

शैक्षणिक वर्ष सन २००९-२०१० पासून शैक्षणिक व अन्य शुल्क निश्चित करुन, अभ्यास करुन शिफारस करण्यासाठी समितीची स्थापना करणेबाबत


महाराष्ट्र शासन
शालेय शिक्षण व क्रीडा विभाग
शासन निर्णय क्रमांक : संकीर्ण २००९/(१०८/०९)/माशि ३
मंत्रालय विस्तार भवन, मुंबई ४०० ०३२
दिनांक : १६ ऑक्टोबर, २००९

शासन निर्णय : शासन निर्णय, शालेय शिक्षण व क्रीडा विभाग क्र.संकीर्ण २००९/(१०८/०९)/माशि-३, दिनांक ८ मे, २००९ अन्वये शैक्षणिक वर्ष २००९-१० पासून शैक्षणिक शुल्क व अन्य शुल्क निश्चित करण्याकरता शासनातर्फे शुल्क नियंत्रण समिती स्थापना करण्यात येणार असल्याचे आदेश निर्गमित करण्यात आले आहे. शासन निर्णय, शालेय शिक्षण व क्रीडा विभाग क्र.संकीर्ण २००९/(१०८/०९)/ माशि-३, दिनांक ११ जून, २००९ अन्वये शैक्षणिक वर्ष २००९-१० पासून शैक्षणिक शुल्क व अन्य शुल्क निश्चित करण्याकरता अभ्यास करुन शिफारशी करण्याकरता डॉ.श्रीमती कुमुद बन्सल, सेवानिवृत्त (भा.प्र.से.) यांच्या अध्यक्षतेखाली समिती स्थापन करण्याचे आदेश निर्गमित करण्यात आले होते. सदर समितीने त्यांचा अहवाल दिनांक १५/१०/२००९ रोजी शासनास सादर केला. सदर समितीच्या अहवालातील शिफारशी या परिपत्रकाद्वारे शासनाच्या वेब साईटवर प्रसिध्द करण्यात येत आहे. या शिफारशींवर लोकांकडून येणा-या सूचना/तक्रारी मागविण्यांत येत आहेत. या परिपत्रकाद्वारे सर्व संबंधितांना सूचित करण्यात येते की, या शिफारशींच्या अनुषंगाने त्यांची त्यांचे म्हणणे शिक्षण संचालक (माध्यमिक व उच्च माध्यमिक), महाराष्ट्र राज्य, पुणे यांचेकडे दिनांक २१ नोव्हेंबर, २००९ पर्यन्त सादर करावे. शिक्षण संचालक यांना विनंती करण्यांत येते की, त्यांच्याकडे प्राप्त झालेल्या सूचना/तक्रारी यांचे एकत्रिकरण करुन त्यांची माहिती दिनांक २४ नोव्हेंबर, २००९ रोजी शासनाला सादर करावी. जेणेकरुन शासनास याबाबत निर्णय घेणे सुलभ होईल.

शिक्षण संचालक, महाराष्ट्र राज्य, पुणे यांना विनंती करण्यांत येते की, वरील आदेश सर्व संबंधितांना तातडीने कळविण्यात यावेत. जेणेकरुन, या शिफारशींवर लोकांच्या सूचना त्यांच्याकडे वेळीच प्राप्त होऊ शकतील. शिक्षण संचालकांना असेही सूचित करण्यात येते की, संपूर्ण अहवाल त्यांच्या वेब साईटवर लोकांना पहाण्यासाठी विना विलंब प्रसिध्द करावा.

सदर परिपत्रक महाराष्ट्र शासनाच्या वेबसाईट www.maharashtra.gov.in वर उपलब्ध असून, त्याचा सांकेतांक क्रमांक २००९१०१६१६२२५३००१ असा आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,



(अ. मा. भडलवार)

शासनाचे सह सचिव

प्रति,

शिक्षण संचालक (माध्यमिक व उच्च माध्यमिक), महाराष्ट्र राज्य, पुणे
शिक्षण संचालक (प्राथमिक), महाराष्ट्र राज्य, पुणे

माहिती संचालक, माहिती व जनसंपर्क संचालनालय, मंत्रालय, मुंबई
सर्व विभागीय शिक्षण उपसंचालक
सर्व शिक्षणाधिकारी (प्राथमिक/माध्यमिक), जिल्हा परिषद,
शिक्षण निरीक्षक (पश्चिम/उत्तर/दक्षिण), मुंबई
सर्व मुख्य कार्यकारी अधिकारी, जिल्हा परिषद
आयसीएसई/सीबीएसई/आयजीसीएसई/आयबी
मा. मंत्री, शालेय शिक्षण यांचे खाजगी सचिव
मा. राज्यमंत्री, शालेय शिक्षण यांचे खाजगी सचिव
सचिव, शालेय शिक्षण व क्रीडा विभाग यांचे स्वीय सहाय्यक
निवड नस्ती माशि ३

Part -I

Draft Report of the Committee On Fee Structure For Un-aided Schools

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Foreword

Taking cognizance of complaints of commercialization of education and profiteering by schools unaided by Maharashtra State Government grants, the Education Department has set up this Committee to suggest norms for fixing fees.

Nearly 90% schools in the State are either aided or are run by the Local Bodies. Most of the remaining schools are either affiliated to National Boards like CBSE, ICSE or international Boards like IB, IGCSE. Excellence in learning is the key objective for the unaided private schools. Therefore, each management as per its vision develops its curricular and co-curricular activities for the holistic development of the student. In a majority of the schools, the fee structure is geared to this objective. However, there are a few black sheep which resort to profiteering and bring a bad name to all.

In this background, members of the Committee have recommended a broad framework of norms for determining the fees of the unaided schools. These norms recognize and allow for the differences in requirements of institutions based on the curriculum of the Board that they are affiliated to ie State, National and International and their own ideas of activities necessary for quality fulfillment of the requirement of such curricula. They recognize the institution's right to select curricular and extra-curricular activities. The deliberations of the Committee were guided by legislation and Supreme Court judgments governing fees of unaided schools. The suggested norms intend to support unaided educational institutions to continue to achieve excellence in providing education.

The Committee was unanimous that schools cannot be allowed to profiteer. However, a Reasonable Surplus of up to 15% of total revenues could be generated by schools for the achieving their educational goals. Surplus was defined as the difference between the total revenues of an institution and the total admissible expenses. Total revenues included fees and other income, if any. Admissible expenses were defined as those that contribute to imparting quality education to the students. Anything beyond such Reasonable Surplus would, in the opinion of the Committee amount to profiteering.

To ensure that such schools do not resort to profiteering or commercialization of education, the Committee has emphasized transparency in fixing the fees by the un-aided schools and recommended a mechanism for achieving this along with a time schedule.

The Committee recommends that institutions project expenses and other income for the ensuing academic year. This should form the basis of arriving at the proposed fees for the following year. The computation should be shared in advance with the Executive Council of the Parent Teachers Association (PTA). In case, a majority in the Executive Council of the PTA find that the proposed fee amounts to profiteering, it could approach the State Statutory Committee with facts for redress.

It needs to be emphasized that 90% of the schools in the State fall in the 'aided' category. The condition of these schools is worsening day by day since the State Govt. has been irregular in the timely disbursement of their non-salary grants and scholarships to the SC/ST children. The bulk of students in the State are, therefore being deprived of quality education. There is an imperative need for the State Govt. to ensure timely release of the grants for non-salary expenditure to enable such schools to give quality education.

Numerous instances of non-receipt of grants/scholarships since 2004 were cited by the anguished members.

There was enthusiastic participation by members, who have wide experience in the field of education. The members recognized the desire of parents from all walks of life to provide quality education to their wards.

