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

No. F.DE.15 (1466)/PSB/2023/ 6026 - 6030 **Dated:** 05/07/23

Order

WHEREAS, **G.D. Goenka Public School, Plot No. F-18, Karkarduma, Delhi-110092 (School Id: 1001210)** (hereinafter referred to as **"the School"**), run by the **Highbrow Education 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, the manager of every recognized 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 authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA,1973 and returns and documents submitted under section 18(5) of DSEA,1973 read with rule 180(1) of DSER,1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools for some of the schools which have been allotted from Director (Education) before any increase in fee.

AND WHEREAS, 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/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, 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 academic session 2022-23.

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, the order dispenses the proposal for increase of fee submitted by the school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has evaluated the fee increase proposals of the school 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 increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 27th Feb 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. Clause 2 of Public notice dated 04.05.1999 states *"the Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges"*. Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that *"Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society"*. Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital Expenditure cannot constitute a component of financial fee structure.*

   Additionally, Rule 177 of DSER,1973 states *"income derived by an unaided private 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".*

Further, Clause 7.24 of Duggal committee report states *"it is also be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the School".*

Accordingly, based on the aforementioned provisions, the cost relating to the land and construction of the school's building has to be met by the society, being the property of the society and the school funds i.e., fee collected from students should not be used for the same.

The Directorate in its Order No.F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for academic session 2017-18 and Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20, directed the school to recover INR 72,14,094 and INR 98,751 which were incurred by the school on addition to the school building during the FY 2014-15 and 2015-16 respectively. However, the recovery from the society is still pending.

As per the compliance report submitted by the school, it is mentioned that *"the amount was not spent for the addition in school building instead spent for regular maintenance/upkeep for the building which is necessary for the safety of the students. The amount was capitalised in Building as per GAAP."*

The school failed to substantiate its claim and not furnished any documents and invoices/ledgers in this regard. Thus, the submission of school is not considered. Accordingly, INR 73,12,845 has been added to the funds availability position with the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order.

2. Section 18(4) of DSEA, 1973 states *"Income derived by unaided recognised schools by way of fees should be utilized only for such educational purposes as prescribed"*. Additionally, as per Rule, 177 of DSER, 1973 provides that income derived 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 school may be utilised by its management committee for meeting capital or contingent expenditure of the school.

The Directorate in its Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 noted that the school has purchased car amounting to INR 16,56,866 during the FY 2018-19 by taking loan of INR 5,99,950 from the Bank while the remaining amount of INR 10,56,916 was paid from the school funds. In the said order dated 31.05.2022, the school was directed to recover INR 12,46,336 (INR 10,56,916 + INR 1,51,244 towards principal repayment + INR 38,176 towards interest payment) from the society. However, the recovery from the society is still pending.

On review of audited financial statements for FY 2019-20 to 2021-22, the school has spent INR 7,64,372 towards principal repayment and INR 1,25,340 towards interest on loan. The amount incurred is not in accordance with the above-mentioned provisions.

Further, during FY 2020-21, the school has purchased car of INR 23,64,330 which is again in contravention of section 18(4) of DSEA, 1973 and Rule 177 of DSER, 1973.

Accordingly, INR 45,00,378 (INR 12,46,336 plus INR 7,64,372 plus INR 1,25,340 plus INR 23,64,330) has been included while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of the order. The school is further directed to ensure compliance with Rule 177 of DSER, 1973 before incurring any capital expenditure out of the school funds.

3. Rule 177 of DSER,1973 states "*income derived by an unaided private 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. The abovementioned 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."

The Directorate in its Order No. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18 and Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 noted that the school has purchased buses by utilizing its school funds and by taking loan from the Bank. In the said order, the school was directed to recover INR 48,03,377 (i.e. INR 16,76,178 plus INR 22,00,000 as directed in Order No. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18 plus INR 6,53,617 plus INR 2,73,582 as directed in Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20) from the society.

On review of audited financial statements for FY 2019-20, the school has paid INR 12,28,948 towards principal repayment and INR 16,944 towards interest cost. The school incurred this expenditure without complying with Rule 177 of DSER, 1973. Also, during FY 2019-20, the school has sold bus for FY 19,00,000.

In view of the above, total amount spent by the school totalling to INR 41,49,269 (INR 48,03,377 as directed in order dated 31.05.2022 plus INR 12,28,948 plus INR 16,944 minus INR 19,00,000) is recoverable from the Society and therefore, has been included while deriving the fund position of the school with the direction to recover this amount from the Society.

