting to INR 1,51,15,873 and INR 1,44,29,995 which is not in accordance with the clause 14 of the order dated 11.02.2009.

However, similar observation was noted by DoE in its order no. FDE15(17) PSB/2019/1035-1039 dated 14.03.2019 issued post evaluation of fee increase proposal for the academic session 2017-18 which was as under:

- a. The school has not utilised the development fee for purchase, upgradation and replacement of furniture, fixture and equipment rather it has utilised the same for repayment of loan taken for purchase of Bus, Tempo Travellers, Construction of Building etc in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.
- b. In FY 2014-15, school has utilised development fee for repayment of loan taken for construction of Building and purchase of Buses amounting to INR 1,34,56,202.

- c. In FY 2015-16, school has utilised development fee for repayment of loan taken for construction of Building and purchase of Buses amounting to INR 1,45,87,125.
- d. In FY 2016-17, school has utilised development fee for repayment of loan taken for construction of Building INR 1,87,01,462 and payment of interest cost.
- e. In 2017-18 and 2018-19, the school has utilized development fee of INR 1,51,15,873 and INR 1,44,29,995 for repayment of loan and payment of interest thereon.
- f. The school has created Depreciation Reserve Fund of INR 20,000 out of the Development Fund in FY 2016-17.
- g. The school has not charged the depreciation on assets acquired out of development fund in FY 2014-15 to 2016-17.

The aforesaid utilization of Development Fee is not in accordance with clause 14 of order dated 11.02.009. Therefore, the school is directed to ensure that the development fund/ fee should be utilized only for purchase, upgrade and replacement of furniture fixture and equipment and make necessary adjustment in Development Fund and General Fund account to this effect and submit the status of compliance within 30 days from the date of issue of this order. The school is further directed do collect the development fee unless the abovementioned directions are complied.

B. Other Observations

1. Para 58(i) of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*

As per notes to Appendix I- 'Rates of depreciation' of Guidance note, *"The rates contained in this Appendix should be viewed as the minimum rates and, therefore, a school should not charge depreciation at rates lower than those specified in this Appendix in relation to assets purchased after the date of the applicability of the Guidance Note. However, if on the basis of a bona fide technological evaluation, higher rates of depreciation are justified, the same may be provided with proper disclosures by way of a note forming part of accounts"*

On review of financial statements for FY 2017-18 and FY 2018-19, it was noted that the school is charging depreciation as per the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. The similar observation was also noted in order no. FDE15(17) PSB/2019/1035-1039 dated 14.03.2019 issued for academic session 2017-18 and school was directed to follow the Guidance Note-21 "Accounting by School.

The school is hereby again directed to follow the Guidance Note-21 "Accounting by School". Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school.

2. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."*

Further Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

On review of the financial statements, it has been noted that school has not been complying Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 which specifies that no caution money of more than INR 500 per student shall be charged. As per the details submitted by the school, there are total 1900 students as on the date of submission of proposal for FY 2019-20. Thus, the total caution money outstanding should be with the school comes to INR 9,50,000 (INR 500 *1900 students) which means the school has not been refunding the caution to the students at the time of her/his leaving from the school. Therefore, the only INR 9,50,000 out of total outstanding INR 36,68,500 as on 31.03.2019 has been considered while deriving the fund position of the school.

And the school is directed to ensure compliance with the aforementioned directions including refund of interest along with caution money to the students and to open separate bank account/create fixed deposit with bank for depositing caution money collected from students and interest earned on this account has to be refunded to the students along with refund of caution money at the time of leaving from the school.

3. Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states "The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."

Further clause 21 of the aforesaid order states "No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts"

Sub-rule 3 of Rule 177 of DSER, 1973 states "Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."