In such a broad-based Committee it is not possible for unanimity to emerge on all issues. However, the general sense of the house was gauged to arrive and record the Committee views on different subjects. The Report is presented in 3 parts: the First containing the recommendations of the Committee, the Second containing the Minutes of the meetings of the Committee and Reports of the two Sub-groups set up by the Committee and the Third comprising miscellaneous representations received by the Committee.

Dr J Jain and Dr A Kulkarni have dissented. Their views have been incorporated in Chapters 5 and 6, along with the comments of the Committee on the points raised.

The Committee takes this opportunity to thank all the participants for their valuable contributions, Shri Bhalchander Desle, the Member Secretary of the Committee, Shri Narendra Kawde, State Project Director MPSP, Dr. RP Joshi and Dr Vidya Yerwadekar, the conveners of the Subgroups, Ms Farzana Dohadwalla, Shri Mohan Awate and Shri Rajan Phansalkar for their help in drafting , Shri Phadke CA and the Secretarial staff for their whole hearted cooperation.

Mumbai, October 2009

Chairperson, Dr Kumud Bansal,

List of Members of Fee Structure Committee

1.	Dr. Smt. Kumud Bansal,(Retd.I.A.S.)	Chairperson
2.	Shri Mohan Awate (Retd. Directot Of Education)	Member
3.	Shri Rajan Phansalkar (Retd. Directot Of Education)	Member
4.	Shri.Aniruddha Jadhav Latur.	Member
5.	Shri. Baburaoji Zade Nagpur.	Member
6.	Shri Ramesh Panse Pune.	Member
7.	Dr. R.P. Joshi Pune.	Member
8.	Dr. Vidya Yerwadekar.Pune.	Member
9.	Shri K.V. Tare. Amravati.	Member
10.	Shri P.M. Raut Mumbai.	Member
11.	Shri Gregari Lobo Mumbai.	Member
12.	Shri Jayant Jain Mumbai	Member
13.	Smt. Sinha Shabnam Mumbai	Member
14.	Smt. Arundhati Chavan Mumbai.	Member
15.	Smt. Farzana Dohadwala Mumbai.	Member
16.	Shri. Pawan Podar Mumbai	Member
17.	Dr. K.B. Kushal Mumbai	Member
18.	Smt. Aradhana Somani Mumbai	Member
19.	Dr. Avisha Kulkarni Mumbai.	Invitee Member
20.	Smt.Korde Meera Thane.	Invitee Member
21.	Shri Bhalchandra Desle Director (Sec and Hr Sec Edu)	Member Secretary.

Chapter 1: Introduction

1. The education system of modern Maharashtra is built on a strong progressive legacy of the past. This is reflected in patterns of participation of girls and women in education, as well as rising educational attainments among the traditionally disadvantaged groups. Education was the focus of activity for social reformers and political leaders in the state in pre-independent India. To start with, as early as 1917, the princely state of Kolhapur institutionalized many changes motivated by reform thought and strategy; education not only became free, but measures were designed to encourage parents in rural areas to send their children to school. However, with the increasing dependence on State support since 1960, and the commencement of Zilla Parishads, private initiative declined considerably at the elementary level. Again, from the late seventies, buttressed by political leadership's local initiative, the State witnessed a growing involvement of private and commercial interests at all levels of education. This has led to an impressive growth of educational institutions in Maharashtra, at different levels. The number of Primary schools doubled in 30 years and the number of secondary schools grew 5 times. At the elementary education level in the State, out of 67,885 schools (DISE-2005), the Zilla Parishads and Municipal Councils / Corporations run more than 90 percent schools where no fees are charged. In this sector participation of private managements is less than 10 percent.
2. In the Secondary Education sector, the State runs 424 Zilla Parishad Schools mostly in Vidarbha and Marathwada regions. Of the total 16,264 private Secondary Schools, 13,055 are aided and 3,209 are un-aided schools (Statistics of Education Department, DISE 2008-09). The contribution made by private sector (social organizations) in secondary education has been outstanding with regards to expansion, growth and quality education.
3. While the majority of schools are affiliated to the Maharashtra State Board, there are others especially in the Metropolitan areas which are affiliated to CBSE, ICSE, IB and IGCSE. These Boards have different curricula. The unaided private schools affiliated to these Boards provide a wide range of curricular and extra - curricular activities, physical facilities and professional up-gradation of their teachers and staff. There is a wide disparity in the fees among such schools, which has some times drawn sharp reactions from parents and public. There is, nevertheless a general perception among parents and students that the quality of teaching in these schools is better, hence the demand for admission in these schools keeps growing. At the same time, not all the private un-aided schools, have excellence of standards though their fees are high.
4. Through the G.R dated 11th June, 2009 the State Govt. has asked this Committee to evolve norms so that fees could be determined by the schools in accordance with such norms. Taking cognizance of complaints of commercialization of education and profiteering, Government has undertaken this exercise. There are numerous judgments of the High Court and the Supreme Court on establishment and management of private un-aided schools that have had an important bearing on the

Committee's deliberations.

5. Setting up of Committee and terms of references

- a. Taking into account the decision of Hon'ble Supreme Court of India in TMA Pai Foundation vs state of Karnataka, the Maharashtra Government had issued instructions to all unaided / permanently unaided primary / secondary and Higher Secondary schools vide G. R. dt. 27th May, 2003, regarding admission, fee structure, and concessions to unaided institutions in Maharashtra. In 2009, the Hon'ble High Court Mumbai in Writ Petition No. 4503/2009 in case of Students Welfare Association Vs Maharashtra Government issued an Interim Order to the State Government to form a Committee to decide norms for tuition fees and other fees, and directed the State to issue instruction to all concerned that during the pendency of this petition no school should be permitted to increase fees.
- b. Following the Interim order of The Hon'ble High Court Government appointed a Committee under Dr. Kumud Bansal, (IAS) Retd Secretary, Government of India, vide GR dated Misc.2009/(108/09)Mashi 3 dated 11th June 2009. The Committee has been asked to study and consider the decision in TMA Pai Foundation case and other decisions of Hon'ble Supreme Court and recommend to the State Government the procedure to be followed by the unaided institutions to decide the fee structure
- c. The Government Resolution states that this Committee shall consider Primary / Secondary / Higher secondary unaided schools implementing state board syllabus, CBSE, ICSE, IGCSE (CIE) and IB curriculum. The Committee was further asked to recommend norms for deciding fee structure in unaided institutions based on various judgments of Hon. Supreme Court and principles laid down in the judgments.

Chapter 2: Relevant Extracts of Judgments

6. We begin by citing some excerpts of Judgments of Hon. Supreme Court of India below

a. T. M. A. Pai Foundation V/s. State of Karnataka (2002) 8 SCC : This is the single most important judgment since it comprised of the largest Bench of 11 Supreme Court judges.

- i. “A combination of unprecedented demand for access to higher education and the inability or unwillingness of the Government to provide the necessary support has brought private higher education to the forefront. Also governmental domination of the educational process must be resisted”.
- ii. “In case of unaided private schools, maximum autonomy has to be with the management with regard to administration, including the right of appointment, disciplinary powers, admission of students and the fees to be charged. It is in the interest of the general public that more good quality schools are established, autonomy and non-regulation of the school administration in the right of appointment, admission of the students and the fee to be charged will ensure that.”
- iii. “There can be no doubt that in seeking affiliation or recognition, the Board or the university or the affiliating or recognizing authority can lay down conditions consistent with the requirement to ensure the excellence of education. But the essence of a private educational institution is the autonomy that the institution must have in its management and administration. There necessarily has to be a difference in the administration of private unaided institutions and the government-aided institutions. Whereas in the latter case, the Government will have greater say in the administration, including admissions and fixing of fees, in the case of private unaided institutions, maximum autonomy in the day-to-day administration has to be with the private unaided institutions.” (Para 55)
- iv. “Bureaucratic or governmental interference in the administration of such an institution will undermine its independence. While an educational institution is not a business, in order to examine the degree of independence that can be given to a recognized educational institution, like any private entity that does not seek aid or assistance from the Government and that exists by virtue of the funds generated by it, including its loans or borrowings, it is important to note that the essential ingredients of the management of the private institution include the recruiting students and staff and the quantum of fee that is to be charged.”