4. The Directorate in its Order No. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18, noted that the School during the FY 2016-17 utilized depreciation reserve fund for upgradation of fixed assets amounting to INR 81,65,555. The school neither reported this amount on the face of the financial statement nor reported the same in the fixed assets schedule. Thus, it was concluded that the school diverted this amount of INR 81,65,555. Accordingly, the school was directed to recover this amount from the Society. As the school has not taken any

action of the aforesaid direction which indicates that the school has diverted its funds. Therefore, the aforesaid amount of INR 81,65,555 which is still recoverable from the Society has been considered while deriving the 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 the order.

5. The Hon'ble High Court in the case of Abibhavak Mahasangh dated 30.10.1998 concluded that "Tuition fee cannot be fixed to recover the capital expenditure to be incurred on the properties of the society". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states that "Capital expenditure cannot constitute a component of financial fee structure".

The Directorate in its Order No. F.DE.15(186)/PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18, noted that the school has obtained secured loans for upgradation of infrastructure facilities and purchase of vehicles and the Directorate had directed the school to recover the interest cost of INR 24,54,903 paid out of the school funds on the above said loans during the FY 2014-15 to 2016-17. Further, during FY 2017-18 & 2018-19, the school has received INR 2,51,00,000 from society which has been utilized for repayment of secured and unsecured loan leaving the society's balance of INR 9,89,24,185 as on 31.03.2019. The school was further directed to reduce the balance of the Society by INR 2,51,00,000 and treat this a corpus received from the Society.

On review of these documents along with the audited financial statements for FY 2019-20 to 2021-22, the school has paid INR 8,76,947 towards principal repayment of secured loan and INR 79,226 towards interest on secured loan. Also, the school has paid INR 1,00,00,000 towards principal repayment of unsecured loan and INR 32,41,637 towards interest on unsecured loan. Further, the school has received INR 1,73,00,000 from society which has been utilized for repayment of secured and unsecured loan leaving the society's balance of INR 9,07,32,311 as on 31.03.2022. Accordingly, the school is again directed to reduce the balance of the Society by INR 1,73,00,000 and treat the balance amount as corpus received from the Society and excess funds from the society of INR 31,02,910 has been adjusted while deriving the fund position of the school.

6. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India 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, the Accounting Standard defines Plan Assets as:

   a. Assets held by a long-term employee benefit fund; and
   b. Qualifying insurance policies.

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"An enterprise should determine the present value of defined benefit 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."*

On review of audited financial statements for FY 2021-22, the school has reported the liability for retirement benefits in its audited financial statements in agreement with the actuarial valuation report. The total liability of the school towards retirement benefit is INR 2,02,76,822 as on 31.03.2022. However, the school has not invested any amount in plan assets within the meaning of AS-15 'Employees Benefit' against this liability. As the school has not invested any amount in plan assets against the above-mentioned provision for retirement benefits, the same has not been considered while deriving the fund position of the school.

Similar observation was also noted in the Directorate's Order no. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20.

Accordingly, the school is directed to deposit the amount determined as per actuarial valuation with LIC so that the provision for gratuity and leave encashment stand equals the investment amount.

7. Clause 7 of order No. DE. 15 /Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 states" *Development 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 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 in a separately maintained development fund account".*

And this was also upheld by the Supreme Court in case of Modern School vs. Union of India &Ors through its judgement dated 27 April 2004.Also, clause 14 of the 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, upgradation and replacement of furniture, fixtures and equipment."*

The Directorate in its Order No.F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18 noted that the school has utilised development fee amounting to INR 1,41,005 for purchase of Library Books which is not in accordance with the clause 14 of the order dated 11.02.2009 and the school was directed to ensure that the development fund is to be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009.

As per the compliance report submitted by the school, it is submitted that the school is utilising the Development fund only towards purchase, upgradation and replacement of furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009. The school is directed to ensure the compliance of the clause 14 of order dated 11.02.2009.

B. Other Suggestions for Improvement

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 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 Feb 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.*"

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 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).

The Directorate in its Order No. F.DE. 15/(186)/PSB/2019/1045-1049 dated 14.03.2019 issued for FY 2017-18 and Order no. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20, directed the school to follow fund based accounting for earmarked levies and to determine its fee structure in accordance with the provisions of DSEAR, 1973.

On review of audited financial statements for FY 2019-20 to 2021-22, it has been noted that the school charges earmarked levies in the form of transport fee, health & hygiene charges, safety & security charges, refreshment and meal charges and orientation charges and the school is not maintaining separate fund accounts for these earmarked levies but has been generating surplus, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Based on the information provided by the school the surplus/ deficit generated by the school is provided below.