As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. Further, as per the directions of Supreme Court in Modern School vs. Union of India & Ors. (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

- a) It is reiterated that annual fee-hike is not mandatory.
- b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973
- c) If any school has collected fee in excess of that determined as per procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

Review of the audited financial statements of FY 2018-19 revealed that the school has been charging earmarked levies in the form of Transport Fee, Smart class fee and Computer fee from the students and preparing fund-based account for the same. However, the school has not provided proper breakup of the expenditure incurred under these head. It is hard to believe that the school has incurred the same amount as collected for the below mentioned levies. Details of income and expenditure as reported by the school in its audited financial statements given below:

Particulars	Transport Fees	Smart Class	Computer Fee	Refreshment
FY 2018-19				
Fee Collected (A)	1,04,78,000	24,82,800	7,88,000	59,16,000
Expenses (B)	1,04,78,000	24,82,800	7,88,000	59,16,000
Balance (A-B)	-	-	-	-

The earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee).

The school is hereby directed to provide the break of expenditure incurred for the above-mentioned levies and route the same through income and expenditure accounts by ensuring that the levies are calculated on no-profit no-loss basis.

4. Section 13 (1) of the Right to Education Act, 2009 states that "no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure".

Section 13 (2) of the Right to Education Act, 2009 states that "Any school or person, if in contravention of the provisions of sub-section (1),-

- a. receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.
- b. subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.

And section 2(b) of the Right to Education Act, 2009 states "capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that *"though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"*

Further, the Hon'ble High Court in LPA 196/2004 in the matter of 'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009' states *"no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged".*

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009, indicated the following types of Fee that a recognised private unaided school can collect from the students/ parents:

- a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.
- b. **Admission Fee:** No admission fee of more than INR 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states *"admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage".*



- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 per student shall be charged. The caution money thus collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'One time development fee' at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form. Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education.

Further, as per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and recover this amount from the manager/ principal of the school along with the penalty of 10 times and refund/ adjust the same against the subsequent installment of fee by the students. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.



5. On examination of the documents submitted by the school for student strength during FY 2016-17 to FY 2018-19 and taken on record, it was noted that the EWS students fell short of 25%. The admission allowed under EWS category in FY 2016-17, FY 2017-18 and FY 2018-19 was as under:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Total Students	2,001	2,130	2,267
EWS Students	327	360	394
% of EWS students	16%	17%	17%

The similar observation was also noted in order no. FDE15(17) PSB/2019/1035-1039 dated 14.03.2019 issued for academic session 2017-18 and it was directed to provide 25% reservation to children belonging to EWS category. But until now the school has not complied with aforesaid direction of the Directorate.

Thus, the school is again directed to ensure that students from Economically Weaker Sections are admitted to the school as per the condition of land allotment, provisions of DSEA, 1973, Right to Education Act, 2009 and Directorate's directions in this regard. Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school.

6. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

7. As per Section 18(5) of the DSEA, 1973, the management committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.

Further, Rule 180 of DSER, 1973 states "(1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in sub-rule (1), shall be submitted to the Director by the 31st day of July of each year.(3) The account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by any officers authorised by the Comptroller and Auditor General of India"

And Section 24 (2) of DSA. 1973 states "The Director may arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him".

Whereas Appendix-II to Rule 180 specify that "final accounts i.e. receipts, and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by Chartered Accountant.

It has been noticed that Financial Documents/ Certificates Attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non CAs.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e. Unique Document Identification Number which is being implemented in phased manner. It will secure the certificates attested/certified by practicing CAs. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

Accordingly, the Council in the 379th meeting of ICAI held on 17.12.2018 and 18.12.2018, made mandatory for all practicing member to obtain 18 digits UDIN before issuing any audits reports/certification etc. in the following manner:

- All Certification done by Practising CAs w.e.f. 01.02.2019.
- All GST & Tax Audit Reports w.e.f. 01.04.2019.
- All other attest functions w.e.f. 01.07.2019.

However, on examination of the financial statements submitted by the school for evaluation of fee increase proposal for FY 2019-20, it has been observed that the financial statements of the school were certified by the Chartered Accountant without mentioning the UDIN as required by the council. This being the procedural finding therefore, the school management are instructed to ensure this compliance from the Auditor of the school.

