

| Section - Sub Section | Clause | Observations | Comments and Suggestions |
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| 3-(2) | Upto fifteen percent of fees levied from student can be utilized for the developmental activity of the educational entity | <p>Definition of educational Entity given under section 2-j “Eligible educational entity mean any society registered under the societies registration act, 1860, or public trusts or trusts created under the Indian Trusts act, 1882, or any other entity permitted by any of the board which operates, manages and maintains recognized schools in the state”</p> <p>This is clear way of allowing profiteering and violation of orders and judgements of the Supreme Court of India.</p> <p>Supreme court judgment dated May 2016, on Modern vs State of Madhya Pradesh, states clearly under section 60 as:</p> <p>“Undoubtedly, right to establish and administer educational institutions is treated as a fundamental right as it is termed 'occupation', which is one of the freedoms guaranteed under Article 19(1)(g). It was so recognised for the first time in T.M.A. Pai Foundation. Even while doing so, this right came with certain</p> | <p>Supreme court order on Islamic academy of education vs state of Karnataka 2003, the is situation is defined under clause 213 as “... there can be no profiteering and capitation fees cannot be charged. It thus needs to be emphasized that as per the majority judgment, imparting of education is essentially 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”</p> <p>Clause as in “Uttar Pradesh Self Financed Independent Schools (Regulation of Fees) Bill, 2017” to be modified as below:</p> <p>"Surplus generated from fees levied from student can only be utilized for the development of that particular institution/school and will not be used for development of that educational entity.</p> |

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| | | clutches and shackles. The Court made it clear that it is a noble occupation which would not permit commercialisation or profiteering” | |
| 4 (1) | Every recognised school shall on its own determine its fee structure commensurate to, inter alia, meeting its operational expense, cost of capital, infrastructure and facilities provided to be students, generate reasonable surplus to be utilized for educational purposes, augmentation of facilities and expansion, including establishment of a new branch or a new school under the management of the same eligible educational entity. | Please refer observation for section 3(2). | Please refer section 3(2) for comments <u>Suggestion:</u> Clause as in “Uttar Pradesh Self Financed Independent Schools (Regulation of Fees) Bill, 2017” to be modified as below: “Every recognized school shall on its own determine its fee structure commensurate to, inter alia, meeting its operational expense, cost of facilities provided to students, generate reasonable surplus to be utilized for educational purposes, augmentation of facilities.” |
| 4-(3)-(b) | Admission fee: i. At the first time of new admission to the school; ii. At the time of promotion from class-5 to class-6; iii. At the time of promotion from class-8 to class-9; iv. At the time of promotion from | Admission fee is the fee to be paid at the time of admission. Legitimising the charge of admission fee at the time of promotion from Class 5-6, 8-9,10-11 is neither logical nor legitimate. | (1) Admission fee to be charged only at the time of admission and not on promotion from class 5-6,8-9,10-11. (2) Criteria for determining quantum of admission fee to be defined along with upper ceiling of admission fee. Admission fee higher than defined ceiling to be approved by Zonal Fee Regulatory Committee |

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| | class-10 to class-11; | | |
| 4-(3)-(e) | Examination fee shall be payable for examinations | Conducting examinations forms part of the routine activities in the school using the available resources and does not call for levying any additional fees. | (1) The specific examination fee proposed to be charged, if any, should be approved by the Zonal Fee Regulatory Committee |
| 4-(3)-(d) | Tuition Fee: Single head annual recurring fee payable each year | <p>Tuition fee as defined as in section 6-(b)-(i) is Payment of the salary to teaching and non-teaching staff including allowances and annual increments</p> <p>As per supreme court order on Islamic academy of education vs state of Karnataka 2003, fee revision defined as the is situation is defined as</p> <p>“The fee fixed by the committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees.If any other amount is charged, under any other head or guise e.g. donations the same would amount to charging of capitation fee”.</p> | <p>(1) Please clearly define that this head is specific to salaries</p> <p>(2) Any deviation in this to be duly approved by Zonal Fee Regulatory Committee.</p> <p>(3) The fee fixed by the committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise e.g. donations the same would amount to charging of capitation fee</p> |
| 3-(iii)-C section | C. Development fund Charge it | Educational Entities run educational institutes across district, state, | Supreme Court of India in the case of Islamic academy of education vs state of Karnataka |

