

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

No. F.DE.15(707) / PSB / 2022/43/ 5-4319

Dated: 07/06/22

**Order**

WHEREAS, **GD Goenka Public School, (School ID-1720133), Vasant Kunj, Delhi-110070** (hereinafter referred to as "School"), run by the GR Goenka 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 24.02.2020 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/2019/1025-1029 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. Rule 177 of DSER, 1973 states, *"income derived by an unaided recognised school 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 after creation of 10% reserve"*.

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.

DoE in its order No.F.DE-15(183)/PSB/2019/1025-1029 dated 14.03.2019 issued to the school post evaluation of fee increase proposal of the financial year 2017-18, directed the school to recover INR 80,71,836 from Society for interest paid on loan taken for purchase of vehicle, buses. The aforesaid interest was paid out of the school funds which is still pending for recovery. The details of interest paid by the school from FY 2014-15 to 2018-19 is as under:

Particulars	Amount in INR
FY 2014-15	42,25,715
FY 2015-16	27,54,874
FY 2016-17	10,91,247
FY 2017-18	-
FY 2018-19	-
<b>Total</b>	<b>80,71,836</b>

On review of audited Financial Statements for FY 2017-18 & FY 2018-19, it has been noted that the school has made the full and final settlement for the above-mentioned loan amounting to INR 12,52,480 during FY 2017-18. The School has made this principal payment out of the school funds which is in contravention to rule 177 of DSEAR, 1973. Accordingly, INR 12,52,480 has been added while deriving the fund position of the School.



As per the SMC meeting, the school submitted that it could not implement the recommendation of the 7<sup>th</sup> CPC of INR 6,53,76,000 due to shortage of funds. The school instead of making salary payment to its staff in accordance with 7<sup>th</sup> CPC has preferred to incur expenditure on purchase of luxury cars. Therefore, the school should refrain itself from incurring expenditure on such purchases unless there is saving derived U/R 177 of DSEAR, 1973.

In view of the above, total payment of INR 93,24,316 (INR 80,71,836 plus INR 12,52,480) made by the school towards interest cost from FY 2014-15 to 2018-19 and final settlement made in FY 2018-19 is recoverable from the Society. Therefore, the same has been included while deriving the fund positions 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. The 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.*"

Rule 177 of DSER, 1973 states "*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 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*". And the aforesaid savings 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 developmental nature;*
- c) *The expansion of the school building or for the 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.*

Accordingly, based on the above-mentioned provisions, the cost relating to land and building has to be met by the society being the property of the society and should be met out of the school funds.

From review of the ledger accounts and the supporting documents submitted by the school with respect to repair and maintenance expenses. it has been noted that the school incurred huge expenditure on repair and maintenance. During personal hearing, this was discussed with the school, as per explanation provided by the school, these expenditures are of regular repair and maintenance activities carried out in the school to keep the assets functional and in proper shape. During the last three financial years, the school spent INR





1,84,03,867 on various activities relating to repairs and maintenance. Below are the details of expenditure incurred by the school on repair and maintenance.

Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Total
Repair & maintenance	71,61,939	31,70,120	80,71,808	1,84,03,867
<b>Total</b>	<b>71,61,939</b>	<b>31,70,120</b>	<b>80,71,808</b>	<b>1,84,03,867</b>

From review of the ledger account of "repair and maintenance" submitted by the school, it was also noted that the school spent INR 86,60,319 for construction of swimming pool, replacement of batteries for UPS and backup devices, concrete mixture, etc. which appears to be of capital nature while the school has reported the same as revenue expenditure in its income and expenditure account. In the absence of the complete supporting documents no conclusion could be drawn as to whether these expenditures were of the revenue nature or of capital nature. Therefore, the school management is hereby directed to look into this aspect and report the revenue expenditure and capital expenditure in its financial statements after distinguishing it correctly.

3. 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."*

According to para 7.14 of the Accounting Standard 15 - "Employee Benefits" issued by the Institute of Chartered Accountants of India, Plan assets comprise:

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

On review of the financial statements of FY 2018-19, it has been noted that the School has obtained actuarial valuation in respect of its liability towards retirement benefits and has also reported in its financial statement but not invested any amount in plan assets. The school further submitted that it has FDR to meet the liability towards retirement benefit. As the investment in FDR does not qualify as "plan assets" within the meaning of AS-15.

Since, the school has not invested any amount in the plan assets as required by AS-15, the total provision of INR 13,34,23,325 as well as the provision created for the FY 2019-20 of INR 1,23,46,000 has not been considered while deriving the fund position of the school.

The school is hereby directed to invest the equivalent amount as determined by actuary that 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.