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

- The total funds available for the year 2019-20 amounting to INR **31,28,62,380** out of which cash outflow in the year 2019-20 is estimated to be INR **24,71,17,380**. This results in net surplus of INR **6,57,45,000**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements (Refer note 1 below)	58,94,514
Investments as on 31.03.19 as per audited Financial Statements	2,22,491
Liquid Fund	61,17,005
Add: Fees as per Audited Financial Statements of FY 2018-19 (Refer note 2 below)	21,96,41,960
Add: Other Income as per Audited Financial Statements of FY 2018-19 (Refer note 2 below)	13,74,438
Add: Amount recoverable from society against principal repaid on loan taken for construction of building (Refer financial observation 1)	8,66,78,977
Available funds for FY 2019-20	31,38,12,380
Less: Development fund balance as on 31.03.2019 (Refer financial observation 3)	-
Less: Caution money as on 31.03.2019 (Refer other observation 2)	9,50,000
Less: Depreciation reserve fund as on 31.3.2019 (Refer note 3 below)	-
Less: Retirement Benefits as on 31.03.2019 (Refer financial observation 2)	-
Estimated availability of funds for FY 2019-20	31,28,62,380
Less: Budgeted Expenditure of FY 2019-20 (Refer Note 4 below)	22,97,98,000
Less: Arrears as per 7th CPC recommendations (Refer Note 5 below)	1,73,19,380
Cash Surplus	6,57,45,000

Note 1: Cash and Bank balances as on 31.03.19 as per audited Financial Statements has been considered except INR 16,12,787 related cheques in hand and cheques bounced.

Note 2: Fee and income as per audited Financial Statements of FY 2018-19 has been considered with the assumption that the amount received in FY 2018-19 will at least accrue during FY 2019-20 except profit on sale of assets.

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "*Registration fee and all one Time Charges*" levied at the time of admissions such as admission and caution money. The second category of fee comprises '*Tuition Fee*' which is to be fixed to cover the standard cost of the establishment and to cover the 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 fourth category consist of all '*Earmarked Levies*' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & OINR: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "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."



However, on review of audited financial statements for FY 2018-19 it has been noted that the school has disclosed the closing balance of INR 30,12,072 as on 31.03.2019 against the opening balance of INR 20,000 as on 01.04.2018. How the school has arrived this figure of INR 30,12,072 is traceable from the audited financial statements.

Accordingly, school is directed to submit the clear justification along with the calculation of the aforesaid amount. Further, it is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note - 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund of INR 30,12,072 as reported by the school in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the school.

Note 4: All expenditure as per budget estimates for FY 2019-20 provided by the School has been considered in the above table except the depreciation of INR 20,00,000 being non cash item.

Note 5: As per order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states “ *the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*”. Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon’ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

On review of audited financial statements and as per explanation provided by the School, the impact of salary arrears of INR 1,73,19,380 (based on the previous order dated 14.03.2019) which is still pending for payment has also been considered while deriving the fund position of the school with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school has adequate funds for meeting all the operational expense for the financial year 2019-20. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states.

“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 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 Chartered Accountants that along with certain financial and other findings that sufficient funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it has been noted that the school have adequate surplus in its books therefore it is directed to invest an amount equivalent to the provision created for the retirement benefits in quality plan assets as per AS-15 issued by ICAI. Further school is required to recover INR 8,66,78,977 from the Society on account of loan taken for construction to the building and repaid out of development fee and school funds without complying with the provision of DSEAR 1973 and other order/ circular issued by Director of Education from time to time in this regard. Thus, the school is directed to recover INR 8,66,78,977 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

AND WHEREAS, the School is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increases for the academic session 2019-20 of **G.D. Goenka Public School (School ID-1617179), A-2 Paschim Vihar, Delhi-110063** has been rejected by the Director (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/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.

3. To utilize 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.

Non-compliance of this Order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Delhi School Education Act, 1973, and Delhi School Education Rules, 1973.

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



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

To:
The Manager/ HoS
G.D. Goenka Public School
School ID - 1617179
A-2 Paschim Vihar, Delhi-110063
No. F.DE.15 (704)/PSB/2022 / 4300-4304

Dated: 07/06/22

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. DDE (West B) to ensure the compliance of the above order by the School Management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



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