

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

No. F.DE.15 (627)/PSB/2022/3880-3884

Dated: 31/05/22

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 “**Society**”), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as “**DoE**”), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as “**DSEAR, 1973**”). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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.’*

AND WHEREAS, besides the above, the Hon’ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under Sections 17(3), 18(4) read along with Rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

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

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

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 24.02.2020 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for the academic session 2017-18 were also discussed and school submissions were taken on record.

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



A. Financial Observations

1. Clause 2 of Public notice dated 04.05.199 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 DoE in its Order No. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for academic session 2017-18, noted that the school incurred INR 72,14,094 and Rs 98,751 on addition to the school building during the FY 2014-15 and 2015-16 respectively. The school incurred the aforesaid expenditure without complying with Rule 177 of DSER, 1973. Accordingly, the School was directed to recover INR 73,12,845 from the Society which is still pending for recovery. Therefore, the school is again directed to recover INR 73,12,845 from the society. Accordingly, the aforesaid amount of INR 73,12,845 has been included while deriving the fund position of the School.

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.

From review of the audited financial statements, it has been noted that the school has purchased car amounting to INR 16,56,866 during the FY 2018-19 by taking loan from bank of INR 5,99,950 from the Bank while the remaining amount of INR 10,56,916 was paid from the school funds. During the personal hearing the school was asked to provide compliance of Rule 177, which the school has not provided. Thus, the school purchased this car without complying with the provision of Rule 177 of DSER, 1973. On this purchase the school has paid INR 1,51,244 towards principal repayment & INR 38,176 towards interest during the FY 2018-19. Therefore, total amount of INR 12,46,336 (INR 10,56,916 + INR 1,51,244 + INR 38,176) spent by the school for purchase of aforesaid car 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 this order. The school is further directed 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.”*

From review of audited financial statements of the school, it has been noted that the School has purchased two buses for INR 26,01,791 during the FY 2017-18 by taking loan of INR 25,64,000 from the Bank. The remaining amount of INR 37,791 was paid out of the School fund. During the last two financial years i.e. FY 2017-18 and 2018-19, the school has paid INR 6,53,617 towards principal repayment and INR 2,73,582 towards interest cost. The school incurred this expenditure without complying with Rule 177 of the DSER, 1973.

The DoE in its Order No. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for academic session 2017-18, observed the similar observation. In the aforesaid order the school had purchased vehicles by taking loan from the bank and had paid INR 15,54,483 towards repayment of principal and INR 1,21,695 towards interest cost without complying with Rule 177 of DSER, 1973 during FY 2014-15. Accordingly, the school was directed to recover INR 16,76,178 from the Society which is still pending for recovery.



In the aforesaid order the DoE also observed that during 2016-17, the school purchased bus for INR 22,00,000 out of the school funds without comply with the provision of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover this amount from the Society.

In view of the above, total amount spent the school totalling to INR 48,03,377 (i.e. INR 16,76,178 plus INR 6,53,617 plus INR 2,73,582 plus INR 22,00,000) 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 DoE in its order no. F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for academic session 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 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.

The review audited financial statements of FY 2017-18 revealed that the school neither has recovered this amount from the Society nor reported the same in the audited financial statements. 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 this 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".

Review of the audited financial statements of the school revealed that the school has obtained secured loans for upgradation of infrastructure facilities and purchase of vehicles. Further, the DoE through its Order No. F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18, 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. The documents submitted by the school post personal hearing were taken on record. On review of these documents along with the audited financial statements, it has been noted that during the last two financial years i.e. 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. Therefore, no further interest and repayment of loan (apart from the observation reported in point no. 1 to 4) has been included while deriving the fund position of the school. The school is further directed to reduce the balance of the by Society by INR 2,51,00,000 and treat this a corpus received from the Society.

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.*"

The documents submitted by the school has been taken on record. From the review of the record submitted by the school it has observed that 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 INR1,13,79,075 as on 31.03.2019. 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. And the amount of INR 28,50,000 budgeted by the school for FY 2019-20 has also not been considered in the budgeted expenditure of the school. The school is hereby directed to invest an amount equivalent to its liability determined by the actuary in plan assets as required by AS-15.

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.*"

From review the Financial Statements of the FY 2016-17 to 2018-19, it has been noted that school utilised development fund/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. Similar observation was noted in order F.DE.15(270) PSB/2019/1435-1439 dated 29.03.2019 issued for academic session 2017-18. Thus, the school is once again 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.



B. Other Observations

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

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

However, 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 science fee.

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 incurrance 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).

In the directorate order no F.DE.15(186) PSB/2019/1045-1049 dated 14.03.2019 issued for academic session 2017-18, the school was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students for all earmarked levies collected from students. However, on review of audited financial statements of the school for the FY 2018-19, it has been noted that the school has not followed fund-based accounting for earmarked levies in accordance with GN-21 Accounting by Schools as issued by the Institute of Chartered Accountants of India. Thus, school is directed to follow fund-based accounting for presentation of earmarked levies in accordance with aforesaid GN-21. From the record submitted by the school the surplus/deficit calculated on these earmarked levies are provided below.

Particulars	Transportation Charges	Health & Hygiene charges	Refreshment & Meal Charges	Safety & Security	Orientation Charges
For the year 2017-18					
Fee Collected during the year (A)	1,16,94,245	88,40,450	65,25,040	1,01,21,940	23,59,500

Particulars	Transportation Charges	Health & Hygiene charges	Refreshment & Meal Charges	Safety & Security	Orientation Charges
Expenses during the year (B)	1,28,37,608	89,61,459	68,50,624	1,03,13,523	25,17,396
Difference for the year (A-B)	(11,43,363)	(1,21,009)	(3,25,584)	(1,91,583)	(1,57,896)
For the year 2018-19					
Fee Collected during the year (A)	1,27,68,480	91,38,700	61,99,200	1,04,62,740	4,00,800
Expenses during the year (B)	1,29,14,377	92,69,506	64,79,004	1,09,73,781	4,80,668
Difference for the year (A-B)	(1,45,897)	(1,30,806)	(2,79,804)	(5,11,041)	(79,868)
Total	(12,89,260)	(2,51,815)	(6,05,388)	(7,02,624)	(2,37,764)

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. Therefore, the school is directed to determine its fee structure in accordance with provisions of DSEAR, 1973.

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),-*

- receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- 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.

Based on the provisions mentioned above, charging of INR 16,500 as a 'Orientation Charges' from the students at the time of admission from the new students is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

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

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

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.

However, the school had not prepared Fixed Asset register (FAR) in proper format and captured the asset name, date of purchase and the amount in the FAR. The school had not included complete details in the FAR such as serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.



Therefore, the school is directed 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. 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.”

During the personal hearing the school has clarified that it has stopped collecting caution money from the FY 2016-17. Further, it has mentioned 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 amount which is pending for refunded towards caution money as per the audited financial statements of FY 2018-19, has been considered while deriving the fund position of the school.

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. The admission allowed under EWS category during the FY 2016-17, FY 2017-18 and FY 2018-19 is as under:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Total Strength	1,120	1,137	1,291
EWS	79	108	134
% EWS to the total number of students	7.05%	9.50%	10.38%

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

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

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 2019-20 amounting to INR **25,37,08,109** out of which cash outflow in the FY 2019-20 is estimated to be INR **25,86,97,004**. This results in net balance of Surplus amounting to INR **49,88,895** for FY 2019-20 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.19 as per audited financial statements of FY 2018-19	36,82,886
Investments as on 31.03.19 as per audited financial statements of FY 2018-19	61,33,268
Liquid Funds as on 31.03.2019	98,16,154
Add: Amount recoverable from the Society towards construction of the school building (Refer financial observation no.1)	73,12,845
Add: Amount recoverable from the Society towards purchase of Car (Refer financial observation no.2)	12,46,336
Add: Amount recoverable from the Society towards purchase of vehicles (Refer financial observation no. 3)	48,03,377
Add: Amount recoverable against diversion of school funds (Refer financial observation no.4)	81,65,555
Add: Fees for FY 2018-19 as per audited financial statements on the assumption the amount received in FY 2018-19 will at least accrue in FY 2019-20.	22,12,00,535
Add: Other income for FY 2018-19 as per audited financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20. (Refer note 1 below)	28,70,226
Total Available Funds for FY 2019-20	25,54,15,028
Less: Fixed Deposit DDE and CBSE as per the school submission	6,03,549
Less: Caution Money Fund as on 31.03.2019	4,72,500
Less: Development Fund as on 31.03.2019	6,30,870
Less: Earmarked Investment with LIC towards Gratuity and Leave Encashment (Refer financial observation no. 6)	-
Less: Depreciation Reserve on 31.03.2019 (Refer note 2 below)	-
Net Available Funds for FY 2019-20	25,37,08,109
Less: Budgeted Expenditure for FY 2019-20 after making all adjustment (Refer Note 3 below)	23,80,35,052
Less: 7th CPC arrears as per the school submission	2,06,61,952
Net Deficit	49,88,895

Note 1: Fee and income as per audited financial statements of FY 2018-19 excluding deferred income of INR 1,65,52,023 has been considered with the assumption that the amount of income during FY 2018-19 will at least accrue during FY 2019-20.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided recognised school. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard

cost of the establishment and also to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund.

Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not required to deduct from the calculation of the fund position of the school.

From the above, it is clear that the depreciation reserve fund is a notional account of a notional fund for which there is no requirement to have equivalent fund neither in a bank account nor in the form of a fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on the fee structure of the school which would be in contravention of the judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004). In the said judgement the Hon'ble Supreme Court has clearly stated "*capital expenditure cannot form part of financial fee structure of the school*". Accordingly, charging of depreciation from Income and Expenditure account implies that the school is including a capital component in its fee structure which is not permissible.

Note 3: All budgeted expenditure of the school has been considered except INR 28,500 towards provision for retirement benefits and INR 26,50,000 towards interest on loan.

- ii. In view of the above examination, it is evident that the School does not have sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16.04.2010 that,

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

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 though certain financial observations noted (appropriate financial impact of which has been taken on the fund position of the school) and certain other observation were also noted (appropriate instructions against which have been given in this order), the fee increase proposal of the school may be accepted.

AND WHEREAS, it was noticed that the School has incurred INR 73,12,845 for addition to building out of the school funds which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Further, school has incurred capital expenditure of INR 60,49,613 on purchase of car and bus in contravention of section 18(4) (a) of DSEA, 1973 and Rule 177 of DSER, 1973. Further, the school has diverted its funds of INR 81,65,555 in contravention of clause 14 of order dated 11-02-2009. Thus, the school is directed to recover INR 2,15,28,113 from the Society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA & R, 1973.

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 funds are not available with the school for meeting financial implication for the academic session 2019-20.



AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee during the implementation of the 6th CPC. 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 03% to be effective from 01 July 2022.

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

Accordingly, it is hereby conveyed that the proposal of fee increase of financial year 2019-20 of **G.D Goenka Public School, Plot No. F-18, Karkarduma, Delhi-110092 (School Id: 1001210)**, has been accepted by the Director (Education) and the School is allowed to increase its fee by 3% to be effective from 01 July 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.
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

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.

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

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

No. F.DE.15(627)/PSB/2022/ 3880-3884

Dated: 31/05/22

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



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