

S. No.	Question	Answer	Reference
1	Why you have not paid Fee?	See Reference	<p>We have approached school multiple times to pay fee as per guidelines and order issued by CBSE and State Government. Where school completely denied to accept fee as per guidelines and regulation and said that either they will take full fee or None.</p> <p>1) School keep on increasing fee arbitrarily violating all rules and regulations violating all Govt guidelines, CBSE guidelines, court orders. School academic performance keep decreasing like performance of presidium. Not a single student scored above 95% whereas more than 10000 students crossed 95% marks.</p> <p>2) In name of facilities school enforce unnecessary facilities and binds parents to pay the same.</p> <p>3) Commercialization involved in school and selling private publisher books, uniform etc...</p> <p>Overall Money is behind this entire evil works and we decided this time to make change in this education system.</p>
2	Steps taken by district administration?	See Reference	<p>1) Lot many complaints received by District administration, on which committee formed, reports taken and lot many irregularities found. But at last replied stating district administration doesn't have power to act. This report also not published and sent to lucknow.</p>
3	Why you don't deposit fee?	See Reference	<p>1) School shows all parents deposited fee as parents agreed to new fee structure. And parents not depositing fee as parents involved in non-social activist. Due to this pressure more parents deposit fee and again school says all parents deposited fee agreed with new fee structure.</p>

4	What are the rights while doing this as Occupation	See refernce	<p>Page XX: Modern 2016</p> <p>33) Having recognised it as an 'occupation' and giving the status of a fundamental right, the Court delineated four specific rights which encompass right to occupation, namely, (i) a right to admit students; (ii) a right to set up a reasonable fee structure; (iii) a right to appoint staff (teaching and non-teaching); and (iv) a right to take action if there is dereliction of duty on the part of any employees. In view of the aforesaid recognition of the right to admit the students and a right to set up a reasonable fee structure treating as part of occupation which is recognised as fundamental right under Article 19(1)(g) of the Constitution, the appellants have easily crossed the initial hurdle. Here comes the second facet of this issue, viz. – what is the scope of this right of occupation? For Answer See Next FAQ</p>
5	Whether Imparting education is Occupation or Profession or Business?	<p>Occupation: Yes</p> <p>Business: No</p> <p>Profession: No</p>	<p>Page XX: Modern 2016</p> <p>34) It becomes necessary to point out that while treating the managing of educational institution as an 'occupation', the Court was categorical that this activity could not be treated as 'business' or 'profession'. This right to carry on the occupation that the education is, the same is not put at par with other occupations or business activities or even other professions. It is a category apart which was carved out by this Court in T.M.A. Pai Foundation. There was a specific purpose for not doing so. Education is treated as a noble 'occupation' on 'no profit no loss' basis. Thus, those who establish and are managing the educational institutions are not expected to indulge in profiteering or commercialise this noble activity. Keeping this objective in mind, the Court did not give complete freedom to the educational institutions in respect of right to admit the students and also with regard to fixation of fee.</p>

6	Whether surplus allowed?	Yes	<p>Page 2,3,4: Islamic academy 2003</p> <p>210. .... If was submitted that these institutions could fix their own fee structure, which could include a reasonable revenue surplus for purposes of development of education and expansion of the institution, and that so long as there was no profiteering or charging of capitation fees, there could be no interference by the Government.</p> <p>213. .... They must also be able to generate surplus which must be used for the betterment and growth of that educational institution.</p> <p>.... 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>
7	Where Surplus to be used?	See refernce	<p>Page 2,3,4: Islamic academy 2003</p> <p>213. .... They must also be able to generate surplus which must be used for the betterment and growth of that educational institution.</p> <p>.... 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>

8	How Much surplus allowed	See refernce	<p>Page 43: Islamic academy 2003</p> <p>135. While this Court has not laid down any fixed guidelines as regard fee structure, in my opinion, reasonable surplus should ordinarily vary from 6% to 15%, as such surplus would be utilized for expansion of the system and development of. education.</p>
9	Can school have own fee structure?	Yes	<p>Page 3,4: Islamic academy 2003</p> <p>213. .... In paragraph 56 of the judgment it has been categorically laid down that the decision on the fees to be charged must necessarily be left to the private educational institutions that do not seek and which are not dependent upon any funds from the Government. Each institute will be entitled to have its own fee structure. The fee structure for each institute must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid to the teachers and staff, future plans for expansion and/or betterment of the institution etc. Of course there can be no profiteering and capitation fees cannot be charged.</p>
10	How Fee structure to be defined?	See refernce	<p>Page 3,4: Islamic academy 2003</p> <p>213. ....The fee structure for each institute must be fixed keeping in mind the infrastructure and facilities available, the investments made, salaries paid to the teachers and staff, future plans for expansion and/or betterment of the institution etc. <b>Of course there can be no profiteering and capitation fees cannot be charged.</b></p>

11	Can Govt force Rigid Fee Structure?	No	<p>Page XX: Modern 2016</p> <p>39) ..... In this behalf, we would like to recapitulate that in T.M.A. Pai Foundation, a Bench of eleven Judges dealt with the issues of scope of right to set up educational institutions by private aided or unaided, minority or non-minority institutions and the extent of Government regulation of the said right. It was held that the right to establish and administer an institution included the right to admit students and to set up a reasonable fee structure. But the said right could be regulated to ensure maintenance of proper academic standards, atmosphere and infrastructure. <b>Fixing of rigid fee structure</b>, dictating the formation and composition of a governing body, compulsory nomination of teachers and staff for appointment or nominating students for admissions would be <b>unacceptable restrictions</b>.</p>
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12	Can Govt regulate Fee Structure?	Yes	<p>Page XX: Modern2016</p> <p>38) A plea was raised by the appellants that by exercising the power to frame Regulations, the State could not usurp the very function of conducting this admission test by the educational institutions. It was argued that it only meant that such a CET is to be conducted by the educational institutions themselves and the Government could only frame the Regulations to regulate such admission tests to be conducted by the educational institutions and could not take away the function of holding the CET.</p> <p>39) This argument has to be rejected in view of the unambiguous and categorical interpretation given by the Supreme Court in P.A. Inamdar with respect to certain observations, particularly in paragraph 68 in T.M.A. Pai Foundation. In this behalf, we would like to recapitulate that in T.M.A. Pai Foundation, a Bench of eleven Judges dealt with the issues of scope of right to set up educational institutions by private aided or unaided, minority or non-minority institutions and the extent of Government regulation of the said right. It was held that the right to establish and administer an institution included the right to admit students and to set up a reasonable fee structure. <b>But the said right could be regulated to ensure maintenance of proper academic standards, atmosphere and infrastructure....</b></p>
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13	Whether govt regulation/com mittee violates findamental rights?	No	<p>Page XX: Modern 2016</p> <p>50) It is well settled that the right under Article 19(1)(g) is not absolute in terms but is subject to reasonable restrictions under clause (6). Reasonableness has to be determined having regard to the nature of right alleged to be infringed, purpose of the restriction, extent of restriction and other relevant factors. In applying these factors, one cannot lose sight of the Directive Principles of State Policy. The Court has to try to strike a just balance between the fundamental rights and the larger interest of the society. Court interferes with a statute if it clearly violates the fundamental rights. The Court proceeds on the footing that the Legislature understands the needs of the people. The Constitution is primarily for the common man. Larger interest and welfare of student community to promote merit, achieve excellence and curb malpractices, fee and admissions can certainly be regulated.</p>
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14	Can Govt regulate Fee Structure, until suitable legislation or regulations framed by the states?	See refernce	<p>Page XX: Modern 2016</p> <p>39) ..... Interpretation of certain observations in paragraph 68 of the judgment in T.M.A. Pai Foundation has been a matter of debate to which we advert to in detail hereinafter.</p> <p>40) ..... The issue considered was the extent of autonomy in fixing the fee structure and making admissions. This Court held that while there was autonomy with the institutions to fix fee structure, there could be no profiteering and no capitation fee could be charged as imparting of education was essentially charitable in nature. <b>This required setting up of a Committee by each of the States to decide whether fee structure proposed by an institute was justified and did not amount to profiteering or charging of capitation fee.</b></p> <p>.....</p>
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15	should Govt committee take Post audit measures?	<p>Page XX: Modern 2016</p> <p>43) Thus, the contention raised on behalf of the appellants that the private medical colleges had absolute right to make admissions or to fix fee is not consistent with the earlier decisions of this Court. Neither merit could be compromised in admissions to professional institutions nor capitation fee could be permitted. To achieve these objects it is open to the State to introduce regulatory measures. <b>We are unable to accept the submissions that the State could intervene only after proving that merit was compromised or capitation fee was being charged. As observed in the earlier decisions of this Court, post-audit measures would not meet the regulatory requirements. Control was required at the initial stage itself.</b></p>