

**Office of the Chairperson
Committee for Fixation & Regulation of Fee of Private
Schools, J&K (FFRC)**

**Order No: 159 -FFRC (FF) of 2023
Dated: 14 / 08/2023**

Sub: Fixation and Regulation of Fee of Delhi Public School, Athwajan Srinagar.

Delhi Public School, Athwajan Srinagar submitted file for fixation and regulation of fee structure of the School, which has been registered in FFRC office under No. **FFRC/FF/2021/Sgr/270**.

Owing to lack of quality education in the 'Government Schools', 'Private Educational Institutions' have been established in the Country. There are two (02) categories of 'Private Institutions', one is 'Aided' and the other is 'Unaided'. The Right to Open Educational Institution is a 'fundamental right', but has been categorized as an 'Occupation' under Article 19 of the Constitution. Occupation is an activity, which allows the persons 'living' and 'engaging' in various activities. Establishment of a 'Private Educational Unaided Institution' has been categorized by the Hon'ble Supreme Court as an act of 'imparting quality education' to the Students. The Court has also recognized that 'Private Institutions' have a right to 'Administer' and 'Manage' the Institution. It is a very wide expression which encompasses all the activities relating to the establishment of the Institution, its management as also to fix its fees. The activity undertaken by the 'Private Institutions' in running of the Institutions indicates determination of fees as also visualizing such steps, which are necessary for running of the Institution, including its 'infrastructure' and opening of other facilities.

Each institute must have the freedom to fix its own fee structure taking into consideration the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students. They must also be able to generate surplus which must be used for the betterment and growth of that educational institution what specifically is barred is, "activity of commercialization" of institution. The establishment of educational institution is considered to be 'charitable in nature'. Thus the surplus/profit that can be generated must be only for the benefit/use of that

educational institution. Profits/surplus cannot be diverted for any other use or purpose and cannot be used for personal gain or for any other business or enterprise.

Each Institute must place before this Committee, well in advance of the academic year, its proposed fee structure. Along with the proposed fee structure, all relevant documents and books of accounts must also be produced before the committee for their scrutiny. The Committee shall then decide whether the fee Structure proposed by the institute are justified and are not profiteering or charging capitation fee. The Committee will be at liberty to approve the fee structure or to propose some other fee which can be charged by the institute. What is permissible, under law, is to give autonomy to the Institution in respect of its needs, the source from which school generates funds and establishment of facilities which are for the benefit of the Students.

While fixing/regulating the fee structure once proposal is received as prescribed, besides other factors expenditure only related to imparting education and running academic, curricular and extra-curricular activities is considered and in no way it shall include any item or service (s) which is luxurious in nature and un-related to imparting Education. All fee charged shall commensurate to the facilities provided.

Established institution is an occupation as envisaged in Article 19 of the constitution. The word occupation has been defined by the Supreme Court as all such activities through which a man earns his livelihood. All it provides in its fold is any activity carried on by a citizen to earn his livelihood and not make it a business enterprise. The right to establish an educational institution can be regulated but such regulatory measure must be to ensure proper educational atmosphere, infrastructure and prevention of maladministration by those who are in-charge of management. Fixing of a rigid fee structure would be an unacceptable restriction. This is clearly stated by the Supreme Court in TMA Pai Foundation VS State of Karnatka case. While exercising its powers of regulation of fee, the committee cannot go into desirability and appropriateness of expenses incurred by the institution as per its own notions and standards. This view has been expressed by Supreme Court in AIR 2021 on page 1143.

The parameters to regulate and determine the Fee are specifically contained in Section 20 D of Education Act 2002 amended from time to time. Each institution has the freedom to propose its own Fee Structure taking into consideration the need to generate funds to run the institution and provide facilities for the benefit of students. It

must be able to generate surplus which must be used for growth and betterment of the institution. The Committee while exercising its regulatory power and determination is required to keep in mind that the institute is not involved in commercializing this activity. The bottom line is that their surplus /Profit should not exceed 15 to 20% of their revenue. It is in this area where the committee has dominant role to determine whether the institution is indulging in commercialization or not. It is also emphasized that audit reports submitted by the schools are normally to be accepted unless there are some glaring aspects which lead to the conclusion that the institution is involved in commercial activity. It is in this backdrop the case of present school is analyzed.