Particulars	**Transport Fees**	**Health & Hygiene charges**	**Refreshment & meal charges**	**Safety & Security**	**Orientation charges**
For the year 2019-20					
Fee Collected during the year (A)	1,32,92,900	92,27,790	65,30,760	1,05,63,550	20,13,000
Expenses during the year (B)	1,36,89,726	97,14,691	65,45,658	1,08,00,211	22,20,754
Difference for the year (A-B)	**-396,826**	**-486,901**	**-14,898**	**7,57,980**	**-207,754**
For the year 2020-21					
Fee Collected during the year (A)	-	-	-	-	-

Expenses during the year (B)	2,27,623	9,35,854	-	**27,88,063**	-
Difference for the year (A-B)	**-227,623**	**-935,854**	-	**-2,788,063**	-
For the year 2021-22					
Fee Collected during the year (A)	-	-	-	-	-
Expenses during the year (B)	2,59,563	3,11,330	4,05,550	31,86,177	12,500
Difference for the year (A-B)	**-2,59,563**	**-311,330**	**-405,550**	**-3,186,177**	-12,500

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and 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 should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges.

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. Therefore, the school is directed to determine its fee structure in accordance with above mentioned provisions.

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

Accordingly, the school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. 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. 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 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.

The Directorate in its Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20, directed the school not to charge capitation fee with immediate effect and recover the 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.

The school in its compliance report has mentioned that the Orientation fee collected by the school from the students at the time of admission is an earmarked levy for the orientation program conducted by the school for the students and their parents. Further, the school has mentioned that it will merge the orientation charges with annual charges. The submission of the school is invalid and the school is directed to not charge any orientation charges and also not to merge the orientation charges with annual charges.

Therefore, the school is again directed to not charge capitation fee as mentioned above with immediate effect and recover this amount from the manager/ principal of the school and refund/ adjust the same against the subsequent installment of fee by the students. The school is also directed to submit compliance status with this direction within 30 days from the date of issue of the 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.

3. The Fixed Asset Register should capture the details of the asset name, date of purchase and the amount serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

The Directorate in its Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 directed the school to prepare the FAR with relevant details mentioned above and the same shall be verified at the time of examination of fee proposal for next financial year.

However, the school in its compliance report has mentioned that the school will maintain Fixed Asset register (FAR) in proper format. This has been considered and taken on record. Compliance of this direction will be reviewed in the evaluation of fee increase proposal of subsequent year. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. 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 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 Feb 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.*"

The Directorate in its Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 noted that the school has stopped collecting caution money from the FY 2016-17. Further, the has submitted that it is in process of refunding the caution money to the existing students. Also, the school refund only principal amount to the students without interest earned thereon. In view of the above, caution money as per the audited financial statements of FY 2021-22, has been considered while deriving the fund position of the school.

The school is again directed to refund any balance of un-refunded caution money (if any) and should treat it as income after 30 days of sending letters to the last known addresses of the students who had already left from the school to collect their caution money.

5. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in the matter. Similar observations were also noted in the Directorate's Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20. The ratio of EWS students to the total student strength during the FY 2019-20, 2020-21 and 2021-22 is as under:

Particulars	**FY 2019-2020**	**FY 2020-21**	**FY 2021-22**
Total Strength	1,341	1,376	1,395
EWS	169	197	225
% EWS to the total number of students	12.60%	14.32%	16.13%

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.
The Directorate in its Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20, noted that the school has not made any disclosure relating to related party transactions in its audited financial statements. The school in its compliance report has mentioned that there are no related party transactions, hence not reported in the financial statements. However, school failed to provide relationship of unsecured loans' provider and their relationship with the school and the society.

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

i. The total funds available for the FY 2022-23 amounting to INR **20,93,62,054** out of which cash outflow in the FY 2022-23 is estimated to be INR **21,78,27,771.** This results in deficit of INR **84,65,717** for FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	1,58,12,489
Investments as on 31.03.22 as per Audited Financial Statements	10,96,281
Liquid Funds as on 31.03.2022	**1,69,08,770**
Add: Amount recoverable from the society towards construction of the school building **(Refer Financial Suggestion No. 1)**	73,12,845
Add: Amount recoverable from the society towards purchase of car **(Refer Financial Suggestion No. 2)**	45,00,378
Add: Amount recoverable from the society towards purchase of vehicles **(Refer Financial Suggestion No. 3)**	41,49,269
Add: Amount recoverable from the society against diversion of funds **(Refer Financial Suggestion No. 4)**	81,65,555
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	15,71,26,898
Add: Other Income for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	10,99,033
Add: Additional Income of Annual Charges and Development Fund **(Refer Note 4 Below)**	2,52,10,650
Add: Additional Fees due to increase in fee @3% from 01.07.2022 **(Refer Note 5 Below)**	37,81,598
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 **(Refer Note 3 Below)**	1,42,23,471
Total Available Funds for FY 2022-23	**21,40,31,525**
Less: FDR in the name of Manager & DOE as on 31.03.2022 **(Refer Note 1 Below)**	10,96,281
Less: Caution Money as on 31.03.2022 **(Refer Other Suggestions No. 4)**	4,71,000
Less: Funds Received from Society **(Refer Financial Suggestion No. 5)**	31,02,190
Net Available Funds for FY 2022-23 (A)	**20,93,62,054**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 Below)**	**19,70,98,048**
Less: Salary Arrears **(Refer Note 7 Below)**	**2,07,29,723**
Total Estimated Expenditure for FY 2022-23 (B)	**21,78,27,771**
Net Deficit (A-B)	**84,65,717**

