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

No. F.DE.15 (1|22)/PSB/2022/ 515-520 **Dated:** 16/01/23

Order

WHEREAS, **G.D. Goenka Public School (School ID-1925427), J-Block, Sarita Vihar, New Delhi-110076** (hereinafter referred to as "**the School**"), run by the Rai Bahadur Raghbir Singh Educational 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.

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 Delhi School Education Act, 1973 (hereinafter read as ***'the Act'***) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as ***'the Rules'***).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) 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 hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at 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 enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by 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 Chartered Accountants at HQ level who has 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 DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school. The school was also provided an opportunity to be heard on 12.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE.(503)/PSB/2022/2905-2909 dated 12.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

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

A. Financial Suggestion for Improvements:

1. Clause 7.24 of Duggal Committee report states "*school should be prohibited from discharging 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 is then the contribution of the society that professes to run the school*".

   Further, Clause No. 2 of the Public Notice dated 04.05.1997 sates "*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". Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure.*"

   Furthermore, Rule 176 of DSER 1973 states "*income derived from collections for specific purpose shall be spent only for such purpose*".

   Additionally, 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*".

   Further, the aforesaid savings shall be arrived at after providing for the following, namely:

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

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. In this connection, it is also important to mention that society was allotted institutional land and the cost of such land was very low as compared to the price of commercial and even residential land in that nearby location. The land was allotted to society at a very low price because society came up with the offer to do noble work in the field of education and run the school in Delhi on a "no profit "and" no loss" basis. The society also undertook to execute this work from its own resources or by arranging funds through donations/ subscriptions, or from any other legal possible manner. Considering the society's noble motive, DoE had recommended to DDA/other land-owning agencies for allotment of land to society; otherwise, it would not have been possible for society to buy such prime land in such a posh area at a very low price.

The DoE, in its Order No. F.DE.(503)/PSB/2022/2905-2909 dated 12.05.2022 issued to the school post evaluation of fee hike proposal for the academic session FY 2019-20 and Order No. F.DE.(247)/PSB/2019/1390-1394 dated 29.03.2019 issued to the school post evaluation of fee hike proposal for the academic session 2017-18, noted that the school paid amount of INR 2,81,23,983 (after adjustment of amount received from society from FY 2015-16 to FY 2018-19) towards repayment of loan and interest thereon. The loan was taken for construction of school building and purchase of vehicle. The aforesaid expenditure was incurred in contravention of above-mentioned provisions therefore, the school was directed to recover this amount from the society which is still pending for recovery. The amount calculated is provided is provided below:

Particulars	**FY 2015-2016**	**FY 2016-2017**	**FY 2017-2018**	**FY 2018-2019**	**Total (INR)**
Contribution received from society (A)	1,66,89,207	2,87,60,000	2,19,00,000	3,86,00,000	10,59,49,207
Fund Outflows:					
Secured loan Principal Repayment (B)	-	1,24,59,767	1,93,32,650	2,64,07,997	5,82,00,414
Interest Paid on Secured Loans (C)	1,55,73,872	1,63,03,893	1,41,72,611	1,07,48,875	5,67,99,251
Interest Paid on Unsecured Loan (D)	14,19,473	14,75,001	2,16,048	11,74,083	42,84,605
Repayment of Secured Loan (E)	-	-	-	-	-
Bus Loan Paid (F)	25,09,621	33,63,515	42,42,403	46,73,380	1,47,88,920
Total Fund outflow (G)=(B)+(C)+(D)+(E)+(F)	**1,95,02,966**	**3,36,02,176**	**3,79,63,712**	**4,30,04,335**	**13,40,73,190**
Net outflow from school funds (H)=(G)-(A)	**28,13,759**	**48,42,176**	**1,60,63,712**	**44,04,335**	**2,81,23,983**

Further, on review of the audited financial statements from FY 2019-20 to FY 2021-22, it has been noted that the school has made further payment towards repayment if loan and interest thereon, taken for aforesaid purposes without complying with the above-mentioned direction. The payment made by the school during FY 2019-20 to FY 2021-22 is provided below:

(Amount in INR)

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	Total
Interest on Term loan taken for purchase of Vehicle	83,04,774	64,12,783	35,08,482	1,82,26,039
Interest paid on unsecured loan	15,58,494	13,51,662	13,50,001	42,60,157
Repayment of Secured Loan	3,70,04,357	1,17,56,975	3,65,93,721	8,53,55,053
Repayment of Unsecured loan	65,00,000	-	5,00,000	70,00,000
Total Payment made (A)	**5,33,67,625**	**1,95,21,420**	**4,19,52,204**	**11,48,41,249**
Less: Contribution received from Society (B)	4,51,66,238	3,63,75,562	2,18,46,070	10,33,87,870
Balance (A-B)	**82,01,387**	**-1,68,54,142**	**2,01,06,134**	**1,14,53,379**

In addition to the above the school has purchased a vehicle of INR 33,32,878 during FY 2019-20 out of school funds. This expenditure was incurred without complying with the provisions of Rule 176 and 177 of DSER, 1973 given the fact the school neither invested requisite amount in plan assets for retirement benefits nor for salary reserve.

Therefore, the total payment of INR 4,29,10,240 i.e., (INR 2,81,23,983 plus INR 1,14,53,379 plus INR 33,32,878) utilised by the school for above mentioned purposes has been considered as fund available with the school while deriving the fund position with the direction to the school to recover the same within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

Furthermore, the school has proposed an expenditure of INR 53,50,000 as finance cost in its budget, has not been considered while deriving the fund position of the school considering the same is not in accordance with the Rule 177 of DSER' 1973.

2. As per Para 99 of Guidance note on "*Accounting by School*" issued by the Institute of Chartered Accountants of India (ICAI), relating to the restricted fund, "*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*".

Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account*".

The DoE, in its Order No. F.DE.(503)/PSB/2022/2905-2909 dated 12.05.2022 issued to the school post evaluation of fee hike proposal for the academic session FY 2019-20 and Order No. F.DE.(247)/PSB/2019/1390-1394 dated 29.03.2019 issued to the school post evaluation of fee hike proposal for the academic session 2017-18, noted that the school has utilised depreciation reserve fund for purchase of fixed assets amounting to INR 66,38,250 from FY 2016-17 to FY 2018-19 which was not in accordance with above mentioned provisions as the depreciation reserve is a notional fund. Thus, the school can't utilise depreciation reserve for purchase of assets. Further, the school didn't have sufficient liquid fund available in its development fund account. Hence, the funds used by the school for incurring capital expenditure was not in accordance with Rule 177 of DSER' 1973. Therefore, the school was directed to recover this amount from the society which is still pending for recovery.

Therefore, the amount of INR 66,38,250 utilised by the school for capital expenditure out of the school funds has been considered as fund available with the school while deriving the fund position 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 the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

3. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:

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

   Further, the para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value any plan assts 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.*"

   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"*.

   On review of the audited financial statements of FY 2021-22 revealed that the school has not charged any provision for retirement benefits in income and expenditure account as per audited financial statements of FY 2021-22. The retirement benefits are the statutory liability which the School is required to pay to their eligible employees on their retirement/resignation, as the case may be. Therefore, the school is hereby directed to create provision for retirement benefits in its books of accounts as per actuarial valuation report and make an equivalent investment in plan assets within the meaning of AS-15 issued by ICAI and report the same in its audited financial statement. The compliance of the same will be review at the time of subsequent fee hike proposal.

4. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

   Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

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

b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern '*Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]*' held that education is a noble profession and emphasized that:

"*Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis*".

The Hon'ble Supreme Court categorically held that "*though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,*"

Further, the Hon'ble High Court in LPA 196/2004 in the matter of '*Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009*' states "*no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged*".

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 1 5.12.1999 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 'Orientation fees' from the students of the nursery class 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 charging unwarranted fee under different heads or introduction of any new head in the fee structure other than the prescribed heads of fee and accumulation of surplus funds out of it is 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. Also, charging of fees in the name of Meal charges and transportation charges from the students of all classes losses the character of earmarked levies and is another form of charging capitation fee and involvement in the profiteering and commercialization of the education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible for looking after the smooth operation of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the compliance of directions of the Hon'ble High Court and Supreme Court as well as the orders/circulars issued by the Directorate of Education from time to time in this regard. The manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently, jointly as well as in their personal capacity, be responsible for the levy and collection of capitation fees and any other unauthorized fees collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect. The school is also directed to submit compliance with this direction 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.

5. *Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed".* Further, Rule 180 (1) of DSER, 1973 states *"every recognized private school shall submit returns and documents in accordance with Appendix-II".*

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, the DoE vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, specified the format of returns and documents submitted to be submitted by the private unaided recognized schools. As per this order the format of the financial statements shall be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time by ICAI.

Based on the abovementioned provisions, every private unaided recognized school is required to get its accounts audited by the Chartered Accountant before submission of return under Rule 180(1) of DSER, 1973. The documents submitted by the school were taken on record. Review of the audited financial statements and Independent Auditors Report from FY 2019-20 to FY 2021-22 revealed the following:

a. The audit report has been issued in Form 10B under the Income Tax Act, 1961 which is not in conformity of the above-mentioned provisions.

b. The auditor has not given any reference of Receipt and Payment Account in his auditor's report.

c. The auditor has provided some of the observation as part of the audited financial statements. However, the auditor has not mentioned implication of the same on the audited financial statements.

In view of the above, the school is hereby directed to get its accounts in accordance with above mentioned provisions and resolve all queries raised by the statutory auditor before completion of the audit. However, for evaluation of fee hike proposal for academic session 2022-23, balance sheet and income and expenditure submitted by the school has been considered.

B. Other Suggestion for Improvements

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

Further clause 21 of the aforesaid order "*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.*"

And as per clause 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 "*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.*"

As per Rule 176 of the DSER, 1973 "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Further, sub-rule 3 of Rule 177 of DSER, 1973 provides "*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).*" And, 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.*"

However, as per audited financial statements of FY 2019-20, it has been noted that the school charges earmarked levies in the form of Transport Fees, Meal charges, Orientation fees from students. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

The aforementioned Guidance Note also lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fees, ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

2. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:

- No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

3. 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 the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	969
EWS Students*	180
% of EWS students	18.58%

**Included EWS and other non-fee paying students.*

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

i. The total funds available for the FY 2022-23 amounting to **INR 16,09,72,211** out of which expected expenditures for the FY 2022-23 would be **INR 17,72,75,130** resulting in net deficit of **INR 1,63,02,919.** The detailed calculation is provided below:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	(75,41,854)
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	1,24,895
Liquid Fund as on 31.03.2022	**(74,16,959)**

Particulars	Amount (INR)
Add: Amount recoverable from society for repayment of loan taken for construction of building and purchase of vehicle **(Refer Financial Suggestion No. 1)**	4,29,10,240
Add : Amount recoverable from the Society for purchase of fixed assets out of depreciation reserve fund **(Refer Financial Suggestion No. 2)**	66,38,250
Add: Fee as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	12,58,22,086
Add: Other income as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 1 below)**	50,31,831
Add: Additional income of annual charges and development fund **(Refer Note No. 1 Below)**	41,32,599
Less: Annual charges related to FY 2020-21 recorded in FY 2021-22	(1,11,39,504)
Less: Deferral income (being notional in nature)	(45,57,638)
Less: Earmarked income of FY 2021-22 **(Note No. 2 Below)**	(2,69,257)
Total Available Funds for FY 2022-23	**16,11,51,648**
Less: FDR in the Joint Name of School Manager and CBSE as per Audited Financial Statements of FY 2021-22	1,24,895
Less: Gratuity and leave encashment- LIC as per Audited Financial Statements of FY 2021-22 **(Refer Financial Suggestion No. 3)**	-
Less: Depreciation reserve fund **(Refer Note No. 3 Below)**	-
Less: Salary reserve **(Refer Note No. 4 Below)**	-
Less: Development Fund as on 31.03.2022	54,542
Net Available Funds for FY 2022-23	**16,09,72,211**
Less: Budgeted Expenditure for FY 2022-23 **(Refer Note No. 5 & 6 Below)**	16,29,48,000
Less: Salary Arrears **(Refer Note No. 7 Below)**	1,43,27,130
Estimated Deficit	**1,63,02,919**

Note 1: 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 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 government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, 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 commercialisation, directed to the management of all the petitioners private unaided recognised schools through its order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021:

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

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

(iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

From review of the audited financial statements for FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges its audited financial statements. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order after deducting the income of FY 2020-21 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	9,03,83,083	9,03,83,083	
Annual Charges	1,53,96,326 (after adj. arrears of FY 2020-21)	1,81,13,325	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	80,21,736	94,37,336	

Note 2: Income related to earmarked levies have not been considered in fund position table.

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fees is comprised of "*registration fee and all one-time charges*" levied at the time of admission, such as admission charges and caution money. The second category of fee comprises the '*Tuition Fee*', which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like libraries, laboratories, science, and computers up to class X and the 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 be recovered only from the 'User' students. These charges are transport fees, 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 fee head has already been defined, and the use of development fees or any other fee heads for investments against the depreciation reserve fund is not mentioned anywhere.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

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

Thus, the creation of the depreciation reserve fund is a pre-condition for the charging of development fee, as per the above provisions and the decision of the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., 2004(5) SCC 583. despite the fact that clause 7 of the preceding directive does not require the keeping of any investments in a 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 merely 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 the depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for FY 2021-22 has not been considered while deriving the fund position of the school.

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.

Therefore, the school proposed INR 60,00,000 in its budget of FY 22-23 towards salary reserve without earmarking investment in accordance with the above-mentioned provisions. Therefore, it has not been considered while deriving 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 the following:

Particulars	Amount disallowed (INR)	Remarks
Provision for one month salary	60,00,000	Refer Note No. 3
Earmarked Levies	2,53,00,000	Neither income nor expense of earmarked levies have been considered.
Finance charges	53,50,000	Refer Financial Suggestion No.1

Note 6: While evaluating fee hike proposals, the department considers how much liquid funds would require the school for a particular session for smooth operation of the school without compromising on the quality of education. Thus, while deriving the fund position of the school, all legitimate expenditures of revenue as well as capital in accordance with the provisions of DESAR, 1973 and the pronouncement of court judgement have been considered. Therefore, the balance of other current assets and other current liabilities has not been considered. Because it is obvious that current assets, loans and advances, and current liabilities are cyclical in nature, and this has already been considered in the form of the school's budgeted income and expenditure in previous years. Thus, current assets, loans and advances, and current liabilities will always be reflected in the audited financial statements of the school at the end of each financial year.

Note 7: Salary arrears towards implementation of 7th CPC of INR 1,43,27,130 for FY 2020-21 and FY 2021-22 as claimed by the school has been considered.

ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 April 2010 states that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of the 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, along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that sufficient funds are not 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 accepted.

AND WHEREAS, the school has incurred expenditure towards repayment of loan and interest thereon taken for purchase of building and vehicles of INR 4,29,10,240 in contravention of clause 2 of public notice dated 04.05.1997 and Rule 176 and 177 of DSER, 1973. The school has incurred capital expenditure of INR 66,38,250 out of school funds without complying with requirement of 177 of DSER 1973. Accordingly, the school is directed to recover the aforesaid amounts within 30 days from the date of issue of this order. Noncompliance with this directive will be taken seriously in accordance with the provisions of the DSEAR, 1973, with no further opportunity to be heard.

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

AND WHEREAS, it is relevant to mention that charging of any arrears on account of fees for several months from the parents is not advisable, not only because of the additional sudden burden falling upon the parents/students but also, as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases, as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. 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 14% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of chartered accountants along with relevant materials were put before the Director of Education for consideration, who, after considering all the material on the record, and after considering the provisions of Section 17 (3), 18(5), and 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 2022-23. Hence, for smooth payment of salaries and other employees' benefits, the fee hike is required to the School.

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

Accordingly, it is hereby conveyed that the proposal for fee hike **G.D. Goenka Public School (School ID-1925427), J-Block, Sarita Vihar, New Delhi-110076** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 14% to be effective from 1 October, 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 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-1925427),
J-Block, Sarita Vihar,
New Delhi-110076

No. F.DE.15 (1122)/PSB/2022/515-520

Dated: 16/01/23

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 East) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. DE's nominee concerned.
6. Guard file.

Nandini

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