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| <p>Of Hindi version of Bill as on 18th dec 2017, this section was present in English version of bill uploaded on 9th dec however removed in English version of bill as on 18th dec 2017)</p> | <p>can be charged upto the maximum limit of 15% of the total fee charged from fee component as per clause 3A&3B. This development fund shall be charged as cost of capital to be utilized for development of educational purposes including establishment of a new branch or a new school under the management of the same eligible educational entity.</p> | <p>whole India and international.</p> <p>Zonal Fee Regulatory Committee has only jurisdiction in given zone and has no control over other zones, or school opened in other state or schools opened internationally. Other state may have its own terms and condition in fee regulation Act contradicting this point or even no Act. Also such accountability is extremely difficult.</p> <p>Allowing the collection of development fund to open new branches or schools is legitimizing profiteering and commercialization.</p> <p>There are already well known educational entities which run hundreds of educational institutes across India and thus giving them licence to expand further at the expense of the parents.</p> <p>In case of closure of the institution by way of withdrawal of affiliation or any other reason, the disposal of the development fund generated by the institution also needs to be specified and should be refunded to the parents.</p> | <p>2003, has defined this situation under clause 213 as</p> <p>“as per the majority judgment imparting of education is essentially 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”</p> <p>So its suggested to do following modification</p> <p>(1) Development/surplus fund to be utilized for that institution/school only and should not be used to open a new branch or a new school.</p> <p>(2) Development fund only to be used by school management committee where there are democratically elected parents' representatives in it. Upper Limit and minimum balance of development fund to be defined. Minimum balance of development fund must to be maintained to address demand caused due to unplanned situation.</p> |
| <p>5. (1)</p> | <p>Draft bill uploaded on http://madhyamikshiksha.up.nic.in/eng.</p> | <p>Draft bill uploaded on http://madhyamikshiksha.up.nic.in/eng.PDF On 9th dec this stated</p> | <p>The clause on minimum allowed hike needs to be removed. The fee hike should be approved by the Zonal fee</p> |

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| | <p>PDF</p> <p>On 18th dec states But such annual percentage increase permitted, i.e, latest yearly published consumer price index, plus seven percent, shall not exceed the average per capita</p> | <p>that “fee increase shall not exceed latest yearly published consumer price index plus five percent.”</p> <p>This five percent has arbitrarily been changed to seven percent. The Zonal fee committee is incompetent to examine the fee hike and hence there is no reason to specify the minimum allowed fee hike. This will lead to exploitation of this clause by the school management,</p> | <p>committee based on data on income and expenditure furnished by the school. This should be then valid for a period of three years as has been validated in various judgement of the Supreme Court of India.</p> |
| <p>5.(4)</p> | <p>No Student shall be compelled to purchase books, shoes, socks, books etc from a particular shop</p> | <p>Board pattern is standard across country, in town and village and there is no reason for schools to have own books defined.</p> <p>So Following to be noted: Books, Copy and Stationary: There is no reason to have specific books for a school to be published or school logo or name of school to be printed on books, copy and stationary</p> <p>Dress: School uniform should not change arbitrarily and should be based on sound reasoning, with the approval of the parents' representatives democratically elected on the school management committee</p> <p>At present, there is a nexus between the institutions and the</p> | <p>(1) School dress should not be changed by school. and if change required then such change to be duly approved by Zonal Fee Regulatory Committee</p> <p>(2) School to use NCERT books which are designed to teach curriculum across country and are duly approved by various educational boards. Extra reference books to be suggested which are publicly and commonly available.</p> <p>(3) No school logo to be printed on books & dress, copy and stationary.</p> <p>(4) Logo of the school should be provided to the students separately by the school.</p> <p>(5) School should not encourage the sale of any book, notes, magazines, stationery and other commercial educational activities.</p> |

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| | | school uniform and books/stationery suppliers who are permitted to use the school logo by the school for a consideration. This needs to be stopped to prevent profiteering and ensure that fairly priced items are available to the students. Reuse of the books should be institutionalised in order to be environment friendly and promote sustainability. | |
| 4-(4) | Subject to sections 6,7, and 8 the manager of every recognised school shall, before the commencement of each academic year, file with the appropriate authority, a full statement of the fees to be levied by such school during the ensuing academic year. | As zonal fee committee is given power to address irregularities of school, school should submit all financial details of balance sheet, income expenditure sheet etc.. and operational details in term of number of class, section, student, teacher, staff, details of school buses etc... | Suggested to be modified as: (1) Manager of every recognised school shall, before the commencement of each academic year, file with financial and operation details to the appropriate authority and Zonal Fee committee. A full statement of the fees to be levied by such school during the ensuing academic year, financial details including balance sheet, income expenditure sheet etc.. and operational details in terms of number of class, section, student, teacher, staff, infrastructure, asset details of school, details of school buses etc... This information should be available on the website of the school. |
| 3-(1) & 5(3) | ...Income from commercial activity, organized within the premise of the school, but that income will be deposited to the account of the school and not to the | Supreme court judgements and orders state that commercialization in education is not allowed. To keep better transparency its suggested to keep all such transaction using | (1) Amount must be collected through account payee cheque/NEFT/IMPS/RTGS in the school account only and must be reflected in the statement of accounts. |

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| | <p>account of society trust</p> <p>Income from commercial activity in the premise of the school, if any, shall be considered income and shall be deposited to the account of school and not to the account of the eligible educational entity</p> | <p>payee cheque/NEFT/IMPS/RTGS</p> | |
| <p>7. section Of Hindi version of Bill as on 18th dec 2017, this section was present in English version of bill uploaded on 9th dec however removed in English version of bill as on 18th dec 2017)</p> | <p>Disclosures to be made by recognized schools at the time of admission</p> | <p>Many complaints have been received about violation of building and safety norms against various schools.</p> <p>All information on approval and sanctions should be available publicly on the school website and notice board.</p> | <p>Following information to be added to be available publicly:</p> <p>(1) All district and state department clearance certificate of schools to be publicly available including NOC from fire department, NOC from local development authority, NOC healthy & drinking water, Sanitary NOC for building norms, lease deed of authority etc...</p> <p>(2) Audited balance sheet of last three financial years including all detailed annexures.</p> |

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| <p>7.-(i) (section Of Hindi version of Bill as on 18th dec201 7, this section was present in English version of bill uploade d on 9th dec howeve r remove d in English version of bill as on 18th dec 2017)</p> | <p>Many points are misaligned or missing as highlighted in English edition of draft Bill.</p> <p>7. प्रवेश के समय मान्यता प्राप्त (I) मान्यता प्राप्त से 60 दिन प्रवेश फार्म स (क) मान्यता प्राप्त सम्बद्धता का (ख) प्रवेश नीति (ग) पूर्व शैक्षिक शुल्क एवं क (घ) हास्टल, स्पो उपलब्ध सुा (ङ) विद्यार्थी : स (च) शिक्षकों की र (छ) पाठ्य-पुस्तक सम्पूर्ण विवर (ज)मान्यता प्राप्त आयोजित वि (झ) मान्यता प्राप्त विकास हेतु</p> | <p>English edition of <i>Uttar Pradesh Self Financed Independent Schools (Regulation of Fees) Bill, 2017</i> section 7 Vs Hindi edition of <i>Uttar Pradesh Self Financed Independent Schools (Regulation of Fees) Bill, 2017</i></p> | <p>Please make correction.</p> <p>This need to ensure that Books and stationary to not be marked to be purchased from specific shop. Books and stationary to be commonly available in market.</p> |
| <p>6.-(i)</p> | <p>The Zonal Fee Regulatory Committee shall consist of the following members. namely: (a).... (d) (e) An eminent principal/manager/ administrator of a self-financed institution, as may be nominated by the Divisional Commissioner</p> | <p>There is no representation of parents in the given committee, whereas school representation has been ensured by clause point (f) of this clause by including eminent principal/manager/ administrator of a self-financed institution.</p> <p>There are several complaints on the selection of parents representatives by the schools in a non democratic and</p> | <p>(1) Clause to be added as “Parents' representatives or democratically elected parent members of any Parents-Teachers' Association of School situated in the division, as may be nominated by the Divisional Commissioner.” (2) Retired High court judge should be a part of the committee.</p> |

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| | (f)... | transparent manner and in this reference many orders have been issued by district authorities to many schools including order issued by ADM F&R (Ghaziabad) order no. 715/ST-ADM(F)/2017 DATED19-04-2017 | |
| 6.(ii) | The jurisdiction of the zonal fee regulatory committee shall be at the level of education entity, situated in concerned division. | This restricts the Zonal fee regulatory body | (1) Zonal fee committee should have full power to investigate and ask for all required details to be submitted and orders issued by Zonal fee committee will be applicable to the society or entity of which the institution/school is a part.. Orders issued will be effective to education entity in full including all division, states and across Country. |
| 6.-(10) | Zonal Fee Regulatory Committee shall, upon considering the proposal and the reasons given by the managing committee, accept or reject the proposal or prescribe such percentage increase in fees as it may deem fit, not being less than the permitted fee increase under section... | This limits the mandate and efficacy of the committee by allowing minimum fee hike. Committee should have right to not allow any increase in fee if the increase is not justified. | (1) Restriction of minimum increase to be to be removed. (2) All complaints to be addressed and processed within a time period of 60 days from receipt of the complaint by the Divisional Commissioner. |
| 6.-(iii)- (b) | Hear any complaints against a recognised school from the students enrolled in such school at the time of filing of the complaint or their parents or appointed guardians in relation to: (i)...(iv) | This point only covers a limited portion whereas this committee should have the power to address various irregularities of schools | Please add following : (1) Anything which is mentioned in this act. (2) Any act causing disruption or challenge to the education of the child in respect to or concerning the school. (3) To have power to form sub-committee at district level for investigation/action as deemed fit. |