Note 1: The detail of fixed deposit held by the school as per the audited financial statements for the FY 2021-22 is provided below:

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Manager and DoE and Manager and CBSE	10,96,281	Deducted while calculating available funds of the school.
Total	**10,96,281**	

Note 2: All the fee and other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23.

Note 3: The Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 as per the school's submission are as under:

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Tuition Fee, Annual Charges and Development Charges (as per school's submission)	1,42,23,471
Total	**1,42,23,471**

Note 4: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

(i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported tuition fees, annual charges and development fees at 85% in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	11,75,04,069	13,82,40,081	As per reconciliation provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% in compliance of the Directorate's order dated 01.07.2021 and thus, difference amount of INR 2,52,10,650 has been considered.
Annual Charges and Development Charges	2,53,56,282	2,98,30,920	
Total	**14,28,60,351**	**16,80,71,001**	

Note 5: The school was allowed to increase fee 3% vide Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @3% from 1st July 2022. Accordingly, additional income on account of fee increase

will also accrue to the school in FY 2022-23 and thus, following amount has been considered as funds available with the school:

Fee heads	Fee for FY 2021-22	Grossed Up	Total Expected Income	Increased fee (with fee increase @3% for 9 months)
Tuition fees	11,75,04,069	2,07,36,012	13,82,40,081	14,13,50,483
Annual Charges and Development Charges	2,53,56,282	44,74,638	2,98,30,920	3,05,02,116
Total	**14,28,60,351**	**2,52,10,650**	**16,80,71,001**	**17,18,52,599**
Impact of fee increase				**37,81,598**

Note 6: All budgeted expenditure proposed by the school amounting to INR 25,14,17,601 has been considered while deriving the fund position of the school except the following:

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Salary - Teaching and Non-teaching staff	11,00,95,049	2,42,19,553	Restricted to 130% of expenditure incurred in FY 2021-22.
Health & Hygiene Expenses	1,04,00,000	1,04,00,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Refreshment Expenses	70,00,000	70,00,000	
Safety & Security Expenses	1,27,00,000	1,27,00,000	
Total	**14,01,95,049**	**5,43,19,553**	

Note 7: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3 (17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

As per school's reply during hearing, it was held that the school has not implemented 7th CPC recommendations. Further, salary arrears amounting to INR 2,06,61,952 has already been allowed in the Directorate's Order No. F.DE. 15/(627)/PSB/2022/3880-3884 dated 31.05.2022 issued for FY 2019-20. Also, salary arrears for the period 01.04.2019 to 31.03.2022 amounting to INR 2,07,29,723 provided separately by the school has been considered while evaluating the funds availability position of the school.

ii. In view of the above examination, it is evident that the school does not have adequate funds for meeting all the operational expenditure for the academic session 2022-23. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that, *"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and 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 the provisions of DSEA, 1973,DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the proposal of the school for the session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instruction against which have been given in the order) that the sufficient funds are not available with the school to carry out its operations for the academic session 2022-23.

AND WHEREAS, it is noticed that the school has incurred INR 2,41,28,047 (INR 2,10,25,857 minus INR 31,02,190) in contravention of Rule 177 and other provisions of DSEA&R, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of the order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. Further, school is hereby directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of the order.

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC.

AND WHEREAS, the fee proposal of the school 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 sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 5% to be effective from 01 April 2023.

AND WHEREAS, the act of the school of charging unwarranted free 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.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **G.D. Goenka Public School, Plot No. F-18, Karkarduma, Delhi-110092 (School Id: 1001210)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is allowed to increase the fee by 5% for session 2022-23 to be effective from 01.04.2023.

Further, the management of said School is hereby directed under section 24(3) of DSEA&R 1973 to comply with the following directions:

1. To increase the fee by 5% from the specified date i.e. 01.04.2023.

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 section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

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

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

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

No. F.DE.15 (1466)/PSB/2023 / 6026-6030 Dated: 05/07/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) 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.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi