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

No. F.DE.15(1233)/PSB/2022/1382-1386 **Dated: 10/02/23**

Order

WHEREAS, **G D Goenka Public School (School ID- 1720133) Vasant Kunj, New Delhi-110070** (hereinafter referred to as **"the School"**), run by the **G.R. Genka 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 25th November 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(707)/PSB/2022/4315-4319 dated 07.06.2022 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. 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."*

On review of audited financial statements for FY 2019-20 to FY 2021-22, it has been noted that school incurred capital expenditure on purchase of Cars amounting to INR 19,70,948 in contravention of the provisions mentioned above. Moreover, the above capital expenditure was incurred without complying with the requirements prescribed in Rule 177 of DSER, 1973.

Similar observation was noted by DoE in its order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022 and F.DE.15(183)/PSB/2019/1025-1029 dated 14.03.2019 for evaluation of fee increase proposal for the FY 2017-18 and FY 2018-19 and the school was directed to recover the amount of INR 41,13,940 and 32,66,064 respectively from the society incurred in relation to purchase of cars. Details of vehicle purchased in contravention of the aforesaid provisions is as under:

S.No.	Particulars	Amount
1	Car Disallowed vide order no. order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022	41,13,940
2	Car Disallowed vide order no. order no. F.DE.15(183)/PSB/2019/1025-1029 dated 14.03.2019	32,66,064
3	Car purchased during FY 2021-22	19,70,948
Total		**93,50,952**

Accordingly, the amount of INR 93,50,952 (i.e. INR 19,70,948+ INR 41,13,940+ INR 32,66,064) has been considered as fund available with the school with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order.

2. 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:*

    1. *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
    2. *The needed expansion of the school or any expenditure of a developmental nature.*
    3. *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
    4. *Co-curricular activities of the students.*
    5. *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 utilised for the same.

On review of audited financial statements for the FY 2019-20, it has been noted that the school has taken a loan of INR 3,73,74,824 from HDFC bank and Axis bank for the purchase of 12 school buses and has repaid the same from the school funds in contravention of the aforesaid provisions. Similar observation was noted by DoE in its order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022 and the school was directed to recover the amount i.e. INR 93,24,316 paid during FY 2014-15 to FY 2018-19 towards payment of interest cost and final settlement against loan taken for purchase of school buses from the society. However, the school has not complied with the above direction and the aforesaid amount is pending for recovery. Details of amount paid by the school (i.e. principal amount, interest cost and down payment) in contravention of the aforesaid provisions are as follows:

S.No.	Financial Years	Principal Repayment	Interest Repayment	Down Payment	Total
For Purchase of Buses					
1	Till FY 2018-19 vide order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022				93,24,316
2	2019-20	34,82,555	18,44,245	32,47,264	85,74,064
3	2020-21	42,36,727	16,45,473	-	58,82,200
4	2021-22	2,21,67,658	39,98,166	-	2,61,65,824
Total					**4,99,46,404**

Additionally, the school has also incurred an expenditure amounting to INR 1,26,96,986 in FY 2020-21 and INR 87,65,594 in FY 2021-22 for construction of school building which is again contravention of the aforesaid provisions.

Therefore, the total amount of INR 7,14,08,984 (i.e. INR 4,99,46,404 + INR 1,26,96,986 + INR 87,65,594) utilised by the school towards repayment of loan taken for purchasing of school buses and construction of school building is hereby considered as fund available with the school with the direction to the school to recover the same from the society within 30 days from the date of issue 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.

3. 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 audited financial statements for the FY 2021-22, it has been noted that the school has made provision for gratuity amounting to INR 8,72,99,271 and leave encashment amounting to INR 2,94,99,051 which is equivalent to the actuarial liability determined by the actuary in his report dated 14.06.2022. During personal hearing, the school further explained that it has not invested any amount in Plan Asset, but it has an investment of INR 8,65,00,000 in the form of FDR, which can be utilized for payment of gratuity and leave encashment as and when required. The contention of the school is not tenable as investment held by the school in the form of FDR does not qualify as Plan Asset.

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 83,42,737 (i.e., 1/14 of INR 8,72,99,271 + INR 2,94,99,051) 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.

In view of the above, the amount of INR 4,76,86,400 proposed by the school towards gratuity and leave encashment budgeted in FY 2022-23 by the school has not been considered while deriving the fund position of the school for FY 2022-23.

4. Clause 14 of DoE's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

   Further, para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India specify the accounting treatment for specific funds. The GN-21 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.*"

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As per clause 14 of the order dated 11.02.2009 the development fund / fee can only be utilised for purchase upgrade and replacement of furniture fixtures and equipment. However, on review of the audited financial statements for the FY 2019-20 to FY 2021-22, it has been noted that the school has incurred INR 30,02,913 on purchase of library books and motor vehicles out of the development fund which is the contravention of the aforesaid provisions. The details of the assets purchased out of development fund is as follows:

S. No.	Particulars	FY 2019-20	FY 2020-21	FY 2021-22
1	Library Books	1,634	-	3,800
2	Motor Vehicle (Car)	8,56,531	1,70,000	19,70,948
	Total	**8,58,165**	**1,70,000**	**19,74,748**

Further, on review of the audited financial statements of the FY 2021-22, the closing balance of development fund as on 31.03.2022 is INR 2,98,65,893 and the school has made investment in the form of FDR against the same amounting to INR 3,00,00,000 which is more than the development fund balance as on 31.03.2022 which is again contravention of the aforesaid clause. Hence, the closing balance of development fund as on 31.03.2022 amounting to INR 2,98,65,893 has been considered while calculating the fund position of the school.

Therefore, the school is hereby directed to ensure that the development fund is to be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment and make rectification entries in the development fund account. Also, the school is also directed to maintain equivalent bank balance against the development fund account in accordance with clause 14 of the order dated 11.02.2009.

5. 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 all 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/Duggalcom/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 of INR 25 per student prior to admission, shall be charged.
b. **Admission Fee:** No admission fee of more than INR 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states "admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage".
c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 per student shall be charged. The caution money thus collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

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

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

Similar observation was also noted by DoE in its order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022, wherein school was directed not to collect such fee from the students with immediate effect. However, school has not stopped the collection of Transport Deposit from the students. Further, as explained by the school during personal hearing, the school has utilised the balance of transport deposit for meeting working capital expenditure and hence not maintained the balance in the bank account. Therefore, the amount of transport deposit amounting to INR 3,19,12,981 as shown in the audited financial statement for the FY 2021-22, has not been considered while deriving the fund position of the school. Accordingly, the school is once again directed not to collect Transport Deposit as mentioned above with immediate effect.

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

   The school had transferred INR 86,48,415 to G. R. Goenka Education Society till FY 2017-18 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

   Therefore, the amount transferred by the school to G. R. Goenka Education Society of INR 86,48,415 is hereby again considered as fund available with the school to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC with the direction to the school to recover the same from the society within 30 days from the date of issue of this order.

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

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

   On review of the audited financial statements for the FY 2018-19 to FY 2021-22, it has been noted that the school has been collecting caution money from the students. But only principal amount is being refunded to the students at the time of his or her leaving from the school which is not in accordance with the clause 18 of the order dated 11.2.2009 and clause 3 of the Public Noted dated 04.05.1997. Further, the school has not maintained a separate bank account for collection of caution money from the students. Similar observation was also noted by DoE in its order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022. Thus, school is hereby directed to comply with the above-mentioned provisions with respect to caution money collected from the student. Further, the amount refundable of INR 8,85,000 as on 31.03.2022 as reported in the audited Financial Statements has been considered while deriving the fund position of the school.

B. Other Suggestions for Improvement

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

   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 Health and Hygiene & Safety and Security Fee, Lab Charges, Refreshment Charges and ID Card 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	Health and Hygiene & Safety and Security Fee	Lab Fee	Refreshment Charges	ID Card Charges
For the year 2019-20				
Fee Collected during the year (A)	69,00,290	10,13,535	58,70,950	3,77,400
Expenses during the year (B)	96,54,207	2,72,291	51,64,505	3,92,224
Difference for the year (A-B)	**(27,53,917)**	**7,41,244**	**7,06,445**	**(14,824)**
For the year 2020-21				
Fee Collected during the year (A)	56,38,404	-	-	-
Expenses during the year (B)	56,89,429	33,916	2,275	
Difference for the year (A-B)	**(51,025)**	**(33,916)**	**(2,275)**	**-**
For the year 2021-22				
Fee Collected during the year (A)	60,75,006	-	-	-
Expenses during the year (B)	46,05,076	17,771	1,47,807	6,046

Difference for the year (A-B)	**14,69,930**	**(17,771)**	**(1,47,807)**	**(6,046)**
Total (Surplus)	**(13,35,012)**	**6,89,557**	**5,56,363**	**(20,870)**

*ID Card Charges and Health and Hygiene & Safety and Security Fee – these fees are collected from all students.

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 ID Card Charges and Health and Hygiene & Safety and Security Fee from all the students loses its character of earmarked levy. Thus, the school is directed not to charge ID Card Charges and Health and Hygiene & Safety and Security Fee, 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 utilised 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.

2. The school has prepared a Fixed Assets Register (FAR) that only captures the block of assets, description of assets, name of supplier, Invoice no., Invoice date, quantity and purchase cost. The FAR should also include details such as manufacturer's serial number, asset identification number, location of the asset, depreciation etc. to facilitate identification of asset and document the complete details of assets at one place. Similar observation was also noted by DoE in its order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022.

   Therefore, the school is again directed to update the fixed assets register with the above details to strengthen the internal control system of the fixed assets 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 enhancement of fee for 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 is INR **42,33,54,593** out of which the expected expenditures of the school would be INR **39,83,01,633** resulting in net surplus of INR **2,50,52,961** for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	2,19,55,031
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	11,65,00,000
Liquid Funds as on 31.03.2022	**13,84,55,031**
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	23,02,82,621

Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	58,62,970
Add: Purchase of Car as per audited financial statements **(Refer Financial Suggestion No. 1)**	93,50,952
Add: Amount recoverable from Society for additions made to building and purchase of buses **(Refer Financial Suggestion No. 2)**	7,14,08,984
Add: Amount recoverable from society on account of fund transfer to the society **(Refer Financial Suggestion No. 6)**	86,48,415
Total Available Funds for FY 2022-23	**46,40,08,973**
Less: Investment for Gratuity **(Refer Financial Suggestion No. 3)**	83,42,737
Less: Development Fund as on 31.03.2022 **(Refer Financial Suggestion No. 4)**	2,98,65,893
Less: Transport Deposit as on 31.03.2022 **(Refer Financial Suggestion No. 5)**	-
Less: Caution money as on 31.03.2022 **(Refer Financial Suggestion No. 7)**	8,85,000
Less: Transport fund as on 31.03.2022	15,60,750
Less: FDR against 3 month's salary reserve in the joint name of Manager and DoE **(Refer Note 4 Below)**	-
Net Available Funds for FY 2022-23 - (A)	**42,33,54,593**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 5 Below)**	28,20,17,403
Less: Salary arrears as per 7th CPC **(Refer Note 6 Below)**	11,62,84,230
Total Estimated Expenditure for FY 2022-23 - (B)	**39,83,01,633**
Net Surplus (A-B)	**2,50,52,961**

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 against Development Fund	3,00,00,000	Refer Financial Suggestion No. 4
FDR against Gratuity and leave Encashment	8,65,00,000	Refer Financial Suggestion No. 3
Total	**11,65,00,000**	

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*

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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:

Particulars	**Income as per AFS of FY 2021-22**	**Income Considered in the Above Table**	**Remarks**
Tuition Fee	17,85,52,961	17,85,52,961	No rebate was given, hence 100% fee has been considered for calculating the total income for the FY 2022-23.
Annual Charges	1,61,48,839	1,76,01,375	Income has been grossed up after giving effect to the rebate given by the school as per the fee reconciliation statement for the FY 2021-22.
Development Fees	2,46,59,114	2,68,65,608	
Total	**21,93,60,914**	**22,30,19,944**	

Note 3: 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 deferred income amounting to INR 2,45,44,140 being non-cash item, Miscellaneous Income written off of INR 38,896 and Profit on sale of fixed assets of INR 23,825 being the income of non- recurring nature.

Note 4: 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 3,71,94,557 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 5: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except following:

Heads	**Budget Expenditure in 2022-23**	**Amount Disallowed**	**Remarks**
Salary – Teaching Staff	12,87,27,000	1,32,54,545	Amount has been restricted to 110% of expenditure incurred in FY 2021-22
Sports Activity Expenses (Fee)	1,36,32,000	77,02,289	As per documents submitted by the school, the expenditure proposed under the head Salary –
Activity Expenses (Fees)			
Art and Craft Room Expense (Fees)			
Music and Dance Expenditure			

Heads	Budget Expenditure in 2022-23	Amount Disallowed	Remarks
Physical Fitness Expense (Fees)			Guest/Contract Teachers is against the expenses mentioned in parallel column. Hence, the same has been restricted to 110% of expenditure incurred in FY 20219-20 as no expenditure incurred in FY 2021-22 against these expenses.
Sports Activity Expenses (Fee)			
Dearness Allowance Arrears (Jan to March 2022 @ 10%)	11,50,000	11,50,000	Salary Arrears as per 7th CPC has been considered separately. Refer Note 6 Below
Salary Difference 7th Pay Commission April'22 to March'23	3,52,78,000	3,52,78,000	
Salary Arrears 7th Pay Commission: Jan 16 to March 22	14,63,82,230	14,63,82,230	
Gratuity Paid	1,67,00,000	1,67,00,000	Refer Financial Suggestion No. 3
Leave Encashment	50,43,400	50,43,400	
Gratuity/EL (Increased payable due to 7th CPC)	59,43,000	59,43,000	
Gratuity/EL (Provisions increased due to 7th CPC)	2,00,00,000	2,00,00,000	
Insurance Expenses-Buses	19,56,131	19,56,131	Neither Income nor expense has been considered while calculating fund position of the school because earmarked levies are collected on no profit no loss basis
Service Charges- Transport Staff	3,43,85,500	3,43,85,500	
Uniform and Dress (Transport Staff)	4,92,000	4,92,000	
Vehicle Repairing and Maintenance	25,80,000	25,80,000	
Vehicle Repairing and Maintenance (CNG/Diesel)	1,00,75,000	1,00,75,000	
Total	**42,23,44,261**	**30,09,42,095**	

Note 6: During the personal hearing, the school has explained that 7th CPC has not been implemented by the school yet. Further, the school has submitted 7th CPC salary arrears for the period Jan 2016 to March 2023 amounting to INR 18,16,60,230 (INR 14,63,82,230 till FY 2021-22 and INR 3,52,78,000 for the FY 2022-23) in the budget 2022-23.

However, the school was allowed 7th CPC salary arrears amounting to INR 6,53,76,000 in the order no. F.DE.15(707)/PSB/2022/4315-4319 dated 07.06.2022 issued for FY 2019-20. Hence, the remaining 7th CPC salary arrears amounting to INR 11,62,84,230 (INR 18,16,60,230 – INR 6,53,76,000) has been considered while calculating the fund position of the school.

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- 1720133) Vasant Kunj, New Delhi- 110070,** 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- 1720133)
Vasant Kunj, New Delhi- 110070

No. F.DE.15 (1233)/PSB/2022/ 1382-1386 Dated: 10/02/23

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 (South West A) 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