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| | | | (4) The District level committees should have at least 50% of its members as parents' representatives . This will enable better participation, awareness and workload sharing of committee and prevent vested interests being furthered. |
| 6.-(6) | For the purpose of making any inquiry under this Act , the Zonal Fee Regulatory Committee shall have all powers of a civil court and appellate court under the Code of Civil Procedure,1908 (5 of 1908) while trying a suit, in respect of the following matters, namely: a).... d) | The empowerment and process of levying of fine by the Zonal Fee Regulatory Committee needs to be specified. In case of non compliance by the school/institution, penal action including but not limited to withdrawal of NOC needs to be laid down. | Please add following: (1) Power to issue order to deposit fine within a given timeline of 15 days. (2) Power to take appropriate penal action in case of non compliance of order. |
| 6-(9)-(i) | On receipt of complaint, if any, from students or their parents/guardians or parents' association, Zonal fee regulatory committee, after making due inquiry and after being satisfied, may dispose of the complaint followingly. (a)...(c) | There is no mention of (1) Who will deposit fine (2) Where to deposit fine (3) What is timeline of depositing fine (4) What will happen if the fine is not deposited | Please add: (1) Fine to be deposited by Eligible educational entity (2) Fine to be deposited to <<details of account and head>> (3) Order given by Zonal fee regulatory committee to be implemented with 15 days of order. (4) If fine not deposited within timeline, NOC of school issued by the State Govt will be withdrawn by State/Zonal Committee and other penal action will be taken. |
| 6-(9)-(iii) | Contravention of the provisions of the Act | The State has the power to withdraw the NOC | Following to be mentioned: (1) In case of contravention of the provisions of the Act for |

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| | for third time, may recommend for withdrawal of recognition/affiliation to concerned board, in addition to withdrawal of permission of 15% of fee levied from student for development activities of the institution. | issued by it but this has not been taken into consideration. Apart from recommending de affiliation by the board, the committee should be empowered to withdraw the NOC issued by the state should be withdrawn Also there is no fine stated on third and further Contravention of the provisions of the Act. Also no timeline mentioned for action in event of third Contravention of the provisions of the Act. | third time, the state may withdraw NOC to school and recommend for withdrawal of recognition/affiliation to concerned board, with provision by the Government to take over the school or any other appropriate measures as may be decided by Zonal Fee Regulatory Committee. (2) Also Contravention of the provisions of the Act for Third and consequent time may impose financial Punishment of Rs. five lacs more than the fine imposed last time along with refunding of excess fee levied |
| No Specific Clause Number | With respect to “ School Management Committee ” | There are many complaints in multiple districts of states on no transparency of selection of parent’s representatives in school managing committee. In this reference many complaints and order issued by district authorities to many schools including order issued by ADM F&R (Ghaziabad) order no. 715/ST-ADM(F)/2017 DATED 19-04-2017 | (1) The Clause to be added that school Management committee to include parents representatives elected in a transparent and democratic manner. (2) School to ensure transparent and democratic selection of parents representatives and facilitate the same. (3) Number of parents representatives in the school managing committee to be 50% of managing committee strength or minimum 4, whichever is higher (4) Name and contact details of parents representatives to be displayed publicly on notice boards and website. |
| No Specific Clause Number | Safety and security in school and school transport is major concern and this concern is not only to teachers but also to | There are many lapses by school on safety and security of children inside school and on school transport. There are various | (1) Zonal Fee Regulatory Committee to ensure guidelines/order issued to constitute Vishakha Committee in each school as guided by Hon’ble Supreme Court in order of |

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| | female teachers | <p>guidelines issued by national, state and district authorities for keeping safety and security of children inside school and with school transportation.</p> <p>However there are still many lapses inspite of many incidents reported and directions issued by competent authority.</p> | <p>Vishakha and Other Vs. State of Rajasthan and Others (JT 1997 (7) SC 384 for the safty and security of the students and teachers.</p> <p>(2) Zonal Fee Regulatory Committee to be enabled to define safety and security guidelines for school transport as directed by Hon'ble Supreme Court in 1997 and latest by CBSE wide circular no. CBSE/AFF/Circular-8/2017/1217401 dated 23.02.2017</p> <p>(3) Zonal Fee Regulatory Committee to be do safety and security audit for at least 1% of school per quarter or minimum one school in every district and publish audit report publicly.</p> <p>(4) Zonal Fee Regulatory Committee to be enabled with power to take required action for all schools found with deviation in safety and security norms.</p> |
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