It is necessary to indicate the infrastructure facilities provided by the school while determining the fee structure. The following observations about the infrastructure were noted:

Building Name	Particulars
LRC Learning Resource Centre	Ground+ 4 Floors+ Hall, Washrooms 3 for boys and 3 for girls, conference hall and a ramp. This building is only used for special children and he visually impaired.
Tiny Tots: 36 Class rooms	3 Floors –From Class LKG to class II Medical Room, Art Room, Music Room Library, Computer room, Staff Room, etc washrooms 3 for Boys and 3 for Girls.
Medical block	Ground + 2 Floor Indoor Play Hall, Isolation room, conference Hall with Audio Visual Facilities, Crush for staff b aies, self student waiting room, parent interaction Halll, Canteen, Washroom 6 No
Admission Block	Single Storey with Accounts Department and Fee Collection Centre.
Main Building Ist: Class 3 rd to 5 th 27 classrooms	Basement + 4 Floors Basement: (Atal Lab, Computer Museum, Legal Studies Room, Audio visual Conference Hall, Radio DPS, CTO Office , Canteen, Home Science Lab. Ist Floor :Principal Room, Examination Cell, Admin Office 2 nd Floor: Computer Room 2 No, Staff Room 2 No , Career Counselling Room,, IT Room 3 rd Floor : CCTV Minotoring room for 400 cameras, Video Graphic room, E Library. 4 Th Floor: Music Room 2 No, Art Room , Computer Lab. Washrooms 5 for Boys and 5 for girls.
Main Building -2 nd : Class 6 th to 10 th 45 class rooms	Basement + \$ Floor Medical Room, Chemistry Lab, Physics Lab, Biology Lab, Math Lab, Canteen,English Lab, Counselling room 2 No, Music Room 2 No , Art Room 2 No, Computer Labs 3 No, Examination Hall, Washroom 3 No for boys and 3 or girls

Senior building 11 th and 12 th 22 classrooms	Ground Floor + 4 Floor Four Lecture Halls, Audio Visual Hall Cinema Type, Exam Hall, Canteen, Art Room , Subject Discussion Room Washroom for 2 for Boys and for Girls.
Indoor Stadium For Basketball, table tennis, chess, yoga and functions	Pavilion facing the Ground Washroom 1 for boys and 1 for girls
Indoor Swimming Pool	Ground + 1 Floor Having change rooms and washrooms also
Water World for Kids	Swimming facilities and water games etc.
Guest House For visiting faculty and exchange programmes	Ground + 5 Floors with adequate washrooms
Behind Swimming Pool	Macadamised Area for buses and workshop, washing area for vehicles, steel fabrication, carpenter workshop, plumber workshop , Drivers Room
Sports Complex	Cricket Academy, Badminton Academy, Mechanical Waste Management Plant.
Electric and Solar Center	Electric Sub –Station : Generator Room for 3 Generators.
Playing Ground : 18000 Sq Ft. (Appx)	Open area for playing regular games like cricket, football, basketball, volleyball etc.

The DPS (Delhi Public School) was established in 2002 and is spread over 118 Kanals of land. After the establishment of the Committee in 2015, step to regulate the fee structure of the Schools was initiated. The fee of the present institution (DPS) was first time regulated vide Order No. 239-FFC of 2017 dated 20.11.2017 for Session 2015-16 and 2016-17. It is pertinent to mention that in 2017-18, the School had reduced the fees of its own. However, subsequently in 2019, it fixed the fees as per the details given below:

Tuition Fee approved by the Committee for 2015-16.