- v. “The right to establish and administer broadly comprises the following rights:
 - 1. to admit students;
 - 2. to set up a reasonable fee structure;”

- vi. “One cannot lose sight of the fact that providing good amenities to the students in the form competent teaching faculty and other infrastructure costs money. It has, therefore, to be left to the institution, if it chooses not to seek any aid from the Government, to determine the scale of fee that it can charge from the students”(para56)

- vii. “the Government can provide regulations that will ensure excellence in education, while forbidding the charging of capitation fee and profiteering by the institution.....there can, however, be a reasonable revenue surplus, which may be generated by the educational institution for the purpose of development of education and expansion of the institution” (para 57)

- viii. Distinguishing the Professional Colleges from the ones under the ambit of this Committee, it was observed that
 - 1. “For admission into any professional institution, merit must play an important role. While it may not be normally possible to judge the merit of an applicant who seeks admission into a school...” (para 58)

 - 2. “Education is taught at different levels, from primary to professional. It is therefore, obvious that government regulations for all levels or types of educational institutions cannot be identical; (para 60)

 - 3. “In case of unaided private schools maximum autonomy has to be with the management with regards to administration, including the right of appointment, disciplinary powers, admission of students and the fees to charged.”(para 61)

- ix. “It is no secret that the examination results at all levels of unaided private schools, notwithstanding the stringent regulations of the governmental authorities are far superior to the results of the government maintained schools. There is no compulsion on students to attend private schools. The rush for admission is occasioned by the standards maintained in such schools and recognition of the fact that State run schools do not provide the same standards of education. The State says it has no funds to establish institutions at the same level of excellence as private schools. But by curtailing the income of such private schools, it disables those schools from affording the best facilities because of lack of funds.”

b. Hon Supreme Court in Islamic Academy of Education V/s. State of Karnataka (2003) 6 SCC

- i. "So far as the first question is concerned, in our view the majority judgment is very clear. There can be no fixing of a rigid fee structure by the Government. 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....." (emphasis supplied)
- ii. "It is beyond any doubt that in the matter of determination of the fee structure the unaided institutions exercise a greater autonomy. They, like any other citizen carrying on an occupation, must be held to be entitled to a Reasonable Surplus for development of education and expansion of the institution."

c. Modern School V/s. Union of India (2004) 6 SCC

- i. Regulation of quantum of fees: "In the matter of determination of the fee structure unaided educational institutions exercise a great autonomy as they, like any other citizen carrying on an occupation, are entitled to a Reasonable Surplus for development of education and expansion of the institution. Such institutions, it has been held, have to plan their investment and expenditure so as to generate profit. What is, however, prohibited is commercialization of education. Hence, a balance has to be struck between autonomy of such institutions and measures to be taken to prevent commercialization of education. However, in none of the earlier cases has the Supreme Court defined the concept of Reasonable Surplus, profit, income and yield, which are the terms used in the various provisions of the Act. Therefore, what constitutes Reasonable Surplus in the context of the provisions of the Act is the issue to be determined."(para 14 and 15)
- ii. "It is trite that economic forces have a role to play in the matter of fee fixation. The institutions should be permitted to make reasonable profits after providing for investment and expenditure. However, capitation fee and profiteering were held to be forbidden. Subject to the above two prohibitory parameters fees to be charged by the unaided educational institutions cannot be regulated. There could be no rigid fee structure, after taking into account the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students. They must be able to generate surplus which must be used for betterment and growth of that educational institution."
- iii. "The fee structure must be fixed keeping in mind the infrastructure and facilities available, investment made, salaries paid to teachers

and staff, future plans for expansion and/or betterment of institution subject to two restrictions, namely, non-profiteering and non-charging of capitation fees. Surplus/profit can be generated but they shall be used for the benefit of that educational institution and cannot be used for personal gain or for other business or enterprise.”(para 15 and 16)

- iv. There can be no fixing of a rigid fee structure by the Government. 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.” (para 44)
 - v. “In our view, on account of increased cost due to inflation, the management is entitled to create a Development Fund Account. For creating such development fund, the management is required to collect development fees. In the present case, pursuant to the recommendation of the Duggal Committee, development fees could be levied at a rate not exceeding 10% to 15% of total annual tuition fee....” (para25)
- d. The Seven Judge bench of the Hon. Supreme Court in P. A. Inamdar v/s. State of Maharashtra (2005) 6 CC had observed as follows:
- i. “.....Even if we are inclined to disagree with any of the findings amounting to declaration of the law by the majority in Pai Foundation, we cannot; that being a pronouncement by an 11 judge bench, we are bound by it.” (Para 20)
 - ii. “Pai Foundation explained in Islamic Academy:
 - 1. whether the educational institutions are entitled to fix their own fee structure
 - 2. whether minority and non-minority educational institutions stand on the same footing and have the same rights
 - 3. whether private unaided professional colleges are entitled to fill in their seats, to the extent of 100%, and if not, to what extent; and
 - 4. whether private unaided professional colleges are entitled to admit students by evolving their own method of admission.
 - iii. “S.B.Sinha, J., defined what is "capitation" and "profiteering" and also said that Reasonable Surplus should ordinarily vary from 6 percent to 15 percent for utilization in expansion of the system and development of education.

- iv. "In Pai Foundation it has been very clearly held at several places that unaided professional institutions should be given greater autonomy in determination of admission procedure and fee structure. State regulation should be minimal and only with a view to maintain fairness and transparency in admission procedure and to check exploitation of the students by charging exorbitant money or capitation fees." (Para 129)
- e. In the Action Committee, Unaided Private Schools and Others V/s. Director of Education, Delhi & Others (7th August 2009) the majority held:
 - i. "The 1973 Act and Rules framed there under cannot come in the way of the management to establish more schools. So long as there is a reasonable fee structure in existence and so long as there is transfer of funds from one institution to the other under the same management there cannot be any objection."

Chapter 3: Deliberations of the Committee:

7. The Committee held 7 meetings between the 26th June and 10th October 09. The record of detailed discussions is annexed in Part 2 of the Report. There was enthusiastic and meaningful participation by members, who had wide experience in the field of education. The members recognized the desire of parents from all walks of life to provide quality education to their wards. It is widely accepted that progress in this century will be driven by knowledge. India has seen a consistently high rate of economic growth in the recent years. An educated and skilled manpower can not only enhance our country's progress but can enable the youth to meaningfully participate in the opportunities due to globalization. The emergence of global economy on account of improved communication and mobility of people has forced nations to review their systems of education and adjust to the changed global realities. Rather than continuing with conservative inward looking policies, several countries are reshaping their systems of education to make them globally competitive. There is a growing demand for quality education from students and parents. It is no longer simply a case of attending a school but passing out from a reputed institution that assures a better placement for higher studies either in India or abroad. Parents are willing to use their resources to invest in children's education. It was also recognized that an increasing role of private sector in education in the State has also been spurred by the absence of sufficient State run secondary schools. The condition of the aided schools inspired little confidence among parents for quality education to their wards. There is, therefore, a consistent demand from the parents to get admission in the private unaided schools as it is generally perceived that they provide better quality education. The Supreme Court judgement in TMA Pai case has aptly described the situation as "It is no secret that the examination results at all levels of unaided private schools, notwithstanding the stringent regulations of the governmental authorities are far superior to the results of the government maintained schools. There is no compulsion on students to attend private schools. The rush for admission is occasioned by the standards maintained in such schools, and recognition of the fact that State run schools do not provide the same standards of education. The State says it has no funds to establish institutions at the same level of excellence as private schools. But by curtailing the income of such private schools, it disables those schools from affording the best facilities because of lack of funds."
8. The views of the members of the Committee regarding controlling the fees in these unaided schools ranged from a very stringent prescription for fees to total laissez faire.
9. On the one hand it was argued that the only way to stop profiteering by unaided private institutions was to have stringent and detailed norms for admissible expenditure and uniformity with the SS Code. There should be uniformity of compulsory curricular and extra curricular activities across all Boards. This would lend a degree of uniformity in fees too. Excessive variety in activities, facilities becomes a convenient cover for commercialization. Each item of expenditure should be open to PTA scrutiny and the Management should explain and be answerable for each item of the Balance sheet or Profit and Loss Account. An Apex Committee at the State level should fix fees for each school. Change in fee should be once in three years and parents should be taken into confidence. Students

should not be burdened with any capital expense. No separate funds for renovation should be allowed. The fees should be fixed as per the Anti-Capitation Fee legislation.

10. On the other hand it was argued that not only different Boards should be allowed to have their own characteristic variations to provide richness of curricular and non-curricular activity but do all that they deem fit to add to the quality of education. Schools should be left to decide their fees and there should be minimal Government interference. After all, there was no compulsion for the parents to send their children to a given school. Supreme Court's judgment in Technical University's case was also cited to state that the managements do not have to share their accounts with the PTA as they have to share with the Chartered Accountant.
11. In such a broad-based Committee it is not possible for complete unanimity to emerge on all issues. However, the general sense of the house was gauged to arrive and record the Committee views on different subjects. For example:
 - a. A point had been made that a common limit of Rs 15,000 should be recommended for fees across the board for all unaided schools. The Committee had discussed this and found it unacceptable in view of the TMA Pai judgment that private unaided schools had the right to fix their fees. It has ruled that maximum autonomy has to be with the management of the unaided schools with regard to administration, admission of students and the fees to be charged. It has also ruled that providing good amenities to the students in the form of competent teaching faculty and other infrastructure costs money. If the school chooses not to take any aid from the government, it is left to the school to determine the scale of fee it can charge from the students.
 - b. There was a suggestion that since the Capitation Fee Act already listed items for which private unaided schools could charge fees, that list should be adopted for admissible revenues without any change. However, the TMA Pai judgment requires that "by virtue of this judgment the fee structure fixed under any regulation or enactments will have to be reworked" The Committee therefore, recommends that the Capitation Fee Act of the State Government be amended to bring it in line with the Supreme Court judgment. The same correction would also be needed for the SSC Code and other GRs.
 - c. A suggestion was made that all Boards should have an identical minimum basic syllabus and compulsory activities and the rest should not be a part of the school hours. This had been discussed and found unacceptable because each Board had its own unique character and such rigid uniformity of curriculum or activities was not desirable
 - d. Some institutions profiteer by charging excessive fee or inflating expenses. For example, some schools may manipulate building funds, donations, security deposits, sale of admission forms, unduly high admission/term / processing fees etc. The Committee noted that such aberrations and malpractices can be addressed adequately by its recommendations

12. After detailed discussions, keeping the interest of the students in mind the Committee came to the following conclusions:

- a. Excellence in learning is the key objective for the un-aided private schools. Therefore, each management as per its vision develops its curricular and co-curricular activities for the holistic development of the student. In a majority of the schools, the fee structure is geared to this objective. However, there are some unscrupulous institutions which resorted to profiteering and brought a bad name to all.
- b. Since there are multiple Boards and their course contents, teaching-learning methodologies, infrastructural needs and staff facilities differ significantly, there is no reason to force a rigid uniformity of curriculum or activities across the board. Similarly within a Board, curriculum and activities will differ from the primary to high school level.
- c. In this background, members of the Committee decided to develop an illustrative list of activities both curricular and co-curricular as well as heads of admissible expenses which could be necessary for all unaided schools. These are at the end of this Report. In addition, other activities and items of expenditure could also be incorporated in the fees by individual institution depending on its own idea of quality education and specific requirements of its National and International Board.
- d. It was recognized that the approach of the Committee needs to be consistent with the Supreme Court pronouncements. The TMA Pai Foundation judgment specifically states that capitation fee and profiteering is not allowed. On capitation fee there is already a State legislation. However, that Act must be amended to bring it in line with the Hon Supreme Courts' judgment. The Government Resolution of May 2003 is not sufficient to enforce the TMA Pai judgment.
- e. What is profiteering is still to be clearly defined. It was the endeavor of this Committee, to define this. The Committee decided that as a broad principle, the norm or legitimacy of an item of admissible expenditure will be whether it promotes quality education to students. All norms/ items of admissible expenditure must relate to promoting
 - i. Teaching -learning process
 - ii. Student welfare and
 - iii. Good administration of the institution.
- f. With the help of these over-riding norms, it was considered desirable to first list the heads of admissible costs. Revenue and capital items had to be separated. Provisions for current and future need of the institution were also incorporated. 'Reasonable Surplus' had to be defined and agreed upon. Any surplus, over and above a 'Reasonable Surplus', would then amount to 'profiteering'. A Sub-group was set up to develop these norms.

- g. At the same time when parents admitted their children in unaided schools and agreed to pay for quality education, there must be reasonable assurance that they were not being fleeced through commercial manipulation. There was a need to put some mechanism in place to ensure that there was no profiteering through fees. Another Sub-group was, therefore, constituted to suggest measures for the same.
- h. The Sub-group I on norms comprised of the following:
- i. Dr. Vidya Yerwadekar - Convener
 - ii. Smt. Aradhana Somani - Member
 - iii. Smt. Farzana Dohadwalla - Member
 - iv. Shri Ramesh Panse - Member
- i. Sub-group – II on transparency comprised
- i. Dr. R.P. Joshi - Convener
 - ii. Dr. K.B. Kushal - Member
 - iii. Shri Jayat Jain - Member
 - iv. Shri K.V. Tare - Member
 - v. Shri P.M. Raut - Member
 - vi. Shri Gregory Lobo - Member
 - vii. Shri Pavan Poddar - Member
 - viii. Smt. Arundhati Chavan - Member
 - ix. Dr. Avisha Kulkarni - Member
- j. The Sub-groups were free to invite experts to help them in this exercise. Each Sub-group is requested to associate their Cost and Finance experts, to develop such definition of 'profiteering' based on cost norms they consider legitimate. Reports of the two Sub-groups are in Part II of the Report.
- k. It was noted that 90% of the schools fall in the aided category. The condition of these schools was far from satisfactory since the State Govt. was most irregular in the timely disbursement of their non-salary grants and scholarships to the Scheduled Castes and Scheduled Tribe children. The bulk of students in the State are, therefore deprived of quality education. There is an imperative need for the State Govt. to ensure timely release of the grants for non-salary expenditure to enable such schools to give quality education. Numerous instances of non-receipt of grants/scholarships since

2004 were cited by the anguished members. This was borne out also by the representative of the State Government.