4. As per 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."

On review of audited financial statements for FY 2018-19 it has been noted that, school has purchased 3 luxury cars of INR 41,13,940 in FY 2018-19 out of the school funds. Similar observation was noted by



DoE in its order no. F.DE.15(183)/PSB/2019/1025-1029 dated 14.03.2019 for evaluation of fee enhancement for the FY 2017-18 and school was directed to recover the amount of INR 32,66,064 from society i.e. amount utilised for purchase of cars which was incurred without complying the requirements prescribed in Rule 177 of DSER, 1973. However, the school has not recovered from the society.

Accordingly, the amount of INR 73,80,004 (INR 32,66,064 plus INR 41,13,940) has been included while deriving the fund position of the school for the FY 2019-20 with the direction to recover the same from the society within 30 days from the date of issue of this order.

5. DoE in its Order No. DE 15/Act/Duggal.com/203/99/23033/23980 dated 15.12.1999, *the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution.* The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

Further DoE in its order no. F.DE.15(183) PSB/2019/1025-1029 dated 14.03.2019 for evaluation of fee enhancement for the FY 2017-18, it was noted that INR 1,04,68,825 is recoverable from the Society. School was directed to recover the amount of INR 32,66,064 from the Society. On review of audited financial statements for FY 2017-18 it has been noted instead of recovering the aforesaid amount from society school has written off INR 86,48,415 from the general fund ledger which is in contravention to aforesaid provisions.

Therefore, INR 86,46,415 has been included while deriving the fund position of the school for FY 2019-20 and school is once again directed to recover INR 86,48,415 from the society within 30 days of issue of this order.

6. 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 'Transport deposit' from the students 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 funds out of it, it is also prima-facie considered to be as collection of capitation fee in other manner and form.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

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 provisions 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 proper functioning of the school, including the admission process transparent, 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 not to collect orientation fee 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 payable by the students. The school is also directed to submit compliance status 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.

## **B. Other Observations**

1. 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."

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."

Clause no. 9 of the aforementioned order states "No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ....."

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."

Also, earmarked levies collected from students are 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).

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of transport fees, lab charges, Health/Hygiene & Safety fees, refreshment charges and I'd card fees from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus/(deficit) from earmarked levies that has been utilised for meeting other expenses of the school. Details of calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-17, 2017-18 & 2018-19 is given below:

Particulars	Lab Charges	Transportation Charges	Health/Hygiene & Safety/Security	Refreshment Charges	ID Cards Charges
<b>2016-17</b>					
Fee Collected (A)	10,58,355	5,65,63,800	72,57,150	62,54,045	3,96,800
Expenses (B)	1,74,643	4,23,54,658	56,16,731	53,16,239	3,97,918
<b>Difference (A-B)</b>	<b>8,83,712</b>	<b>1,42,09,142</b>	<b>16,40,419</b>	<b>9,37,806</b>	<b>(1,118)</b>
<b>2017-18</b>					
Fee Collected (A)	8,42,940	5,43,67,500	71,63,170	61,48,050	3,95,200
Expenses (B)	2,43,287	4,90,82,420	70,96,251	39,31,585	4,14,405
<b>Difference (A-B)</b>	<b>5,99,653</b>	<b>52,85,080</b>	<b>66,919</b>	<b>22,16,465</b>	<b>(19,205)</b>
<b>2018-19</b>					



Particulars	Lab Charges	Transportation Charges	Health/Hygiene & Safety/Security	Refreshment Charges	ID Cards Charges
Fee Collected (A)	9,36,600	4,67,94,893	68,79,830	58,27,600	3,74,000
Expenses (B)	2,55,696	4,67,94,893	91,80,432	40,22,947	4,53,930
Difference (A-B)	6,80,904	-	(23,00,602)	18,04,653	(79,930)
Total	21,64,269	1,94,94,222	(5,93,264)	49,58,924	(1,00,253)

Based on the above, 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).

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. As per Clause 14 of this Directorate's Order No. F.DE. /15 (56)/ Act/2009/778 dated 11.02. 2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures 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."*

Para 99 of Guidance Note on Accounting by Schools (2005) 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."*

As per, Para 102 of the aforementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- In respect of each major fund, opening balance, additions during the period, deductions/utilisation during the period and balance at the end.
- Assets, such as investments, and liabilities belonging to each fund separately.
- Restrictions, if any, on the utilisation of each fund balance.
- Restrictions, if any, on the utilisation of specific assets."



From the presentation made in the audited financial statements of FY 2018-19, it has been noted that the school is partially following accounting treatment with respect to the development fund collection and utilisation as per para 99 of the guidance note cited above. As the school has not reported correct "Fund utilized against assets", which should be equal to cost of assets purchased from development fund minus depreciation charge. Further, the school has also not created the depreciation reserve account in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is hereby directed to follow clause 14 of the order dated 11.02.2009 relating to collection and utilisation of development fund/fee and at the same follow proper accounting treatment in accordance with para 99 of the guidance note.