Tuition Fee	
LKG to 5 th	Rs. 2400/-
6 th to 10 th	Rs. 2800/-
11 th & 12 th	Rs.3400/-

Tuition fee fixed for 2016-17;

Tuition Fee	
LKG to 5 th	Rs. 2590/-
6 th to 10 th	Rs. 3025/-
11 th & 12 th	Rs.3670/-

Tuition Fee charged by the school in 2017-18

Tuition Fee	
LKG to 5 th	Rs. 2400/-
6 th to 10 th	Rs. 2800/-
11 th & 12 th	Rs.3400/-

Tuition Fee charged by the school in 2018-19.

Tuition Fee	
LKG to 5 th	Rs. 2750/-
6 th to 10 th	Rs. 3250/-
11 th & 12 th	Rs.3950/-
Admission fee	1,10,000
Annual Fee	8700

The school at present is charging the same fee as was being charged in 2018-19.

The school has proposed fee Structure for 2021-22 as under;

Class	LKG	UKG	1 st	2 nd	3 rd	4 th	5 th	6 th
Tuition Fee	3500	3500	3500	3500	3500	3500	3500	4000
Annual Fee	22500	22500	22500	22500	22500	22500	22500	22500
Class	7 th	8 th	9 th	10 th	11 th	12 th	X	X
Tuition Fee	4000	4000	4000	4000	5500	5500	X	X
Annual Fee	22500	22500	22500	22500	22500	22500		

As per the norms set out by the Committee in absence of the 'Act' and 'Regulations', the School was required to file its "fee file". The School was required to submit the 'fee file' to the Committee. In the present case, the file was submitted to the FFRC in 2021, in which the School reflected the fee, which was being charged from the Students in 2019. After the submission of the file, various queries were raised by the committee and the management replied them from time to time, which includes granting 'personal hearing'. After scrutiny of the file and requisite information, this Committee vide its Order No. 636-FFRC(FF) of 2021 dated 01.11.2021 ordered that not being satisfied with the 'documents' as well as 'Audit Report' submitted, it was directed that an 'Independent Auditor' be appointed for looking and enquiring into the 'financial affairs' of the DPS Athwajan, Srinagar, more particularly in the light of 'observations' made in said order.

As a consequence of this, an 'Independent Authority' was constituted by the Government vide Order No. 2081 JK (Edu) of 2022 dated 29-09-2022 and one **M/s JSVP & Co. Chartered Accountants**, First Floor, North Block, Bahu Plaza, Jammu, was appointed as independent auditors for carrying out the enquiry into financial affairs of Delhi Public school Athwajan Srinagar. The authority submitted its 'Report', affirming the 'Audit Report' submitted by the Managing Committee. However, the auditor found that the School had charged 'admission fees' for two (02) years i.e. 2019-20 & 2020-21 in violation of statutory order. On submission of its report, former Chairperson did not agree with the report and, as a matter of fact, contested findings of the Auditor as being not in conformity with the observations made hereinabove. In his report, he directed the matter to be put up before the Committee. On assumption of the charge by the new Chairman, the matter was examined in the light of the observations made by the Auditor as well as by the former Chairperson and it was found appropriate to refer for 'second opinion' to an 'Independent Auditor', who happens to be a 'Chartered Accountant'. This is so because auditing an account is in the field of 'accounting' and only 'experts' can comment on the intricacies of the accounting. The obtaining of 'second opinion' was necessary in order to come to a proper conclusion. In this behalf, the matter was referred to **Mr. Showkat Ahmad Peer (Chartered Accountant)**, who is acting as a 'Member of this Committee', for his opinion. He has filed his report principally agreeing with the report of the earlier Auditor, of-course with some observations on

certain issues to be debated by the Committee.

The School Management has filed documents for regulating its fee structure for the year 2019-20, 2020-21, 2021-2022 and 2022-2023. School management seeks enhancement of fees at the rate of 8% per year. The Management also seeks enhancement of 'annual fees' at the rate of Rs. 22,500/- per year. It is important to mention that various guidelines have been laid down by the Hon'ble Supreme Court, under the Rules as well as under the J&K Education Act and Regulations framed therein, providing parameters for fixing fee structure of an Institution. Under Section 20 (d) of the 'Education Act' and 'Regulations', the basic factors to be taken into consideration is the 'location', 'available infrastructure', 'expenditure on administration', 'the result of Students achieved', 'strength of Students', 'number of library books', 'class rooms', 'sanitary and drinking water facilities', 'providing of modern air conditioning', 'smart classes' and 'other facilities'. It is, in this backdrop, that the fee structure of the Institution has to be fixed. Before advertng to the facts, it is necessary to mention that the school is located at PanthaChowk on the main National Highway. As per the record submitted by the school, details of infrastructure and other facilities are as under;

1. The School is spread on 118 Kanals of land of land
2. . The school has 5000 students and over six hundred employees.
3. The school is first in the country which is 100% solar powered and fully centrally heated and having smart classes.
4. Only school among very few schools in the country taking care of children with special needs and visually impaired children.
5. The school is having well equipped laboratories, robotic laboratory recognized by NITI Ayog.
6. The school has two main libraries one containing 55000 books and other junior library having 12000 books
7. Fully functional e-library with eighty computers.
8. Two computer labs with total strength of 640 computers
9. The school has 04 councellors, four in-house doctors, two nurses and three fully equipped medical rooms.
10. Two English Labs, five lecture Halls.
11. One big auditorium.

12. Hostel of 200 beds for school faculty and visiting faculty and students.

13. More than 200 students are provided scholarship.

To verify the infrastructure and the facilities hereinabove chairperson FFRC along with two (02) officials also inspected the School and, by and large, what has been mentioned hereinabove, was found to be correct. The second aspect of the matter, as required to be seen, is, what is the financial position of the Institution? The School has submitted the 'Audit Report' of the last three (03) years. We have perused the 'Income and Expenditure' Status filed by the School. After examination, following observations were made;

A. Income details

Income	2017-18	2018-19	2019-20	2020-21	2021-22
Admission Fee	5,84,51,000	5,12,20,000	4,91,70,000	4,49,46,400	32,25,000
Bus Fee	6,43,48,000	8,25,53,583	8,38,09,300	2,37,06,504	3,03,76,824
Tuition Fee	13,44,05,743	16,01,74,438	16,49,63,040	16,62,83,166	16,65,16,150
Other income	4,51,63,925	7,37,76,732	4,12,52,010	3,39,22,688	4,59,81,945
Total	30,23,68,695	36,77,24,753	33,91,94,350	26,88,58,758	24,60,99,919

B. Expenditure Details

Expenditure	2017-18	2018-19	2019-20	2020-21	2021-22
Financial charges (interest part)	1,77,00,018	1,45,63,630	1,75,47,186	1,56,79,632	1,44,21,559
Transport Expenses	7,85,09,712	9,21,60,449	8,98,85,489	4,41,32,646	3,51,70,410
Establishment Expenses	11,26,44,126	13,33,45,000	14,58,13,277	12,70,58,540	13,22,33,072
Depreciation	2,93,40,843	3,23,58,051	3,58,21,737	3,25,96,366	3,07,94,064
Other expenses	7,49,66,151	9,79,28,531	7,34,47,264	5,51,47,890	4,99,88,827
Total	31,31,60,850	37,03,55,661	36,25,14,953	27,46,15,073	26,26,07,932
C. Deficit (A-B)	10792155	2630908	23320603	5756314	16508013

The analysis of financial statements from the financial year 2017-8 to 2021-22 shows that the school is running in deficit. The school has not made increment in fee structure from 2019-20 as the case of the school was under consideration and the management was waiting for the approval of fee structure proposed from 2019-20 and onwards from the committee.

The financial statements were placed before the Ld. Chartered accountant (Member FFRC) who after pursuing financial position of the school has observed as under;

“In my opinion reasonable percentage of increase in tuition fee and annual charges need to be made in order to cover existing deficit and to maintain a reasonable surplus, so that the school management will be in a position to run the institution smoothly”.

On due consideration of the material produced by the School management, the financial aspects, observations reflected supra and after considering all relevant factors which govern the subject, the Committee finds it just and proper to fix and regulate the fee structure of the school and allow the school to charge fee from the students as under ;**(The Fee structure shall have prospective effect).**

Session 2023-24:

Class	LKG	UKG	1st	2nd	3rd	4th	5th	6th
Tuition Fee	3380	3380	3380	3380	3380	3380	3380	3990
Class	7th	8th	9th	10th	11th	12th	X	X
Tuition Fee	3990	3990	3990	3990	4850	4850	X	X

Annual Fee of the School is fixed as under; based on the record submitted by the school particularly expenditure statement and the facilities provided; The Annual fee shall include all the components including camps/tours etc.

Annual Fee Session 2023-24 :(The Fee Structure Shall have prospective Effect and the school management is directed to collect the enhanced fee if any in two installments.)

Class	LKG	UKG	1st	2nd	3rd	4th	5th	6th
Tuition Fee	13000	13000	13000	13000	13000	13000	13000	14000
Class	7th	8th	9th	10th	11th	12th	X	X
Tuition Fee	14000	14000	14000	14000	15000	15000	X	X

The School management is directed to make a reasonable hike in the salary of staff.

The school management has received admission fee from the students during 2019-20 & 2020-21 in violation of statute, orders of Government/Committee, issued on the subject. The school management is directed to return the admission fee to the students from whom such fee has been charged within two years. The School management shall submit an undertaking stating the procedure for return of admission fee charged in violation of statute and shall also submit compliance report to this office alongwith details.

The School management is directed not to charge any fee from the students other than the fee approved by the Committee. The School management shall abide by the section 20E(1) of Jammu and Kashmir School Education Act amended from time to time in charging the school fee.

The Section 20 E (1) provides that *“Private schools shall not charge any fee from the students or guardians, except tuition fee, annual fee, transport fee and voluntary special purpose fee such as the picnic, tour and excursions, etc. completely voluntary in nature or any other fee as may be approved by the Committee for Fixation and Regulation of Fee of Private Schools after following the procedure prescribed.”*

The School management is also directed not charge in any manner, any other fee including admission fee/Security deposit/refundable fee/ or any amount, by whatever name called than the fee mentioned in Section 20 E (1).

The School management is further directed not to make any future enhancement in fee structure under any head without permission of the Committee or charge any fee under any head created after issuance of this order without seeking prior approval from the Committee.

Non- compliance will attract penal action under Law.

The fee structure approved is subject to review in case the Committee at any stage finds that the school management has either concealed or provided any wrong information/data desired as per the proforma for fixation and regulation of Fee.

(The school management shall display this approved fee structure on the school notice Board and upload the same on school website.)

Sd/-

Mr Showkat Ahmad Peer (CA)
(Member FFRC)

Sd/-

Smt. Manisha Sarin, (JKAS)
(Secretary JK BOSE)
(Member FFRC)

Sd/-
Sh. Alok Kumar, (IRS)
Principal Secretary to Govt.
School Education Department
(Member Secretary FFRC)

Sd/-
Justice Sunil Hali
(Former Judge)
Chairperson
Committee for Fixation & Regulation
Of Fee of Private Schools J&K (FFRC)

No.FFRC/FF/2021/Sgr/270 | 3895

Dated: - 01 / 09 / 2023

Copy to:-

1. Director School Education Jammu/Kashmir for information and n/a;
2. Secretary J&K Board of School Education (Member FFRC) for information;
3. Mr. Showkat Ahmad Pir CA (Member FFRC) for information;
4. Private Secretary to Principal Secretary to Government School Education Department (Member Secretary FFRC) for information of the Principal Secretary;
5. P. A. to Chairperson, FFRC for information of the Hon'ble Chairperson, FFRC;
5. Principal, DPS Srinagar, for compliance;
6. I/C Website for uploading the same on official website;
7. Office file.


Administrative Officer
(FFRC)
01/09/2023

The order was passed in FFRC meeting dated 14-08-2023, The Director School Education Kashmir (Member FFRC) could not attend the meeting due his official engagement with Independence Day celebrations.