- I. The University Grants Commission and the Ministry of HRD, Govt. of India has been keen that Higher Educational Institutes, colleges or universities get accreditation from NAAC. On the same lines, schools in which the basic foundation for child development is laid should also be accredited. This will bring transparency and help parents in benchmarking schools. It will generate a healthy competition among schools for better ratings from accreditation agencies. Once the desired level of quality is achieved through accreditation, the parents will also not mind paying higher fees for the sake of quality. In other words, if a measure of autonomy is given to schools in fixing their fees, it should also be accompanied with accountability of maintaining certain norms and standards for imparting Quality education in schools. To ensure that prescribed norms and standards are followed to maintain quality, the Committee recommends accreditation and rating of all schools through an independent accrediting organisation eg the Quality Council of India.

- m. In the Third meeting of the Committee, Mr B.D. Desle, member Secretary mentioned that the Hon. Education Minister, has desired that this Committee should also examine the fee fixation for Pre-primary Schools. He recommended inclusion of the following members on the Committee for the purpose :-
 - i. Smt. Patankar, Balmohan Vidya Mandir, Dadar.
 - ii. Shri Kamlakar Deshpande, Director.
 - iii. Shri Marathe, Treasurer, Social Work.
 - iv. Shri Hussain, Subject Expert.

- n. These experts were invited to the meetings from 18th July. All of them said that Pre-Primary education is essential for ensuring universalisation of primary education. They stressed the need of quality Education in the sector. The Committee noted that over 90% of the Pre - primary education in the State is through Anganwadis of ICDS and Balwadis of the Education Department. It is also the policy of the State to close Balwadis wherever Anganwadis open. There is a small percentage of unaided Pre-Primary centres, mostly in urban areas. Some of them are opened by unaided Private schools as a part of their schools and some are run independently. The Education Policy at the National level has recognized that ECCE is crucial for the success of primary education.

- o. In the discussion that followed, the following points were made to defer the consideration of Pre-Primary category:
 - i. This Committee should not take additional responsibility of Pre-Primary education as it is not compulsory.
 - ii. The fee structure, student- teacher ratio, teaching methodology is different for Pre-Primary section. Therefore, 1st and 2nd Standards of Primary should not be attached to the Pre- Primary section.

- iii. The Committee's attention was drawn to the fact that at present, grievances of parents are not duly redressed by the Government functionaries. If the Govt. is unable to fulfill even its present obligation there was no reason to add more to its responsibility.
 - iv. The non-salary grant which is in arrears from 2005 to the aided schools should first be given. Further, timely future disbursement should be ensured.
 - v. Experts deciding the curriculum and text books for the SSC are all from Universities. They decide an unrealistically heavy curriculum. There is little involvement of pre Primary school teachers who have to shoulder the burden.
- p. For the reasons explained by the members in the discussions, it was felt that the issues pertaining to Pre-Primary education can be taken up separately only after the conclusion of the current exercise.

Chapter 4: Recommendations

13. The Committee came to the conclusion that education is an important input both for the growth and development of the individual and the society. It accelerates the progress of the country in every sphere of life. The terms “knowledge society” has now become a familiar expression in education policy - discussions communicating the emerging global trends with far reaching implications for growth and development of our country. The shift of power from physical power to mind power indicates the changing foundation of the economy. One is reminded of Francis Bacon who said “knowledge is power” and Winston Churchill who said “the empires of the future shall be empires of mind”. It, therefore, becomes the duty of the State to ensure that quality education is provided to all its youth for the equitable development of society. The National Policy on Education (NPE) 1986 states that the Government and the community will find funds for such programmes as: the universalisation of elementary education, liquidating illiteracy, equality of access to educational opportunities to all sections throughout the country, quality and functional effectiveness of educational programmes...”. However, even after two decades of the National Policy through State’s resources and the Sarv Siksha Abhiyan, we have still not achieved universalisation of elementary education and universalisation of secondary education is a distant dream. Even the performance of the State in giving regular grants to the aided schools in Maharashtra is extremely unsatisfactory thereby severely compromising quality of school education. The State Board is the major Board providing education through 90% schools in Maharashtra. Out of 19,190 Secondary schools in Maharashtra, less than 500 are affiliated to National / international Boards. These offer choices to the parents and students who would like to study further at the National Institutes or international Universities abroad. Surely, we would do enormous injustice to such students by either controlling or restricting the autonomy of such unaided schools or controlling their syllabus. We would do well to remember the advice of Nobel Laureate Amartya Sen in his Lal Bhadur Shastri Memorial lecture on 10-11 March 1970 on “the Crisis in Indian Education”, where he emphasized that “due to the government’s tendency to formulate educational policies based on public pressure, often wrong policies are pursued.” Government should be wary of imposing disabling restrictions on the unaided schools, but allow them to follow their respective Boards’ curriculum, fixing of fees at their discretion without profiteering, to ensure quality education to the students choosing to study in such schools. It would be unrealistic and detrimental to the development of students to discourage private sector initiative in providing quality education and diversity of curriculum in National and International Boards.
14. In respect of fees the TMA Pai judgment unequivocally states that the private school managements of unaided institutions have the right to decide their fees. It has ruled that maximum autonomy has to be with the management of the unaided schools with regard to administration, admission of students and the fees to be charged. It states:
- a. “The right to establish and administer broadly comprises the following rights:
 - (a) to admit students;
 - (b) to set up a reasonable fee structure;.....

- b. One cannot lose sight of the fact that providing good amenities to the students in the form competent teaching faculty and other infrastructure costs money. It has, therefore, to be left to the institution, if it chooses not to seek any aid from the Government, to determine the scale of fee that it can charge from the students”

The Committee, therefore, recommends that private unaided schools should have the autonomy to fix the school fees.

15. The TMA Pai judgment permits institutions to make a reasonable surplus however, it disallows charging of capitation fee or profiteering:

- a. “the Government can provide regulations that will ensure excellence in education, while forbidding the charging of capitation fee and profiteering by the institution.....there can ,however, be a reasonable revenue surplus, which may be generated by the educational institution for the purpose of development of education and expansion of the institution”

16. Further, the Hon Supreme Court in Islamic Academy of Education V/s. State of Karnataka (2003) 6 SCC observes

- a. “They (unaided institutions), like any other citizen carrying on an occupation, must be held to be entitled to a Reasonable Surplus for development of education and expansion of the institution.”

17. In addition, Para 16 of the Inamdar case judgment notes that fees may cover

- a. ‘future plans for expansion and betterment of the Institution.’
- b. It further says that the Reasonable Surplus should cater to ‘expansion of the system and development of Education’ and provides a range of 6 to 15 %.’

18. The Committee accordingly recommends that ‘Reasonable Surplus’ should be allowed up to 15% of the total revenue. Surplus will be as the difference between the total revenues of an institution and the total admissible expenses.

Total revenues will include all fees and other income such as interest of fixed deposits, dividends on investments etc, if any.

Admissible expenses are those that contribute to imparting quality education to the students. An illustrative list of admissible expenses has been drawn by the committee. A surplus, over and above, such ‘Reasonable Surplus’ would, in the opinion of the Committee, amount to profiteering.

Requirement of funds for the future expansion of the institution and development of education will be sourced from ‘Reasonable Surplus’.

19. With regard to revenue, the Committee recommends the unaided private schools continue to have the autonomy to determine the fees to be charged taking in to consideration the need to generate funds to run the institution and to provide

facilities necessary for the students. However, schools are proscribed from charging capitation fee and should not be allowed to profiteer.

