

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

No. F.DE.15(1189)/PSB/2022/1085-1089

Dated: 02/02/23

Order

WHEREAS, G.D. Goenka Public School (School ID- 1413275) Pocket-B, Sector-09, Rohini, Delhi - 110085 (hereinafter referred to as "the School"), run by the Association of S. Kirpal 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, this order dispenses the proposal for increase of fee submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by 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 09th December 2022 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(664)/PSB/2022/4025-4029 dated 03.06.2022 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase and subsequent documents submitted by the school as a result of the personal hearing, were evaluated thoroughly by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:

A. Financial Suggestions for Improvement

1. Rule 177 of DSER, 1973 states *"Income derived by an unaided recognized school by way of fees shall be utilized 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 utilized 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 recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at after providing for the following, namely:*

- (i) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
- (ii) The needed expansion of the school or any expenditure of a developmental nature.*
- (iii) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
- (iv) Co-curricular activities of the students.*
- (v) Reasonable reserve fund, not being less than ten percent, of such savings.*

Direction no. 2 included in the Public Notice dated 04.05.1997, *"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 rule, 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 utilized for the same.

- a) The school incurred capital expenditure on upgradation of school building amounting to total INR 2,63,29,696 during FY 2014-15 to FY 2017-18 which is in contravention of Rule 177 of DSER, 1973 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(664)/PSB/2022/4025-4029 dated 03.06.2022 issued to the school post evaluation of fee increase proposal for the FY 2019-20.

The compliance report submitted by the school against order dated 03.06.2022 were taken on record. The school submitted that *"It is worthy to be highlighted that the said expenditure was never done for the construction of any new building/asset or to increase the FAR of building. The amount shown for construction of building is merely afflicted with wrong nomenclature and.....Once the 'initial'*



building was constructed and handed over to the school by society, any additional amount spent, or shown as towards 'building' in the school's audited financial statements, is towards putting furniture, fixtures or equipment on the school's existing building."

The contention of the school is incorrect as the above disallowed expenditure was incurred from FY 2014-15 to FY 2017-18 and these financial statements were duly audited by a chartered accountant and same were countersigned by the school management. However, the school fails to understand that, once, the financial statements were audited by the auditor, it is presumed that the auditor followed proper due diligence and obtained all the necessary information before issuing its opinion on the books of accounts. Therefore, the facts represented by the school regarding the incorrect nomenclature is not tenable and justified.

- b) The school has utilized school funds for repayment of loans against redevelopment of school building, purchase of school bus and car amounting to total INR 4,30,11,096 (INR 2,44,74,837 plus INR 1,85,36,259) during FY 2014-15 to FY 2018-19 which is in contravention of Rule 177 of DSER, 1973 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(664)/PSB/2022/4025-4029 dated 03.06.2022 issued to the school post evaluation of fee increase proposal for the FY 2019-20.

The compliance report submitted by the school against order dated 03.06.2022 were taken on record. The school submitted that *"The school is located on a plot of land of around 2 acres and building of the school is spread across approximate floor area of 7106 square feet, which is being used by approx. 1400 number of students below the age of 18 years. The school building was constructed in the year 2001 by the society entirely out of its own funds.....The said directions need immediate reconsideration, them being against the spirit of DSEAR 1973, viz. beneficial interest of children, and them being made without looking at the practicality of operations and overall running of school."*

The contention of the school is incorrect as the school did not implement the recommendation of the 7th CPC and has not invested an amount in qualify assets for payment of retirement benefits in accordance with AS-15 therefore, the school has not complied with the provision of Rule 177 of DSER, 1973 and pronouncement of courts judgements. Further, the cost relating to land and construction of school building should be borne by the society, being the property of the society and the school funds i.e., fee collected from students should not be utilized for the same. Hence, the contention of the school is not tenable and justified.

- c) The school has again repaid the loans taken for the purpose of redevelopment of school building, purchase of school bus and car out of the school funds instead of complying with the directions given in the previous order. Details of amount paid by the school (i.e., principal amount and interest cost) are as follows:

Particulars	Financial Years	ICICI Bank Loan A/c No.	Principal Repayment	Interest Payment	Total
Redevelopment of Building	FY 2019-20 to FY 2021-22	3667	1,36,99,208	83,82,494	2,20,81,702
Purchase of buses	FY 2019-20 to FY 2021-22	7285 8225 5509	34,90,726	7,67,030	42,57,756

Particulars	Financial Years	ICICI Bank Loan A/c No.	Principal Repayment	Interest Payment	Total
Purchase of car	FY 2019-20 to FY 2021-22	0132	12,35,250	4,06,782	16,42,032
Total					2,79,81,490

Accordingly as the school has not complied with the direction issued in the previous year order therefore the amount spent by the school on building and further repayment of loans for redevelopment of building, purchase of school buses and car amounting to INR 9,73,22,283 (INR 2,63,29,696 plus INR 4,30,11,096 plus INR 2,79,81,490) is hereby again added to the fund position of the school considering the same as funds available with the school with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

In view of the above, the amount of expenditure amounting to INR 31,60,000 (INR 3,60,000 plus INR 28,00,000) proposed by the school towards interest on loan in FY 2022-23 has not been considered while deriving the fund position of the school for FY 2022-23.

2. Para 57 of Accounting Standard 15 (AS-15) 'Employee Benefits' issued by the Institute of Chartered Accountants of India states that "*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 recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, Para 7.14 defines the Plan Assets as:

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

And Para 60 of Guidance Note-21 'Accounting by Schools' (2005) issued by the Institute of Chartered Accountants of India states "*A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service*".

An appropriate charge to the income and expenditure account for a year should be made through a provision for accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons say less than 50, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in "*Plan Assets*" as per AS-15 issued by ICAI.

On review of the documents submitted by the school post personal hearing, it has been noted that the requirement of AS-15 is applicable to the school as it has employed more than 50 staff in a year. Further, it was noted that the school has made provision for gratuity amounting to INR 27,25,117 and leave encashment amounting to INR 9,97,398 which is equivalent to the liability determined by the actuary in the report dated 23.06.2022. Additionally, it has been noted that the school has not made any investment in plan assets against gratuity and leave encashment in accordance with AS-15.

Gratuity is the statutory liability which the school is required to pay to their eligible employees on their retirement/resignation, as the case may be. However, over the number of years, the department has noticed that most of the schools have been recording liability for retirement benefits in their financial statements without making any investment in Plan Asset due to paucity of funds or otherwise. Accordingly, many schools keep the retirement benefit 'unfunded', which is not the true spirit of law, and it also defeats the objectives of maintaining of books of accounts as per Generally Accepted Accounting Principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgment titled Modern School Vs. Union of India and Ors. Therefore, it has been felt that in order to protect statutory dues of the employees, instead of disallowing the full liability on account of non-investment in Plan Asset, it would be rational to spread this liability over the period of 14 years on the assumption that normally a student studies 14 years in the school. This will not only allow the schools a breather to make an investment in Plan Asset gradually but also lower down the sudden financial burden of fee on the parents/students on account of huge liability for retirement benefits.

Accordingly, an amount of INR 2,65,894 (i.e., 1/14 of INR 27,25,117 + INR 9,97,398) has been considered while deriving the fund position of the school with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, the school shall not be allowed further instalments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

3. 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 income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

Also, para 67(ii) of the Guidance Note-21 states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Para 99 of Guidance Note-21 Accounting by Schools 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." Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- i. In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
- ii. Assets, such as investments, and liabilities belonging to each fund separately;
- iii. Restrictions, if any, on the utilization of each fund balance;
- iv. Restrictions, if any, on the utilisation of specific assets."
- v. Also, as per para 67(ii) of the Guidance Note-21 "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged



to income and expenditure account. If the school follows the accounting treatment specified by para 99 of the guidance note, the depreciation reserve fund would be mere an accounting head and school is not required to invest equivalent for that. However, review of the audited financial statements of FY 2021-22 revealed that the school was not following para 99 of the GN 21 cited above. As the school has not transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets.

Further, the school has maintained separate bank account for development fee collection but the same is not equivalent to the development unutilised fund balance presented in the audited financial statements for the FY 2021-22 which is the contravention of aforesaid clause 14 of order dated 11.02.2009. It is noted that the balance of development fund was INR 1,65,58,929 as on 31st March 2022 but the school has only INR 9,92,829 in the bank against the development fund.

Moreover, assets purchased out of the general fund are at WDV and assets purchased out of the development fund are shown at the gross value in the financial statements which is in contravention to para 67(ii) of the Guidance Note-21.

The school is hereby directed not to collect development fee from students until it complies with the above requirements. Accordingly, the bank balance of development fund as on 31st March 2022 amounting to INR 9,92,829 has been considered while deriving the fund position of the school for FY 2022-23.

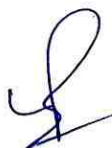
4. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case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

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

While evaluating the fee increase proposal the following has been noted with respect the caution money:

- School has stopped collecting caution money from the students.
- School had not maintained separate bank account for deposit of caution money.
- School had not refunded interest on caution money along with refund of caution money.
- School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days.

Similar observation was also noted by DoE in its order no. F.DE.15(664)/PSB/2022/4025-4029 dated 03.06.2022. The school is again directed to ensure compliance with the above requirements especially ensuring that caution money is refunded along with interest to the students and un-refunded caution money as income while projecting the fee increase proposal of the subsequent year. Therefore, the amount refundable amounting to INR 2,73,291 as on 31.03.2022 as per the audited financial statements has been considered while deriving the fund position of the school.



Other Suggestions for Improvement

1. 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*, held that 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 capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the sponsorship of the DoE. Therefore, the school is bound to follow all the instructions/directions issued by the DoE under the obligation of land allotment. Additionally, Rule 50 of DSER, 1973 states *"the school is not run for profit to any individual, group or association of individual or any other person" and "the managing committee observes the provisions of the Act and Rules made there under"*.

Based on the provisions mentioned above and the pronouncements of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of any new head in the fee structure etc. whether at the time of the admission of the students or otherwise. In



this regard the Directorate vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Clause no. 9 of the aforesaid order states *"No fee, fund or any other charge by whatever name called, shall be levied or realized unless it is determined by the Managing Committee in accordance with the directions contained in this order*".

Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents other than the specified head of fees provided in the abovementioned order. Therefore, any demand of capitation fee or introduction of the new head of fee other than the notified head of fees would be termed as *commercialization and exploitation of education*, which is not permissible at any cost.

From the documents submitted by the school, it has been observed that the school has been collecting one-time charges of INR 21,393 per student in the name of "Orientation fees" from the students at the time of admission which is not in accordance with aforesaid provisions and hence treated as capitation fee. Similar observation was also noted by DoE in its order no. F.DE.15(664)/PSB/2022/4025-4029 dated 03.06.2022, wherein school was directed not to collect such fee from the students with immediate effect. However, school has not stopped the collection of Orientation charges from the students. Accordingly, the school is again directed to stop collecting one-time charges i.e., *"Orientation fees"* from the students immediately.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by the DoE from time to time. The manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure the admission process is transparent. They are jointly and severally responsible in their personal capacity for the levy and collection of the capitation fee and any other unauthorized fee. Therefore, non-compliance by the school with this direction within the stipulated time frame shall be viewed seriously and necessary action against the school shall be initiated without providing further opportunity to be heard.

2. 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."*

Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."*

Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"Earmarked levies shall be charged from the user student only."*



Rule 176 states "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."

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 at 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-21 '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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of Transport, Health and Hygiene, Safety and Security Fee, Science & IT Lab charges from the students but has not maintained fund-based accounting. The surplus/deficit generated by the school from these earmarked levies in the last three financial years are as under:

Particulars***	Transport*	Health & Hygiene	Safety & Security Charges	Science & IT Lab**
For the year 2019-20				
Fee Collected during the year (A)	1,49,03,390	87,74,344	1,19,79,226	5,65,400
Expenses during the year (B)	1,19,77,820	90,50,207	1,15,79,426	7,34,142
Difference for the year (A-B)	29,25,570	(2,75,863)	3,99,800	(1,68,742)
For the year 2020-21				
Fee Collected during the year (A)	-	19,02,189	25,14,870	86,000
Expenses during the year (B)	9,54,970	43,64,920	1,31,810	20,060
Difference for the year (A-B)	(9,54,970)	(24,62,731)	23,83,060	65,940
For the year 2021-22				
Fee Collected during the year (A)	-	7,25,650	8,05,550	4,84,000
Expenses during the year (B)	11,82,587	34,87,123	1,99,978	1,694

Difference for the year (A-B)	(11,82,587)	(27,61,473)	6,05,572	4,82,306
Total (Surplus)	7,88,013	(55,00,067)	33,88,432	3,79,504

*Transport charges are not collected by the school during the FY 2020-21 and FY 2021-22

** Science & IT lab charges are collected from XI and XII students only.

*** Surplus/Deficit calculated in the above tabular data are based on the information/ledgers provided by the school via email.

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Health & Hygiene, Safety & Security charges from all the students loses its character of earmarked levy. Thus, the school is directed not to charge Health & Hygiene, Safety & Security charges as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilized and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, 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 in the subsequent proposal of fee increase by 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.

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.

- School was requested to submit the fixed assets register for verification, however, it has failed to provide the same. Therefore, it seems that the school does not follow the practice of preparing Fixed Assets Register (FAR). The FAR should include details such as invoice date, invoice number, supplier name, description of asset, manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of asset and document complete details of assets at one place.

Accordingly, the school is directed to prepare the fixed assets register by capturing all the details mentioned above and submit the compliance report within 30 days from the date of issue of this order. Compliance of the above shall be verified at the time of evaluation of proposal for increase of fee for subsequent year.

- Clause 24 of DoE Order dated 11.02.2009 states *"Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, P&L Account and Receipt & Payment account every year."*

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

1. *"the financial statement of the school should be prepared on accrual basis.*
2. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School's Balance sheet.....*
3. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed'....".*

Review of the audited financial statements of the school revealed that the school has been recording income on cash basis while expenses are being recoded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.

5. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

Further, Para 58(i) of the Guidance Note states "A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."

On review of audited financial statements for the FY 2019-20 to FY 2021-22, it has been noted that the school has charged depreciation on fixed assets as per written down value method at the rates prescribed in the Income Tax Rules, 1962.

Therefore, school is directed to provide depreciation on assets in accordance with the guidance note cited above.

6. As per Right to Education act, the pupil teacher ratio for primary classes and upper primary classes should be 30:1 and 35:1 respectively. Also, as per the affiliation bye-laws prescribed by Central Board of Secondary Education (CBSE), the student's teacher ratio should not exceed 30:1 excluding principal, physical education teacher and counsellor to teach various subjects. However, based on the information submitted by the school relating to total students and number of teachers following ratios have been derived:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Total Number of Students (A)	1356	1405	1330
Number of Teachers (B)	76	48	52
Students to teacher ratio(A/B)	17.84	29.27	25.57

In view of the above calculation, it has been observed that there is one teacher on every 25 students which is higher than the standard prescribed by the CBSE and mentioned in the RTE Act. It seems that there is overstaffing of teaching staff in the school. Therefore, the school management is required to look into this aspect and try to establish an equilibrium, without compromising the standard of education, between the standard prescribed by the CBSE and the existing student teacher ratio.

7. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to students belonging to weaker section. However, details regarding the number of EWS students during the period FY 2019-20 to FY 2021-22 were not provided by the school therefore cannot conclude whether the school is complying with the abovementioned DOE's Order and condition mentioned in the land allotment letter which provides for granting of free ship to the extent of 25% to the children belonging to EWS category.

In view of the above, the school is required to provide the above-mentioned information which shall be verified while evaluating the fee increase proposal of the subsequent year.

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 **24,93,05,858** out of which cash outflow in the FY 2022-23 is estimated to be INR **19,79,54,673**. This results in surplus of INR **5,13,51,185** 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	1,12,47,714
Investments as on 31.03.22 as per Audited Financial Statements (Refer Note 1 Below)	7,36,891
Liquid Funds as on 31.03.2022	1,19,84,605
Add: Amount recoverable from Society against utilization of development fund for upgradation of building and repayment of loan taken for construction of building, purchase of school buses and car (Refer Financial Suggestion No. 1)	9,73,22,283
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	14,05,89,938
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	9,41,045
Total Available Funds for FY 2022-23	25,08,37,872
Less: Gratuity and Leave Encashment fund (Refer Financial Suggestion No. 2)	2,65,894
Less: Bank balance of development fund as on 31.03.2022 (Refer Financial Suggestion No. 3)	9,92,829
Less: Caution money as on 31.03.2022 (Refer Financial Suggestion No. 4)	2,73,291
Less: FDR in the name of Manager & CBSE as on 31.03.2022 (Refer Note 1 Below)	-
Less: FDR in the name of school and DDE as on 31.03.2022 (Refer Note 1 Below)	-
Less: Salary provision as on 31.03.2022 (Refer Note 3 below)	-
Net Available Funds for FY 2022-23 - (A)	24,93,05,858
Less: Budgeted expenses for the session 2022-23 (Refer Note 4 Below)	17,05,71,005
Less: Salary arrears as per 7 th CPC (Refer Note 5 below)	2,73,83,668
Total Estimated Expenditure for FY 2022-23 - (B)	19,79,54,673
Net Surplus (A-B)	5,13,51,185

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 CBSE	2,23,518	FD not provided by the school for our review therefore considered as free reserves available with the school
FDR in the joint name of DoE	5,13,373	FD is in the name of society only therefore considered as free reserves available with the school
Total	7,36,891	

Note 2: 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 100% of the tuition fees and 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:




Table A

Particulars	Income as per AFS for FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	10,74,45,365	10,42,33,728	Fees has been considered as per reconciliation of FY 2021-22 provided by the school.
Annual Charges	2,43,80,595	1,67,34,092	
Development Charges	1,99,04,152	1,56,34,996	
Total	15,17,30,112	13,66,02,816	

All the other income as per audited financial statements of 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 except excess provision reversed amounting to INR 5,19,659 being non-cash item.

Note 3: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank.

The school has made provision for 4 month's salary reserve of INR 65,62,828 as on 31.03.2022. However, the school has not earmarked any investment in the joint name of the Dy. Director and Manager of the school. Hence, the same has not been considered while calculating the fund position of the school.

Note 4: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except the following:

Heads	Budget Expenditure in 2022-23	Amount Disallowed	Remarks
Salary to staff	4,06,10,000	60,54,740	Restricted to 110% of the expenses incurred by the school in previous year.
Interest on Vehicle loan	3,60,000	3,60,000	
Interest on Loan	28,00,000	28,00,000	Refer Financial Suggestion No. 1
Vehicle Maintenance	40,00,000	40,00,000	Neither transport income nor expenses has been considered while calculating the fund position of the school
CNG	15,00,000	15,00,000	
Insurance	4,00,000	4,00,000	
Transport Expenses	38,00,000	38,00,000	
Total	5,34,70,000	1,89,14,740	



Note 5: 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 till date. Further, school has provided calculation on the salary arrears as per 7th CPC for the period April 2019 to March 2023 amounting to INR 2,73,83,668. Accordingly, the same has been considered while calculating the fund position of the school with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and 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 irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

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 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23.

Accordingly, it is hereby conveyed that the proposal of fee increase of **G.D. Goenka Public School (School ID- 1413275) Pocket-B, Sector-09, Rohini, Delhi – 110085** is rejected by the Director



of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
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 (School ID- 1413275)
Pocket-B, Sector-09, Rohini, Delhi - 110085

No. F.DE.15 (1189)/PSB/2022 / 1085-1089

Dated: 02/02/23

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 (North West B) 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