

BEFORE THE FEE REVISION COMMITTEE

(A Committee constituted under Section 13(1) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018)

REVISION APPLICATION NO. FRC-R-926460

AND

REVISION APPLICATION NO. FRC-R-644062

IN RE: REVISION APPLICATION SUBMITTED BY

GURUKUL GRAMMAR SCHOOL, GUWAHATI

DATE OF ORDER: 05-01-2024

MEMBERS PRESENT: -

- 1) Hon'ble Justice (Retd.) Smt. Rumi Kumari Phukan,
Former Judge, Gauhati High Court, Guwahati Chairperson
- 2) Sri S.N. Chowdhury, IAS
Secretary to the Govt. of Assam
Department of School Education Member
- 3) Smt. Mamata Hojai, AES
Director of Secondary Education, Assam Ex-Officio
Member Secretary
- 4) Smt. Kaberi Bhuyan,
Chartered Accountant, Guwahati Member
- 5) Sri Arup Bujarbarua
Principal, Sankardev Sishu Niketan
Birubari, Guwahati Member

DETAILS OF THE SCHOOL APPLYING FOR REVISION: -

- 1. Name of the Trust: Gurukul Educational Trust.**
- 2. Name of the School: Gurukul Grammar School, Guwahati.
(Gurukul Grammar Senior Secondary School, Guwahati)**
- 3. Type of School: Higher Secondary School**

ORDER

1. Both Revision petitions are taken together for hearing, the issue being identical and going to dispose off by way of this common order.

In the first Revision petition the **GURUKUL GRAMMAR SCHOOL, GUWAHATI** (registered as Gurukul Grammar Senior Secondary School) hereinafter referred to as 'the School', has preferred the revision petition against the order of Fee Regulatory Committee (hereinafter referred to as 'FRC') dated 23.04.2021, for the Financial Year 2021-22, wherein the FRC has reduced the fees of students of all category against their prayer for increasing their fees on each standard.

The Second Revision petition is preferred against the Order of FRC dated 21.09.2022, for the Financial Year 2022-23, 2023-24 & 2024-25, wherein the fees of the school have been reduced against their proposal by the FRC.

Gurukul Grammar Senior Secondary School, Guwahati, is a private school that was established by Dr. B. K. Bhuyan in 1993 and was registered under the Gurukul Educational Trust in the year 1999, with an objective to impart quality education to the students.

2. The School preferred an application for fixation of fees on 26.01.2021 for the year 2021-22 proposing fees from Class LKG to Class XII starting from ₹ 32,012/- upto ₹ 41,358/- and the FRC reduced the amount of fees considering all relevant documents. In the second application preferred on 15.06.2022 before FRC praying for fixation of fees on higher rate which was disposed off by FRC on 21.09.2022, again reducing the fees against the proposal. The following chart is prepared to reflect the proposal of the school and the approval order by the FRC.

FEE STRUCTURE FOR THE ACADEMIC YEAR 2021-22

STANDARD	PROPOSED FEE FOR 2021-22	FEE APPROVED BY FRC	NEWLY PROPOSED FEE IN THE REVISION APPLICATION 2021-22	FEE INCREMENT (IN RUPEES) IN REVISION APPLICATION	PERCENTAGE IN FEE INCREMENT
Nursery or Equivalent	32012	29912	49176	19,264	39.17%
LKG or Equivalent	32397	30297	50166	19,869	39.61%
UKG or Equivalent	32397	30297	50166	19,869	39.61%
Standard I	34722	32622	53574	20,952	39.11%
Standard II	34722	32622	53574	20,952	39.11%
Standard III	34722	32622	53574	20,952	39.11%
Standard IV	35689	33589	54774	21,185	38.68%
Standard V	35689	33589	54774	21,185	38.68%
Standard VI	35422	34322	55374	21,052	38.02%
Standard VII	36658	34558	55980	21,422	38.27%
Standard VIII	36658	34558	55980	21,422	38.27%
Standard IX	37622	35522	57174	21,652	37.87%
Standard X	37622	35522	57174	21,652	37.87%
Standard XI (Arts Stream)	41358	39258	66780	27,522	41.21%
Standard XII (Arts Stream)	41358	39258	66780	27,522	41.21%
Standard XI (Science Stream)	43566	41466	71172	29,706	41.74%
Standard XII (Science Stream)	43566	41466	71172	29,706	41.74%
Standard XI (Commerce Stream)	41358	39258	66780	27,522	41.21%
Standard XII (Commerce Stream)	41358	39258	66780	27,522	41.21%

FEE STRUCTURE FOR THE ACADEMIC YEAR 2022-23, 2023-24, 2024-25

STANDARD	PROPOSED FEE 2022-23, 2023-24, 2024-25	FEE APPROVED BY FRC	NEWLY PROPOSED FEE IN THE REVISION APPLICATION 2022-23, 2023-24, 2024-25	FEE INCREMENT (IN RUPEES) IN REVISION APPLICATION	PERCENTAGE IN FEE INCREMENT
Nursery or Equivalent	55743	39020	50176	11,156	22.23%
LKG or Equivalent	56832	39782	51166	11,384	22.25%
UKG or Equivalent	56832	39782	51166	11,384	22.25%
Standard I	60581	42407	54574	12,167	22.29%
Standard II	60581	42407	54574	12,167	22.29%
Standard III	60581	42407	54574	12,167	22.29%
Standard IV	61901	43331	55774	12,443	22.31%
Standard V	61901	43331	55774	12,443	22.31%
Standard VI	62561	43793	56374	12,581	22.32%
Standard VII	63228	44260	56980	12,720	22.32%
Standard VIII	63228	44260	56980	12,720	22.32%
Standard IX	64541	45179	58174	12,995	22.34%
Standard X	64541	45179	58174	12,995	22.34%
Standard XI (Arts Stream)	75108	52576	67780	15,204	22.43%
Standard XII (Arts Stream)	75108	52576	67780	15,204	22.43%
Standard XI (Science Stream)	79939	55957	72172	16,215	22.47%
Standard XII (Science Stream)	79939	55957	72172	16,215	22.47%
Standard XI (Commerce Stream)	75108	52576	67780	15,204	22.43%
Standard XII (Commerce Stream)	75108	52576	67780	15,204	22.43%

3. While preferring the first Revision application against the Order of FRC dated 23.04.2021, the petitioner school preferred an application for condonation of delay in preferring the Revision petition, which was received by the office on 16.08.2021 by Email and the office endorsed the application on 18.08.2021. In support of the delayed condonation prayer, the petitioner school enclosed the order of the Hon'ble Supreme Court dated. 27.04.2021 IN RE COGNIZANCE FOR EXTENSION OF LIMITATION VERSUS XXXX Respondent (s) in Misc Application No. 665/21 in SMW(C) No. 3/2020.
4. From the records it reveals that the said Revision petition along with the condonation was not taken up by the earlier Chairperson and by resolution in the meeting dated 26.09.2021. The earlier Chairperson directed that the Revision petition preferred by the school be placed before a separate committee without the Chairperson. The matter was intimated to the Principal Secretary to the Govt. of Assam, Education Department on dated 30.10.2021 vide No. FRC.05/2021/100, that the Chairperson of Fee Revision Committee is unwilling to settle the revision application submitted by Gurukul Grammar School due to some unavoidable personal reason and hence, requested the Govt. to appoint another Chairperson from Judicial member to the Fee Revision Committee only for settlement of Revision petition submitted by the school. The reply received from the office of the Addl. Secretary to Govt. of Assam on dated 06.07.2022 vide Memo No. ASE.76/2021/29, that there appears no such provision in the Assam Non-Govt. Educational Institutions (Regulation of Fees) 2018 and the Rules 2020 for providing any temporary arrangement and/or enabling the Govt. to act upon the instant proposal. The matter paused at that stage and in the meantime as the tenure of earlier Chairperson ended on 17.03.2023, so, the new Chairperson was appointed on 03.05.2023, who resumed the duty on 12.05.2023.
5. After assuming office, the new committee considered the view that the committee should reduce the pendency of Revision Petition for which earlier Revision petitions 5 (Five) in numbers were taken up and disposed off. Thereafter, the present petitions were taken up on 19.09.2023 and the matter of condonation was also heard simultaneously. The school relied upon the judgement of the Hon'ble Supreme Court and the prevailing situation under the covid pandemic.

After examination of all the documents filed by the school before the FRC it was observed that there was inadequacy in the submission of documents and necessary data and hence, the school was directed to submit as many as 8 (Eight) relevant documents before the Committee. The school prayed for time to produce the documents which was allowed and in the process of examining the vital documents the committee held

three sittings. In the given backdrop there remains no point in rejecting the prayer for condonation as the condonation petition was filed far back in the year 2021 and no any order was passed on the same.

On the other hand, the Hon'ble Supreme Court in its order as referred above, has clarified that **the period of limitation, as prescribed under any general or special laws in respect of all Judicial or Quasi-Judicial proceedings whether condonable or not, shall be extended until further order.**

6. Taking note of all the above, the committee allowed the prayer of condonation of delay by the petitioner School in preferring the Revision petition (Herein the First Petition). However, the second Revision petition was filed within the statutory period.
7. Coming to the first Revision petition, it is to be noted that the FRC has considered the proposal made by the school and has issued the final Order dated. 23.04.2021. In their Revision application, the school has suddenly filed a new chart reflecting the fee for the previous year charged by the school and the fees proposed by the school, and the fees fixed by the committee, which is reflected below.

Sl No.	Standard	Fee for previous year charged by the school	Fee fixed by the committee
1.	Nursery	49176	29912
2.	LKG	50166	30297
3.	UKG	50166	30297
4.	I	53574	32622
5.	II	53574	32622
6.	III	53574	32622
7.	IV	54774	33589
8.	V	54774	33589
9.	VI	55374	34322
10.	VII	55980	34558
11.	VIII	55980	34558
12.	IX	57174	35522
13.	X	57174	35522
14.	XI- Science	71172	41466
15.	XI- Commerce	66780	39258
16.	XI- Arts	66780	39258
18.	XII- Science	71172	41466
19.	XII- Commerce	66780	39258
20.	XII- Arts	66780	39258

8. The justification and reasons for increase in fees that no school fee was increased since the last Eight years, only a small percentage of 2-3% has been increased in every year, keeping in mind inflation rate prevailing in the country. Further, it is stated the school is investing a major portion of

the surplus as per income and expenditure account in school land and building and other infrastructure. And after meeting the expenditure a minimum amount is left in the bank and cash balance to meet the day-to-day needs of the school.

9. At the time of hearing on 19.09.2023, Mr. Nikhilesh Goswami, Principal of the School, Dr. B. K. Bhuyan, Secretary, Gurukul Educational Trust and Mr. Shyam Sundar Sharma, Financial Adviser of the school were present. They have submitted that on earlier occasion while filing the pay fixation petition before FRC data was wrongly entered, whereas the fees charged on earlier years was much higher than the chart prepared by the office and uploaded in the website of the FRC. It is also submitted that they have invested huge amount in purchasing land for extension of the school. After a threadbare discussion, the committee directed the school authority to upload the following documents as below.
1. Land Documents (Agreement for Sale & Registration deed).
 2. Audited financial statements for the financial year 2022-23 (with UDIN).
 3. Financial budget for the year 2023-24.
 4. Comparative salary statement paid to teaching staff for the past 3 years till date (indicating the date of appointment).
 5. Form 10B for F.Y. 2022-23 (with UDIN).
 6. Rate of increase in fees and comparative rate of increase in Revenue expenditure & Capital expenditure for the last 10 years.
 7. Explain the total annual income with regard to division of the income between Revenue & Capital expenditure.
 8. Facilities available for the students and any further proposal for betterment of students.
10. The Committee also observed that the school has been charging higher fees than that approved by the FRC for the last few years, i.e., 2021-22, 2022-23, 2023-24. The school authority has also admitted about such charging the fees on earlier proposed rate. The school authority also appraised that they decided to sell the landed property at Mirza, which was purchased by them, as the land is not feasible. On the next meeting held on 11.12.2023 the committee found that the documents submitted by the school were not in order. Hence, the committee directed the school to upload certain documents such as Form 10B for the assessment Year 2023-24 with UDIN, Valuation report by registered valuer of the land and school building, Trust Deed of the school, Conduct Rules and Regulations for management of school, Rest of Sale Deed of land and the formula applied for rate of increase of fees between each of the classes and during the year.

Accordingly, the school authority uploaded the documents except the Valuation Report and the petitioner was not permitted further time to

submit the Valuation Report as sought for, as already time was given. The committee carefully scrutinized all the documents furnished by the school and the contention raised by the school authority that the rise in the fees is necessary towards betterment of the facility in the school and that the small percentage of the fees 2-3% structure has been increased every year and that major portion of surplus were invested in land and building and infrastructure and the cash balance left minimum which is not enough to meet the needs of the school.

They also claimed in the letter addressed to Chairman, FRC vide letter dated 01-09-2021 and also letter addressed to Hon'ble Education Minister, that the Appellant has been charging Fee for last 8 years with nominal increase of Rs 1200/- per year. The said fact was repeated on page 3 of the said letter dated 01-09-2021.

The committee examined their claim and if we consider that fact to be correct, then the fees over the last 9 years should have been as follows as indicated from Column 1 to 9.

However, the fees actually collected in the year 2021-22 by the school is found to be as indicated in Column 10.

In fact, the FRC reasonably fixed the fees for the same year as found to be as indicated in Column 11.

Class	1	2	3	4	5	6	7	8	9	10	11
										Fees Actually Collected	Fees fixed by FRC
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2021-22	2021-22
Nursery	19800	21000	22200	23400	24600	25800	27000	28200	29400	49176	29912
LKG	19800	21000	22200	23400	24600	25800	27000	28200	29400	50166	30297
UKG	19800	21000	22200	23400	24600	25800	27000	28200	29400	50166	30297
I	22000	23200	24400	25600	26800	28000	29200	30400	31600	53574	32622
II	22000	23200	24400	25600	26800	28000	29200	30400	31600	53574	32622
III	22000	23200	24400	25600	26800	28000	29200	30400	31600	53574	32622
IV	23200	24400	25600	26800	28000	29200	30400	31600	32800	54774	33589
V	23200	24400	25600	26800	28000	29200	30400	31600	32800	54774	33589
VI	23800	25000	26200	27400	28600	29800	31000	32200	33400	55374	34322
VII	24400	25600	26800	28000	29200	30400	31600	32800	34000	55980	34558
VIII	24400	25600	26800	28000	29200	30400	31600	32800	34000	55980	34558
IX	25600	26800	28000	29200	30400	31600	32800	34000	35200	57174	35522
X	25600	26800	28000	29200	30400	31600	32800	34000	35200	57174	35522
XI Science	35200	36400	37600	38800	40000	41200	42400	43600	44800	71172	41466
XI Arts	26400	27600	28800	30000	31200	32400	33600	34800	36000	66780	41466
XI Commerce	28600	29800	31000	32200	33400	34600	35800	37000	38200	66780	39258
XII Science	35200	36400	37600	38800	40000	41200	42400	43600	44800	71172	39258
XII Arts	26400	27600	28800	30000	31200	32400	33600	34800	36000	67780	39258
XII Commerce	28600	29800	31000	32200	33400	34600	35800	37000	38200	67780	39258

11. Turning to the first Revision petition, the committee has examined the records of the FRC and it is found that based upon the documents furnished by the school, the FRC held that the fees has been increased consecutively for the F.Y. 2019-20 (4.01%), and F.Y. 2020-21 (5.67%) and there is fees surplus in the Year 2019-20. The following analysis on documents was made by the FRC which were uploaded in the web portal for notice of the school.

In FY 2018-19:- Surplus of ₹7,16,44,318.86/- & Depreciation of ₹2,17,25,388.00/-, i.e., Cash surplus of ₹9,33,69,706.86/-.

FY 2019-20:- Surplus of ₹7,60,27,331.26/- & Depreciation of Rs. 2,53,42,387.00/-, i.e., Cash surplus of ₹10,13,69,718.26/-.

In FY 2021-22:- estimated surplus of ₹17,43,069.00/-

In 2021-22 in the proposed expenditure an amount of ₹10,33,80,000/- Capital Expenditure as shown below are included:

1. New Primary School Building (Under Construction)- Cost Shown ₹5,88,80,000/-
2. Pre-Primary Building (Under Construction)- Cost shown ₹1,00,00,000/-
3. Proposed Parking Basement (within campus)- Cost estimated ₹45,00,000/-
4. Addition of land.
Advance for Land within School ₹ 2,00,00,000/-
Advance for Land at Mirza ₹ 1,00,00,000/-

- Despite having accumulated surplus of previous years all capital expenditures are proposed to be spent from the surplus generated during the current year only, which is not justifiable. Therefore, the fees for the year 2021-22 must be reduced.
- Despite the surplus the salary to some of the teachers are not paid as per Govt. Norms.

On the basis of the aforesaid findings based on documents, the committee decided to reduce the fees structure and passed the final Order dated. 23.04.2021.

Similarly, while passing the second Order dated. 21.09.2022 the FRC has taken note of all the relevant documents and holds that the school has already incurred Capital expenditure of ₹15.35 Cr till 31/3/22 as detailed below:

FY 19-20 ₹5.40 Cr
FY 20-21 ₹5.68 Cr
FY 21-22 ₹5.27 Cr

The FRC was of opinion that the school has huge surplus in earlier years and estimated Cash Surplus of ₹ 13.77 Cr in FY 2022-23 and even if school has incurred and will incur the burden of such expenditure cannot be put in a single year on parents. Therefore, FRC decided to fix the fees by reducing 30% and the school will have still Cash Surplus of ₹ 6.87 Cr in FY 2022-23.

It is pertinent to note that all above findings were known to the schools and they have no appropriate answer to the same about such Cash surplus which is vital to the entire episode. While preferring both the Revision petitions, it is their prime submission that they have collected the fees in higher rate as shown in the list but the fees was already uploaded for the year 2021-22 and keeping in mind the above fees structure which they have followed since Ten years back, the fees now decided by the FRC in the respective years 2021-22 to 2024-25 which is lower than the earlier fees and it should be reviewed and re-fixed.

12. Regarding the rate of increase in fees of the school in 11 years, following chart has been submitted by the school (Annexure-RI-01).

FEES CHART SUBMITTED BY THE SCHOOL

CLASS	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
NURSERY	19800	22000	24882	30382	34882	41176	44776	50176	49176	50176	50176
LKG	19800	23000	25878	31378	35866	42166	45766	51166	50166	51166	51166
UKG	19800	23000	25878	31378	35866	42166	45766	51166	50166	51166	51166
CLASS-I	22000	26400	29280	34780	39280	45574	49174	54574	53574	54574	54574
CLASS-II	22000	26400	29280	34780	39280	45574	49174	54574	53574	54574	54574
CLASS-III	22000	26400	29280	34780	39280	45574	49174	54574	53574	54574	54574
CLASS-IV	23200	27600	30480	35980	40480	46774	50374	55774	54774	55774	55774
CLASS-V	23200	27600	30480	35980	40480	46774	50374	55774	54774	55774	55774
CLASS-VI	23800	28200	31080	36580	41080	47374	50974	56374	55374	56374	56374
CLASS-VII	24400	28800	31680	37180	41680	47980	51580	56980	55980	56980	56980
CLASS-VIII	24400	28800	31680	37180	41680	47980	51580	56980	55980	56980	56980
CLASS-IX	25600	30000	32880	38380	42880	49174	52774	58174	57174	58174	58174
CLASS-X	25600	30000	32880	38380	42880	49174	52774	58174	57174	58174	58174
CLASS -XI(SCI)	35200	39600	46878	52378	56878	63172	66772	72172	71172	72172	72172
CLASS -XI(COM)	28600	35200	42480	47980	52480	58780	62380	67780	66780	67780	67780
CLASS -XI(ARTS)	26400	35200	42480	47980	52480	58780	62380	67780	66780	67780	67780
CLASS -XII(SCI)	35200	39600	46878	52378	56878	63172	66772	72172	71172	72172	72172
CLASS -XII(COM)	28600	35200	42480	47980	52480	58780	62380	67780	66780	67780	67780
CLASS -XII(ARTS)	26400	35200	42480	47980	52480	58780	62380	67780	66780	67780	67780

From the above chart of Fees taken by the school, it is seen that they have realized the fees on their own and only after the Act of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018 and The Assam Non-Government Educational Institutions (Regulation of Fees) Rules, 2020 the school has come up for fixation of fees for the year 2021-22, and 2022-23, 2023-24 & 2024-25; and the FRC has fixed the fees as per the norms and standard provided under the Act. There is no substance in their submission that the FRC should not have reduced the fees from the earlier years as the

earlier fee collection was not made at the approval of any authority, and the same has no binding effect on this lawful authority.

13. DETAILS OF LAND DOCUMENTS SUBMITTED BY THE SCHOOL:

Agreement for Sale			Registration Deed		
Sl.No.	Name	Document Attached	Sl. No.	Name	Document Attached
1	Ajay Haloi	AS-01	1	Akhil Kalita	SD-01
2	Ajmal Ali	AS-02	2	Amar Borgohain	SD-02
3	Arun Chandra Sharma	AS-03	3	B.K. Bhuyan	SD-03
4	Bhaskar Das	AS-04	4	Bistruram Bora	SD-04
5	Bhupen Rajbanshi	AS-05	5	Brahman Choudhury	SD-05
6	Deba Kumar Barman	AS-06	6	Dipti Neog Bora	SD-06
7	Dina Deka	AS-07	7	Gautam Mahanta	SD-07
8	Ganesh Deka	AS-08	8	Indra Phukan	SD-08
9	Kamal Deka	AS-09	9	Jambwati Bhuyan	SD-09
10	Keshab Mahanta	AS-10	10	Maa Properties	SD-10
11	Khogeshwar Deka	AS-11	11	Manju Bhuyan	SD-11
12	Madhab Kalita	AS-12	12	Nogen Chandra Boro	SD-12
13	Monina Deka	AS-13	13	Nikunja Sood	SD-13
14	Pinku Lahkar	AS-14	14	Pinwood Developers	SD-14
15	Sambhu Ram Deka	AS-15	15	Rohit Malhotra	SD-15
16	Sewali Deka	AS-16	16	Samrendra Kalita	SD-16
17	Swargeshwar Wari	AS-17	17	Sisir Dev Kalita	SD-17
18	Utpal Das	AS-18	18	Suren Thakuria	SD-18
19	K.C. FOUNDATION	AS-19	19	Utpal Dutta	SD-19

The committee after a threadbare discussion on the entire land documents furnished by the school, observed as below:

Out of 38 Land documents as listed by the school (One document AS-10 in the name of Keshab Mahanta is not found although reflected in the list), it is observed that 19 Nos. of the documents were registered Sale Deeds & the remaining 18 were not registered documents & were Annual Patta Land. It is to be noted that Annual Patta Land does not convey valid ownership of land & hence cannot be utilized for the purpose of Public Institution. It is observed that many unregistered documents are not legally tenable as it bears no dates of execution of the so-called deeds.

Annual Patta (AP) is granted as per the provisions of Section 11 of ALRR, 1886. An Annual Patta holder is not a Land Holder but a Settlement Holder to whom settlement of land is offered only for one year. Except for hereditary rights, the AP holder has no transferrable right over the AP land.

The committee is of the serious view that the school authority has tried to mislead the committee with these types of invalid documents. No plan or estimate has been submitted for the utilization of such lands, especially for those lands that were purchased many years back.

Also, the committee is of the opinion that this system of acquiring land, especially at a distant location, for future use by penalizing the current students

and charging higher fees is highly unethical on the part of the School Management. The Committee feels that other options of Financing like obtaining a Bank Loan, Promoters' Capital Contribution, etc. should have been explored by the management for future expansion, particularly in acquiring land.

14. DOCUMENT RELATING TO CASH FLOW STATEMENT BASED ON AUDITED FIGURES OF THE SCHOOL - ANNEXURE B

GURUKUL EDUCATIONAL TRUST
Mother Teresa Road, Pub Gita Nagar, Guwhati - 781020
Cash Flow Statement for the year ended

PARTICULARS	Figures as at the end 31-03-2020		Figures as at the end 31-03-2021		Figures as at the end 31-03-2022		Figures as at the end 31-03-2023
A. Cash Flow Arising From Operating Activities							
Net Profit before Taxes	76,027,331.25		41,083,423.89		70,346,616.80		67,072,236.20
Adjustment for :							
Depreciation	25,342,387.00		28,055,919.00		31,400,606.00		33,110,764.00
Operating Profit Before Working Capital Changes	101,369,718.26		69,139,342.89		101,747,222.80		100,183,000.20
Adjustment For Working Capital Changes							
Changes in other current liabilities	(3,276,785.00)		15,556,344.00		13,108,533.00		(10,921,796.00)
Net Cash Flow From Working Capital Changes	(3,276,785.00)		15,556,344.00		13,108,533.00		(10,921,796.00)
Cash Flow From Operating Activities	98,092,933.26		84,695,686.89		114,855,755.80		89,261,204.20
Less : Tax Paid							
Net Cash Flow From Operating Activities	98,092,933.26		84,695,686.89		114,855,755.80		89,261,204.20
B. Cash Flow Arising From Investing Activities							
Purchase of Fixed Assets							
Land	21,047,000.00	87,725,000.00		14,235,150.00		109,056,310.00	
School Building & Others Assets	57,325,909.00	78,372,909.00	56,121,433.00	143,846,433.00	58,974,580.00	73,209,730.00	38,487,704.00
Current Investment							
Fixed Deposit	91,532.58		69,236.09		95,027.00		98,115.00
Mutual Fund	(7,802,000.00)		2,253,996.50		3,414,000.00		(5,982,988.24)
Loans & Advances							
Advance For Land	30,960,000.00	(55,299,420.00)		39,630,000.00		(52,031,380.00)	
Advance for others	211,499.29	31,171,499.29	279,881.00	(55,019,539.00)	(248,402.09)	39,381,597.91	346,908.00
Net Cash Flow From Investing Activities	101,833,940.87		91,150,126.59		116,100,354.91		89,974,668.76
C. Cash Flow Arising From Financing Activities							
Canara Bank, C/C A/c	4,999,646.00		(4,999,646.00)		-		-
Net Cash Flow From Financing Activities	4,999,646.00		(4,999,646.00)		-		-
Net Decrease In Cash or Cash Equivalents	1,258,638.39		(11,454,085.70)		(1,244,599.11)		(713,464.56)
Opening Cash and Cash Equivalents	13,775,996.54		15,034,634.93		3,580,549.23		2,335,950.12
Closing Cash and Cash Equivalents	15,034,634.93		3,580,549.23		2,335,950.12		1,622,485.56

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On scrutiny of Audited Profit & Loss Statement & Balance sheet submitted by the School vide Annexure-A for the FY 2019-20, FY 2020-21 & FY 2021-22, the Committee prepared the following :

A Cash flow statement for the relevant years which is attached as Annexure-B, above :

FY 2019-20: In the year school has cash flow of ₹980.93 lakh which is utilized for Building assets of the school. Out of this, only ₹573.26 lakh was utilized for School building & others assets for use of the existing students of the school. An amount of ₹ 309.60 lakh and ₹ 210.47 lakh, in total ₹ 520.07 lakh was used for acquiring land and for payment as advance for land. The School has taken 50.00 lakh on loan from Canara Bank & ₹ 78.02 lakh as maturity of Mutual fund. Therefore, the land cost and advance of land of (520.07 - 50.00 - 78.02) i.e. ₹ 392.05 lakh is funded by the school from surplus generated from fee & other income.

FY 2020-21: In the year the school has cash flow of ₹ 846.96 lakh which is utilized for Building assets of the school. Out of this only ₹ 561.21 lakh was utilized for School building & others assets for use of the existing students of the school. An amount of ₹ 324.26 lakh (877.25 - 552.99) was used for acquiring land and for payment as advance for land. The school has repaid the Canara Bank loan fully, and as such, the entire land cost of ₹ 324.26 lakh is funded by the school from surplus generated from fee & other income.

FY 2021-22: In the year the school has cash flow of ₹ 1148.56 lakh which is utilized for Building assets of the school. Out of this only ₹ 589.75 lakh was utilized for School building & other assets for use of the existing students of the school. An amount of ₹ 538.65 lakh (142.35 + 396.30) was used for acquiring land and for payment as advance for land. The school entire land cost of ₹ 538.65 lakh is funded by the school from surplus generated from fee & other income.

FY 2022-23: In the year the school has cash flow of ₹ 892.61 lakh which is utilized for Building assets of the school. Out of this only ₹ 384.87 lakh was utilized for School building & other assets for use of the existing students of the school. An amount of ₹ 570.25 lakh (1090.56 - 520.31) was used for acquiring land and for payment as advance for land. The entire land cost of ₹ 570.25 lakh is funded by the school from surplus generated from fees & other income.

Therefore, in total, in the last 4 years, the school had invested ₹1825.21 lakh (392.05 + 324.26 + 538.65 + 570.25) for Land and Advance for Land, which is not likely to be used by the existing students of the school. Therefore, it is obvious that the School Management has utilized a whopping ₹ 18.25 Crore in the last 4 years on Land Acquisition and Advance for Land out of Net cash flow from operating activities of ₹ 38.69 Crore as per the above Cash Flow statement.

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Although the school has projected investment in purchasing land and advance for purchasing land, but as most of the land documents are not legally tenable and resultantly, it can be held that such cash amount of ₹ 4,40,50,000/- shown as advance for Annual Patta land is inappropriate and therefore it is to be considered in the name of Trust of the school. Further, one unregistered land document for sale is not produced and, in that case, it can be held that the cash amount will be more than the amount shown.

15. FOLLOWING FEES STRUCTURE FOLLOWED BY THE SCHOOLS FOR 9 YEARS IS PREPARED BASED ON THE SCHOOL'S ANNEXURE- RI-01

Class	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	Average % Increase from year to year (excluding 21-22), where there is deduction of Rs 1000/- in every class, hence ignored for analysis
Nursery	19800	22000	24882	30382	34882	41176	44776	50176	49176	
Increase %		11.11	13.10	22.10	14.81	18.04	8.74	12.06	-1.99	14.28
LKG	19800	23000	25878	31378	35866	42166	45766	51166	50166	
Increase %		16.16	12.51	21.25	14.30	17.57	8.54	11.80	-1.95	14.59
UKG	19800	23000	25878	31378	35866	42166	45766	51166	50166	
Increase %		16.16	12.51	21.25	14.30	17.57	8.54	11.80	-1.95	14.59
I	22000	26400	29280	34780	39280	45574	49174	54574	53574	
Increase %		20.00	10.91	18.78	12.94	16.02	7.90	10.98	-1.83	13.93
II	22000	26400	29280	34780	39280	45574	49174	54574	53574	
Increase %		20.00	10.91	18.78	12.94	16.02	7.90	10.98	-1.83	13.93
III	22000	26400	29280	34780	39280	45574	49174	54574	53574	
Increase %		20.00	10.91	18.78	12.94	16.02	7.90	10.98	-1.83	13.93
IV	23200	27600	30480	35980	40480	46774	50374	55774	54774	
Increase %		18.97	10.43	18.04	12.51	15.55	7.70	10.72	-1.79	13.42
V	23200	27600	30480	35980	40480	46774	50374	55774	54774	
Increase %		18.97	10.43	18.04	12.51	15.55	7.70	10.72	-1.79	13.42
VI	23800	28200	31080	36580	41080	47374	50974	56374	55374	
Increase %		18.49	10.21	17.70	12.30	15.32	7.60	10.59	-1.77	13.17
VII	24400	28800	31680	37180	41680	47980	51580	56980	55980	
Increase %		18.03	10.00	17.36	12.10	15.12	7.50	10.47	-1.76	12.94
VIII	24400	28800	31680	37180	41680	47980	51580	56980	55980	
Increase %		18.03	10.00	17.36	12.10	15.12	7.50	10.47	-1.76	12.94
IX	25600	30000	32880	38380	42880	49174	52774	58174	57174	
Increase %		17.19	9.60	16.73	11.72	14.68	7.32	10.23	-1.72	12.50
X	25600	30000	32880	38380	42880	49174	52774	58174	57174	
Increase %		17.19	9.60	16.73	11.72	14.68	7.32	10.23	-1.72	12.50
XI Science	35200	39600	46878	52378	56878	63172	66772	72172	71172	
Increase %		12.5	18.38	11.73	8.59	11.07	5.70	8.09	-1.39	10.86
XI Arts	26400	35200	42480	47980	52480	58780	62380	67780	66780	
Increase %		33.33	20.68	12.95	9.38	12.00	6.12	8.66	-1.48	14.73
XI Commerce	28600	35200	42480	47980	52480	58780	62380	67780	66780	
Increase %		23.08	20.68	12.95	9.38	12.00	6.12	8.66	-1.48	13.27
XII Science	35200	39600	46878	52378	56878	63172	66772	72172	71172	
Increase %		12.5	18.38	11.73	8.59	11.07	5.70	8.09	-1.39	10.86
XII Arts	26400	35200	42480	47980	52480	58780	62380	67780	66780	
Increase %		33.33	20.68	12.95	9.38	12.00	6.12	8.66	-1.48	14.73
XII Commerce	28600	35200	42480	47980	52480	58780	62380	67780	66780	
Increase %		23.08	20.68	12.95	9.38	12.00	6.12	8.66	-1.48	13.27

On scrutiny of the Fees structure followed by the school, for the last 9 years, from 2013-14 till 2021-22, it is observed that the school has not been following any system in raising the fees for various classes from year to year.

It is obvious that the school has been following ad hoc increase in Fee structure without any rational, and the increase range is mostly in the double-digit, and the average increase percentage from year to year is shown in the above table across all classes.

Such an average increase % from year to year is not desirable, as it is evident that the petitioner school has been indulging in raising school fees just to finance its land acquisition, a part only for the existing school and mostly for acquiring assets at other places, which are not at all connected to the welfare of the existing school students and Teaching and other faculties. Further, the rate of increase of fees over the last few years bears no testimony of any policy decision.

On the close scrutiny of the documents furnished, it is observed that the school has invested more than 18 crores for procuring land and non-registered document of payment of advance for procuring additional land as has been shown in the account statement. There is no visible additional facilities to the students or to say high standard of facilities in co-curricular activities apart from mandatory requirements. From the salary statements of the Teaching and Non-Teaching staff, it reveal that the emoluments of the employees lack a pattern of fixation and they are not paid adequately as per Govt. norms despite having a huge surplus of funds.

16. The Committee based on the documents and submission by the school has observed the following deviations by the School:

A. As per the Section 2 (f) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018, "Fee" is defined as (i) Tuition Fee, (ii) Term fee (iii) Library Fee and deposit (iv) Laboratory Fee and deposit (v) Gymkhana Fee (vi) Caution fee (vii) Examination Fee (viii) Admission fee, which shall not exceed one-month tuition fee (ix) Yoga and Physical Education fee (x) any other fee as determined by the Fee Regulatory Committee. In this provision, there is no mention of surplus funds as described in Section 21 of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006.

B. The excess amount shown as balance and savings is not defined by the school management under Section 2 (s) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018.

C. The school management did not furnish any records regarding the investment incurred to set up the school, or the infrastructure made available to the students for quality education provided as mentioned in the prospectus of the school to enable the Committee to regulate the fees as per Section 11 (1)(ii)(iii) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018.

Regarding the facilities made available to the students for quality education, they have simply submitted a proposal for the year 2023-24, 2024-25 about the proposed construction of the six-storey building, Playground area,

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Auditorium, Library, Swimming Pool, Rain water harvesting which is yet to see the face of reality.

D. The Management of the school is silent on Section 11 (1) (viii) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018 regarding expenditure incurred on students against the total income of the school which shall include profit earned from the school by the trust or the company associated with the school. It has not separated the component of its expenditure on the present students and present non-students activities.

E. There are no presentable visible additional facilities for the students that warrant a sharp hike in fees or charging the fees on a higher platform.

F. Having a balance fund out of the fees collected every year as 'Fees' is a clear and serious violation of Section 2 (f) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018.

G. It reflects from the above that the Management does not have a protocol of calculation of fees and its requiring expenditures in a particular year.

H. From the records made available there is a clear and absolute absence of laid out policies of recruitment of teaching and non-teaching staff, salary fixation, medical and post service financial securities of its staff, adjustment of investments made to open this School, procurement of consumables, clear absence of financial outlay and mapping and SOP for approval within its management.

I. The records lacks clarity in respect of Section 15 (4) of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, as amended 2018.

J. Having a balance fund and not utilizing for the purposes and uses of the particular students from whom the particular fee had been collected is a clear indication of profiteering which is absolutely barred by Section 10 (b)(iv) of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006.

K. From the records made available, it is observed that there is no "Scheme of Management" under Section 14 of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006.

L. The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 clearly laid down that only surplus fund as "money received or held". There is no mention of generating fund or "money received or held" from Fees as balance fund from fees is a clear violation except otherwise expended or required for the set of students from whom it has been collected.

M. No record speaks of its compliance with Clause 30 of The Assam Non-Government Educational Institutions (Regulation and Management) Rules, 2007.

N. The huge surplus of funds as indicated from its investments made and the source of fund shown or recorded as Fees is a clear violation of Section 11(ix) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018. Here, there is no iota of "reasonableness".

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17. The school is a private school managed by a Trust and hence, it is covered under the Sub-Section (1) of Section 6 of The Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006. The collection of fees from the present students for purchasing land and for the future construction of school buildings is not at all justified. We may refer to the decision of the Hon'ble Supreme Court 1993 (1) SCC 645 Unni Krishnan J.P. and Others, petitioners -vs- State of Andhra Pradesh and others, wherein the Hon'ble Supreme Court has pointed out the role and function of the institution imparting education that they are bound to act fairly and in consonance with Article 14 and 15 of the Constitution.

Certain important observation of the Hon'ble Supreme Court is reproduced below:

The Right to establish a private educational Institution can neither be a trade for business nor it can be a profession within the meaning of Article 19 (1) (g) of the Constitution. Education has never been commerce in the country making it one opposed to the ethos tradition and sensibility of the nation. It is a religious duty and it has been treated as a charitable activity never a trade or business. The Hon'ble Supreme Court pointed out that imparting education is not and cannot be allowed to become a commerce and its true aspect is more a mission than a profession or trade or business.

Further, The Hon'ble Supreme Court held that fees charged in private Educational Institution are bound to be higher with fees charge in similar Government Institutions but the fees so charged must be reasonable and fair. The fees charged should be commensurate with the facilities provided by the Institution. No capitation fee for giving admission in the school or for any other purpose should be charged.

The same principle was followed by The Hon'ble Gauhati High Court in Maharishi Vidya Mandir -vs- State of Assam in a judgement dated. 12.09.2000, while the guardian of the students challenges the increment of fees of the students.

Similarly, at a later stage, the Hon'ble Supreme Court in Indian School Jodhpur -vs- State of Rajasthan LL 2021 SC 240, has held that the private school demanding fees without providing such services amounts to profiteering and commercialization of education.

In a recent judgment 2022 Live Law (SC 929) on 7.11.2022 Narayana Medical College -vs- State of Andhra Pradesh has echoed the same principle that education is not the business to earn profit. The tuition fee should always be affordable. The determination of fee/review of fee shall be within the parameter of the fixation rules and all the factors mentioned in the Rules required to be considered by the committee while determining/ reviewing the Tuition fees.

The aforesaid Rules mentioned in Section 6 of AFRC is exactly similar to the Rules to the Assam Non-Government Educational Institutions (Regulation of Fees) Rules, 2020.

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18. Turning to the matter in hand it is found that the school has a surplus fund of more than ₹ 18 (Eighteen) Crores and the surplus fund is being utilized for purchase of land, Advance for land and other investments like Mutual Fund etc. Hence, it is not justified to increase/ hike the students fees. The Fee Regulatory Committee has already taken into consideration of relevant aspects which has been discussed above and no irregularity is found in the order of the FRC, while reducing the fees of the students. Further, this committee also called for all details of the earlier fees structure, relevant land documents, etc. as has been discussed above, which has further clarified the status of the school that they have dealt upon investing in purchasing property without expansion of facilities to the present student from which they have charged the fees which amount to profiteering. In view of the findings above, and the legal pronouncement, the petitioner school has not run the institution in the spirit of charity although it has been registered under a Trust.

19. The committee also looked into the Relevant file of FRC vide No. FRC.(P)29/2021/Kamrup(M), which reflects that there are several allegations by the Guardians/ parents of the students of the petitioner school about charging excess fees by the school. The FRC has taken note of the fact that the school has taken higher rate than the rate fixed by the FRC and issued notice to the school about taking of excess fee from the students. The school has given a peculiar reply that fixation process is pending in the Fee Revision Committee and they are collecting the fees as proposed because if the Fee Revision Committee accepts their prayer they will be losing fees from those students who are planning to leave after the session. On the other hand, if they collect the proposed amount and the Revision Committee fixes the reduced amount as recommended FRC they can refund the amount to the parents. They think it is their right decision to collect their proposed fees because parents can approach the school to refund the money but school won't be able to collect the amount if the Revision Committee allows them to collect the proposed fee. Such a reply has also been addressed to the Fee Revision Committee by the school. Obviously, the school has continued to collect their earlier fees as proposed by them but not fixed by the FRC vide Order dated. 23.04.2021 and Order Dated.21.09.2022, whereas, there is no such interim order passed by any of the Committee allowing the petitioner school to charge the fees as per their own proposal, which is violative of the provision under the Act.

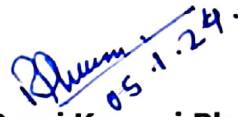
20. Section 11 (4) of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018 provides that the fee structure so determined by the Fee Regulatory Committee shall be binding on the Non-Government Educational Institution for a period of three years. Section 12 of the Act provides that no Non-Governmental Institution shall collect any fee, excess of the fee fixed by the Fee Regulatory Committee for admission of students to

any standard or course of study in that Institution. Apparently, the school has collected the fees in contravention of the provisions of Act and Rules.


21. Another pertinent point to be noted is that the first FRC order was passed on 23.04.2021 and the school continued to charge the fee as per their own proposal for 3 (three) consecutive years thereafter, which was not allowed by the Committee. They even did not prefer any revision against the said Order of FRC at any point of time and only after complaint made by some guardians before the Chief Minister of Assam they have preferred the Revision after long delay and even thereafter they continued to collect the fees of their own without approval of the Committee.

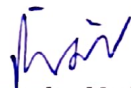
22. Considering all the entirety of the matter the committee is of view that both the Revision petition lacks merit and is accordingly dismissed. The Fee Regulatory Committee can proceed with the matter of contravention of provision under Section 15 of The Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018 as per law.


Both the Revision petition stands disposed off.



05.1.24.

**Justice (Retd.) Smt. Rumi Kumari Phukan,
Chairperson,
Fee Revision Committee**


Sri S. N. Chowdhury, IAS
Secretary to the Govt of Assam
Department of School Education,
**Member,
Fee Revision Committee**


Smt. Mamata Hojai, AES
Director of Secondary
Education, Assam
**Ex-Officio Member Secretary,
Fee Revision Committee**


Sri Arup Bujarbarua,
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