20. Management of the institution and parents of the students may also require additional facilities which may not be common for all the students and therefore may be recovered from a select group of students only. All such fees will also form part of total revenue.
21. With regard to admissible expense, the test of legitimacy of an item of admissible expenditure will be whether it promotes imparting quality education to students in terms of:
 - a. Teaching –learning processes,
 - b. Student welfare and
 - c. Good administration of the institution.
22. There cannot be uniform and rigid norms for deciding admissible expenditure as institutions are affiliated to different Boards and the norms prescribed by every Board are different. Also each institution may have a different vision of what constitutes quality education for its students. Cost of infrastructure and facilities vary from place to place (urban and rural). The expenses incurred also vary according to the stage of schooling (Primary, Secondary & Higher Secondary), staff required for implementation of curriculum and salary of such staff.
23. A list of heads of admissible expenditure has been drawn by the Committee and included in this report. This is at best illustrative. This includes items like repairs and maintenance of assets, depreciation, the annual increments in salaries, increase in expenses due to inflation, expenses on account of statutory requirements etc.

The funds for capital expenditure are invested by the Trust/Management of the School. When these assets are used for the purpose of education of students, it is necessary to recover the depreciation of various assets and incur revenue expenditure for maintaining such assets in good condition. The Committee's recommendation is that the General Accepted Accounting Principles will apply to all such items. Their illustrative listing in Appendix does not vitiate such application of accounting principles.
24. The Tuition fees of students of backward class in unaided schools should be reimbursed to management in the same year. Here the fees decided by management shall be considered to be the Tuition fees.
25. The Management should clearly articulate in advance its refund policy of the tuition fee, if a student is withdrawn at the beginning or in the middle of the session.
26. TMA Pai judgment also disallows capitation fee. The State Capitation Fee Act addresses capitation fee. Relating to this, Para 393 of the TMA Pai Judgment states "now by virtue of this judgment the fee structure fixed under any regulation or enactments will have to be reworked" The Committee therefore, recommends that the Capitation Fee Act of the State Government be amended to bring it in line with the Supreme Court judgment.

27. It is in the interest of the general public that more good quality schools are established. The management of unaided private schools should have also the maximum autonomy in administration, including the right of appointment, disciplinary powers and admission of students.
28. The University Grants Commission and the Ministry of HRD, Govt. of India has been keen that Higher Educational Institutes, colleges or universities get accreditation from NAAC. On the same lines, schools in which the basic foundation for child development is laid should also be accredited. This will bring transparency and help parents in benchmarking schools. It will generate a healthy competition among schools for better ratings from accreditation agencies. Once the desired level of quality is achieved through accreditation, the parents will also not mind paying higher fees for the sake of quality. In other words, if a measure of autonomy is given to schools in fixing their fees, it should also be accompanied with accountability of maintaining certain norms and standards for imparting Quality education in schools. To ensure that prescribed norms and standards are followed to maintain quality, the Committee recommends accreditation and rating of all schools through an independent accrediting organisation eg the Quality Council of India.
29. There should be a Grievance Cell to verify that the representatives of Parent Teacher Association are elected in a democratic manner as per the G.R. dated 18th October 1997, 22nd July 1999, 22nd May 2000, 27th May 2003, etc. and or the High Court Order to make it more transparent. The constitution of this Grievance Cell should be with 2 members from parents and 2 members from management.
30. No school / management should accept / demand capitation fees as per the Maharashtra Educational Institutions (Prohibition of Capitation Fee) Act, 1987.
31. As per the judgement of the Hon'ble Supreme Court (T. M. A. Pai Foundation V/s. State of Karnataka and other recent judgements), it is the right of the management to decide the fee structure. However, the proposed fee should be discussed in the Parent Teacher Association meeting.
32. To develop a better understanding between the parents and the management, following measures are recommended.
- a) Regular meetings of Parent Teacher Association
 - b) Agenda of the meeting of Parent Teacher Association should be circulated well in advance to all the members of Parent Teacher Association.
 - c) Talent and resourcefulness of parents could be taken into consideration in improving the learning capabilities of the students.
 - d) If feasible, suggestions from the parents can be invited without asking them to disclose their identity to enable the management to know the views of the parents.

- e) Parent Teacher Association should consider organizing a minimum of 3 programmes in a year.
- f) It is essential to have some programmes of orientation for representatives of the parents for better understanding.
- g) These programmes should be conducted soon after the school session starts.

33. To ensure fee charged by an unaided private institution does not result in profiteering, a mechanism and time schedule to ensure transparency is recommended below:

- a. In terms of a mechanism, each unaided institution will create a projected income and expense statement for the forth-coming academic year. This will include all fees and other income, admissible expenses and the resultant surplus.

The Management will furnish these projections in advance to the Executive Council of the PTA along with the audited financial statements available of the latest academic year.

The Council would be expected to identify any element of profiteering in the data furnished and communicate its suggestions for changes to the Management. After considering the suggestions, the Management may revise the fee. It will then communicate its decision on the fee to the parents and start charging the same.

If the majority in the Executive Council of PTA finds that the fee so notified results in profiteering, it could approach the State Statutory Committee with facts for redress. The Statutory Committee, may not stay the levy of the proposed fee, but after hearing both parties, determine the element of profiteering and order suitable reduction prospectively.

- b. With regards to a time schedule, the Management will provide both the financial statements referred to above, to the Executive Council of the PTA three to nine months prior to the end of the current academic year.

Within one month of receiving the statements, the Executive Council would be expected to identify any element of profiteering in the data furnished and communicate its suggestions for a change in fee to the Management.

After receiving the Executive Council's suggestions, if any, the Management will notify parents of the revised fee, within a month.

- c. It is recommended that the State Statutory Committee may be headed by a retired Judge of Hon'ble High Court, one representative of unaided institutions, one representative of parents, one representative from the National Boards, one Chartered Accountant and the Secretary of the School Education Department or his representative.

34. One issue that was repeatedly raised in the Committee was the delay in disbursement of non-salary grants and reimbursement of SC-ST scholarships by the Government to the aided school. It was forcefully contended that this was most pertinent to the issue at hand. It is to be noted that 90% of all schools in the State are aided schools. Their standards are continuously deteriorating because of Government apathy and neglect in timely disbursement of grants. The non-salary grants have not been disbursed to the aided schools since 2004. It was even insinuated that because Government cannot discharge its obligation to impart quality in 90% aided schools, it is trying to bring down the quality in the remaining 10% unaided schools. The Committee feels that since it is not the intention of Government to bring down the quality of education in un-aided schools through the present exercise, it should be ensured that the measures proposed are only to eliminate profiteering by a few black sheep among the unaided schools and not to penalize or to place unwarranted restrictions on others.

35. In the TMA Pai judgment this issue has been highlighted by the Hon'ble Court's following observations:

- a. "It is no secret that the examination results at all levels of unaided private schools, notwithstanding the stringent regulations of the governmental authorities are far superior to the results of the government maintained schools. There is no compulsion on students to attend private schools. The rush for admission is occasioned by the standards maintained in such schools, and recognition of the fact that State run schools do not provide the same standards of education. The State says it has no funds to establish institutions at the same level of excellence as private schools. But by curtailing the income of such private schools, it disables those schools from affording the best facilities because of lack of funds. If this lowering of standards from excellence to a level of mediocrity has to be avoided, the State has to provide the difference"

36. The Committee recommends that the Government should address this issue by clearing the backlog at the earliest and by making adequate budgetary provisions to ensure timely release of grant in future, so that the bulk of the students studying in the aided school receive quality education.

37. The Committee also recommends that Government may take a conscious policy decision and allow private aided schools to raise additional resources as per norms through the combined efforts of PTA and school management.