3. The school has prepared a Fixed Assets Register (FAR) that only captures asset name, date and amount. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is directed to update the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.
4. As per clause 1 of Order No. DE/15/150/Act/2010/4854-69 dated 09.09.2010, "*Caution money/security deposit shall not be charged/collected beyond Rs. 500 (Rupees five hundred only) per student.*"

Direction no. 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 Rs. 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.*"

Clause 3 and 4 of Order No. DE/15/150/Act/2010/4854-69 dated 09.09.2010 stated *In case of those ex-students who have not been refunded the Caution money/Security deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing Academic year*".

On review of documents submitted post personal hearing, it has been noted that school has not been refunding interest along with refund of caution money to the students at the time of their exit from the school.

Thus, the school is directed to ensure compliance with the aforementioned directions including refund of interest along with caution money to exiting students and to open separate bank account/create fixed deposit with bank for depositing caution money collected from students and interest earned on thus account has to





be refunded to the students along with refund of caution money at the time of leaving the school. Accordingly, the balance of caution money outstanding INR 8,59,000 as on 31.03.2019 has been considered while deriving the fund position of the school.

5. 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.

6. 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 379<sup>th</sup> 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 Academic session 2019-20 amounted to INR **40,63,12,020** out of which cash outflow for FY 2019-20 is estimated to be INR **38,70,56,337**. This results in net surplus of INR **1,92,55,683**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements	2,31,45,778
Investments as on 31.03.19 as per Audited Financial Statements	12,50,00,000
<b>Liquid Fund</b>	<b>14,81,45,778</b>
Add: - Amount recoverable from the Society for payment of interest on Loan ( <b>Refer financial observation 1</b> )	93,24,316
Add: - Amount recoverable from the Society for purchase of cars ( <b>Refer financial observation 4</b> )	73,80,004
Add: Recover of amount recoverable from society ( <b>Refer financial observation 5</b> )	86,48,415
Add: Fees for FY 2018-19 as per Audited Financial Statements ( <b>Refer Note 1 below</b> )	29,50,92,852
Add: Other income for FY 2018-19 as per Audited Financial Statements ( <b>Refer note 1 below</b> )	1,47,19,181
<b>Gross Funds available for 2019-20</b>	<b>48,33,10,546</b>
Less Development Fund balance as on 31-03-2019 ( <b>Refer other observation 2</b> )	4,24,24,526
Less: Caution Money balance as on 31-03-2019 ( <b>Refer other observation 4</b> )	8,59,000
Less: Transport security money balance as on 31-03-2019	3,37,15,000
Less: Depreciation Reserve fund as on 31-03-2019 ( <b>Refer Note 2 below</b> )	-
Less: Investments made in plan assets for retiring benefits ( <b>Refer financial observation 3</b> )	-
<b>Estimated availability of funds for the FY 2019-20</b>	<b>40,63,12,020</b>
Less: Budgeted expenses for the session 2019-20 ( <b>Refer Note 3 below</b> )	32,16,80,337
Less: Impact of Salary Arrears as per 7th CPC ( <b>Refer note 4 below</b> )	6,53,76,000
<b>Net Surplus</b>	<b>1,92,55,683</b>

**Note 1:** 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 2:** 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."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) 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 3,71,38,461 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 3:** All expenditure has been considered in the above table except:





Particulars	Amount Disallowed	Remarks
Provision for Leave encashment	22,00,000	Refer Financial observation 3
Provision for Gratuity	1,01,46,000	Refer Financial observation 3
Building – Renovation	1,01,50,000	Contravening to Rule 177 of DSEAR, 1973
Repayment Smart Class Equipment (Loan)	75,00,000	Contravening to Rule 177 of DSEAR, 1973
Total	2,99,96,000	

**Note 4:** 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 7<sup>th</sup> 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 & OR’s vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

On review of audited Financial Statements of the school and as per explanation given, currently the school is paying the salary as per VI pay commission. Accordingly, the impact of salary arrears amounting to INR 6,53,76,000 which is still pending for payment (as provided by the school in its minutes dated 27.03.2019) has also been considered while deriving the fund position of the school, with the direction to the school to implement the recommendations of 7<sup>th</sup> 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 has incurred INR 93,24,316 on payment of secured loans out of school funds, INR 73,80,004 on purchase of luxury cars and school was directed to recover INR 86,48,415 from the society as per previous order. Thus, the school is directed to recover INR 2,53,52,735 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-1720133), Sector-B, Vasant Kunj, Delhi-110070** 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 - 1720133  
Sec-B, Vasant Kunj, Delhi-110070  
No. F.DE.15 ( 707)/PSB/2022 / 4315-4319

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