Appendix 1: Suggested Norms based on recommendations of Subgroup I

TEACHING – LEARNING PROCESS

I. Curricular Activities

- ◆ Child-centred methodology
- ◆ Teaching aids
- ◆ Teachers to be facilitators
- ◆ Resources
- ◆ Software
- ◆ Online databases

II. Co-Curricular Activities

- ◆ A variety of activities for the Holistic Development of the student
 - Value Education
 - Civic Sense
 - Environmental Awareness
 - Life Skills
 - Adolescent Education (includes Aids awareness)
- ◆ Activities for fun ,skill development and enhanced learning eg
 - Sports
 - Dance
 - Drama
 - Music
 - Research

III. Faculty

- ◆ Qualifications

The school should appoint HSC with D Ed teachers for Standard I to Standard IV and graduate with B Ed for Standard V to Standard X

- ◆ Incentives
- ◆ Salaries
- ◆ Perks
- ◆ Service Conditions
- ◆ Guest Speakers
- ◆ Personal Up gradation

Research

Training

Study Tours

IV. Environment

- ◆ Space 8 sq ft per child
- ◆ Cleanliness of the facilities
- ◆ Facilities (as per the requirements of the affiliating Board)
 - Library----resources for leisure reading, research and for professional development
 - Labs
 - Computer centre
 - Classrooms
 - Office Spaces
 - Activity Rooms
 - Playground for outdoor games
 - Space for Indoor games
 - Infirmary
 - Counselor's room
 - Store rooms
 - RestroomsHands-on learning experiences

- ◆ Internet
 - ◆ Inquiry cycle
 - ◆ Field trips
 - ◆ Community interactions
 - ◆ Experts
 - ◆ Resources
 - ◆ Experiments
 - ◆ Software
- V. Remedial Teaching
- VI. Student's continuous evaluation and feedback
- VII. Teacher-student ratio

A) STUDENT'S WELFARE

I. Safety

Safety Measures within the building – Balconies to be grilled.
 Open spaces to be covered and sharp edges to be avoided.
 Wiring to be covered,
 Fire Extinguishers to be graded ABC- ABC for normal fires, - D for
 Chemical Evacuation Drill Report, Class room fire plan,
 Contingency evacuation plan file with drill timings. Disaster
 management should be looked into.

II. Healthcare and emergency medical help

Suitable health arrangement for primary check up and maintenance of records.
 basic first aid facilities, oxygen, doctor on call , visits by health conscious
 organizations on a regular basis. Taking help of professionals if required to
 provide good healthcare.

III. Nutrition

Nutritive snacks and meals to be served in the cafeteria and school should
 promote healthy habits and avoid sale of junk food in the cafeteria

IV. Safe Drinking Water

Purified water in clean pots or coolers

V. Sanitation

The health and hygiene in the school is of prime importance as children are more prone to all kinds of illness.

To ensure this cleanliness of the school should be monitored.

VI. Career Counseling

To help students make decisions for their future careers, schools should appoint on a part time or as required basis a career counselor

VII. Stress Management

There should be workshops organized to help students acquire stress management techniques and not be depressed.

VIII. Guidance and Counseling

A school should appoint as a visiting faculty a clinical Psychologist or similar person to help the students who are in need of such expert help and guidance

B) Administrative

- ◆ School management software
- ◆ Furniture and fixtures
- ◆ Playground maintenance and rent if payable
- ◆ Buses for field trips
- ◆ SMS service
- ◆ Smart cards/ I cards
- ◆ Consumables
- ◆ Equipments for labs
- ◆ Equipments for games
- ◆ Equipments and materials for art, music, drama
- ◆ Affiliation fees
- ◆ Newspapers and periodicals
- ◆ CCTVs
- ◆ Office Equipment
- ◆ Telephones
- ◆ Fax
- ◆ Stationery
- ◆ Computers

- ◆ Printers
- ◆ Xerox machine
- ◆ Printing
- ◆ Banners and posters
- ◆ Events
- ◆ Special days
- ◆ Investiture
- ◆ Teacher's day gifts
- ◆ Children day gifts
- ◆ Prizes
- ◆ Gifts for guests
- ◆ Legal fees
- ◆ Uniform for ayahs and peons
- ◆ Staff picnics and outings
- ◆ First aid materials
- ◆ Examination
- ◆ Courier and postage
- ◆ School publications
- ◆ AMC's of various services and instruments
- ◆ Equipment hire for events
- ◆ Auditorium hire
- ◆ Taxes---property, municipal, water
- ◆ Electricity charges

Appendix 2: Illustrative list of Heads for expenses for admissible expenditure as per the suggested norms

A) Expenses for Teaching –Learning Process

Library resources
Newspapers and periodicals
Membership charges of other libraries in the city/town
Teacher training workshops –cost ,lodging ,boarding and travel plus incidentals
Seminars
Inter school and Inter house progs/competitions
Hosting MUN or other progs
Outsourced agencies--- dance academy, trinity school, etc
Consultants
Academic Management experts
Guest speaker honorarium
Salaries of teaching and non teaching staff
PF and extra duty allowances
Specialised coaches for various games
Lab equipments
Audio-Visual equipments
Cds
LCDS
Hardware and softwares
Online databases
Sports equipment Teaching Aids
Cultural events
National festivals
Sports field charges
Swimming Pool maintenance and charges if any
Auditorium hire
Bus hire for field trips
Lights and Sound hire
Depreciation, renovation, modification and refurbishment of premises
Internet charges
Toys
Outdoor play equipments
Indoor play equipments
Allied Teaching resources

B) Expenses for Student's Welfare

Fire extinguishers
Fire drills
Disaster mgmt

The school should be sensitive to arrange for special needs and thus provide adequate counseling facilities, which includes hiring qualified people

Aqua Guard
Water coolers
Lab safety equipments
Salary of a school Counsellor
House Keeping costs
Soaps detergents materials for cleaning
Machine for cleaning
Charges paid to Career Counselor
Workshop charges for student workshops like stress ,teen toofane etc
First Aid equipment/outsourced healthcare for students and staff
Cafeteria personnel
Cafeteria equipment and maintenance
School Security
To provide setting of canteen facilities such as tables, chairs

C) Expenses for Administration

Recruitment of staff
Accreditation costs
Board fees
Annual Municipal Taxes
Rent
Interest on loans (for capital, etc)taken
Annual Property tax
Electricity charges
AMC's (lifts, equipment, Air conditioners, water coolers website upkeep etc)
Water charges
Water tankers got for water shortage (whenever)
Pest control charges
Infrastructure costs--maintenance
Equipments
Non teaching Resources
Gardening tools and costs
Annual memberships charges for library/Associations
Legal expenses
CA expenses
Programs
Costumes and stage backdrops
Uniforms for class 4 employees
Staff welfare activities
Gifts and prizes
Printing
Stationery
Smart Cards/I cards
Machines (xerox ,lamination, spiral , fax,)
Telephone
Consumables
Digital cameras
DVD players
Blank CDS
Blank DVDS
Pen drives

Portable hard discs
Software
PA systems
Video conferencing equipment
CCTV cameras
Security alarms
conveyance,
sumptuary allowances
meeting expenses
food and tea expenses for guests
Tea-Coffee vending machine and consumables
Photography and video shooting of events
Furniture & Fixture requirement on an ongoing basis

D) Depreciation on Fixed Assets (As per Income Tax Act)

Building
Furniture & Fixture
Electric Installation & Fittings
Water Cooler
Air Conditioners
Instrument & Equipment
Laboratory Instrument
Computers, Laptops & Printers
Audio Visual Equipments
Toys
Gymnasium Goods
Sewing Machine
Lift
Biometric Machine
Copier Machine
Library Books
Motor Vehicle
Franchise charges
Brand Royalty

Appendix 3: Measures for transparency based on Subgroup II recommendations

I) Setting up of a Grievance Cell :

There should be a Grievance Cell to verify that the representatives of Parent Teacher Association are elected in a democratic manner as per the G.R. dated 18th October 1997, 22nd July 1999, 22nd May 2000, 27th May 2003, etc. and or the High Court Order to make it more transparent. The constitution of this Grievance Cell should be with 2 members from parents and 2 members from management.

II) Fixation of School Fees :

- a) No school / management should accept / demand capitation fees as per the Maharashtra Educational Institutions (prohibition of capitation fee) Act, 1987.
- b) As per the judgement of the Hon'ble Supreme Court (T. M. A. Pai Foundation V/s. State of Karnataka and other recent judgements), it is the right of the management to decide the fee structure. However, the proposed fee should be discussed in the Parent Teacher Association meeting.
- c) Fees can be revised after every 3 years. They can also be revised every year if required (e.g. to implement Pay Commission recommendations, annual increment, etc.). The decision of revision of fees should be intimated to the parents well in advance.

III) Better interaction between Parents and Management :

To develop a better understanding between the parents and the management, following measures can be taken.

- a) Regular meetings of Parent Teacher Association should be conducted every month.
- b) Agenda of the meeting of Parent Teacher Association should be circulated well in advance to all the members of Parent Teacher Association.
- c) Talent and resourcefulness of parents could be taken into consideration in improving the learning capabilities of the students.
- d) If feasible, suggestions from the parents can be invited without asking them to disclose their identity to enable the management to know the views of the parents.
- e) Parent Teacher Association should consider organizing a minimum of 3 programmes in a year.

IV) Orientation of Parent Teacher Association :

- a) It is essential to have some programmes of orientation for representatives of the parents for better understanding.
- b) These programmes should be conducted soon after the school session starts.

V) Mechanism and time schedule to ensure transparency :

To ensure fee charged by an unaided private institution does not result in profiteering, a mechanism and time schedule to ensure transparency is recommended below:

a) Mechanism :

- In terms of a mechanism, each unaided institution will create a projected income and expense statement for the forth-coming academic year. This will include all fees and other income, admissible expenses and the resultant surplus.
- The Management will present these projections in advance to the Executive Council of the PTA along with the audited financial statements available of the latest academic year.
- The Council would be expected to identify any element of profiteering in the data furnished and communicate its suggestions for changes to the Management. After considering the suggestions, the Management may revise the fee. It will then communicate its decision on the fee to the parents and start charging the same.
- If the majority in the Executive Council of PTA finds that the fee so notified results in profiteering, it could approach the State Statutory Committee with facts for redress. The Statutory Committee, may not stay the levy of the proposed fee, but after hearing both parties, determine the element of profiteering and order suitable reduction prospectively.

b) Time schedule :

- With regards to a time schedule, the Management will provide both the financial statements referred to above, to the Executive Council of the PTA three to six months prior to the end of the current academic year.
- Within one month of receiving the statements, the Executive Council would be expected to identify any element of profiteering in the data furnished and communicate its suggestions for a change in fee to the Management.

- After receiving the Executive Council's suggestions, if any, the Management will notify parents of the revised fee, within a month.

Chapter 5: Dissent Note of Dr J Jain & Committee's comments

S. No	Gist of point made by Dr Jain	Views of the Committee
1	My (Dr Jain's) notes to the successive committee meetings should be published as dissenting notes along with all my suggestions / recommendations in the final report.	Part 2 of the Report contains the final minutes of all meetings. All written submissions received from members have been included therein including Dr Jain's dissenting notes.
2	I regret to state that draft report is nothing but a license to the school management to increase / collect fees under various heads. The proposed report will legalize everything and the parents/ students will be at the mercy of the management, who will exploit them legally, if this report is implemented. Therefore I honestly request you to please reconsider facts and recommendations / suggestions made by the parents (myself) and redraft the final report.	On the contrary, the Report restricts the Management from charging arbitrary fee, by : <ul style="list-style-type: none"> • Specifying a ceiling for 'reasonable surplus' • Relating admissible expenditure to norms related to quality • Prescribing a statutory mechanism for redress of grievances of PTA relating to profiteering. • Prescribing a time schedule for the purpose
3	Please note that the TMA Pai judgment was basically for Minority Institutions and it should not be generalized. I also request you to consider the latest Supreme Court Judgment in the matter of Modern School, Delhi, which I have been quoting in all our committee meetings.	Both the judgments have been discussed and considered at length in the Committee meetings.
4	From the report it appears that the committee has been appointed to resolve issues pertaining to school management and recommend the ways and means to legalize fees under various heads. The report clearly indicates that the schools will be authorized to increase / collect / charge any amount of fees by resorting to various means as recommended under the head of Suggestive Norms. The poor parents / students will be subjected to exploitation by the management in the name of quality education.	The allegation that Committee is recommending "that the schools will be authorized to increase / collect / charge any amount of fees" is baseless and biased. As pointed out above, only 'Reasonable profit' restricted to 15% of revenue is being recommended. Further, this surplus is to be used for development of education.

5	<p>The committee was formed to look in to the issues pertaining to parents grievances, exorbitant fee hike and to suggest norms for fixing school fees but instead the main subjects of committee's discussion were Quality Education, Reasonable Surplus, Autonomy to Schools etc. and ultimately the same has been achieved due to their majority and various other reasons.</p> <p>The Government's main aim / purpose to benefit parents by fixing a reasonable fee structure will be defeated.</p> <p>If no transparency can be maintained in the said committee, how we expect the schools to maintain transparency, profiteering is their sole objective / motto.</p>	<p>The grievance is that in the Committee report quality has got the centre stage instead of Parent's grievances regarding unreasonable fees and prescribing norms for fees.</p> <p>No norms can be devised without reference to their impact on quality of education. For provided quality education unaided schools will need resources (which the Government cannot be expected to provide.) There is also no compulsion for students to opt for unaided schools.</p> <p>The Governments GR constituting this Committee is to be read harmoniously with the law of the land as decided by the 11 judges Constitutional Bench in TMA Pai case.</p> <p>The allegation is baseless. Dr Jain's submissions have been reproduced in toto in the Committee Report.</p>
6	<p>I reject the said draft report in totality and do not agree / Consent with most of the components / suggestion made in the said report and therefore I disown my self from the said report due to the facts mentioned below.</p> <p>a) The said draft report is incomplete, distorted and false.</p> <p>b) Many of the components / suggestions / recommendations have never been discussed in our committee meetings.</p> <p>c) The statements /</p>	<p>The hon'ble member's dissent is noted. Serially, the Committee's view are as follows:</p> <p>a) to c) not accepted</p>

	<p>recommendations / suggestions of parents are distorted and incomplete as only parts of our suggestions (favorable to management) have been mentioned in the report.</p> <p>d) 90% of the suggestion / recommendations made by parents are missing in the Draft Report.</p> <p>e) The report has been prepared with a view to grant autonomy to school management to hike their fees and it also give them the loopholes / authority to collect / demand / charge fee under various heads.</p> <p>f) The report mainly deals with the TMA Pai Judgment of Supreme Court. All favorable paragraphs have been quoted repeatedly. There is duplication of the most of the paragraphs of Supreme Court Judgment which are favorable to management. Whereas those favoring parents have been excluded completely.</p> <p>g) The report gives a clear indication that the TMA Pai Judgment is Supreme and therefore the State laws, Acts, SS code etc. have no value, hence should be thrown in the dustbin. If this is the case then the Committee should have prepared one line report stating that as per the</p>	<p>d) The Report of Sub group II in which parents representatives suggestions/ recommendations were compiled, is included in Part II of the Committee's report. It was not incumbent on the Committee to accept all recommendation of the Subgroups. In discussions a variety of views emerge. The greatest area of agreement is carved out to represent the Committee's view.</p> <p>e) Not true</p> <p>f) This is incorrect. The judgment has been quoted for granting autonomy to unaided schools in fixing their fees as well as for curbing profiteering and commercialization of education.</p> <p>g) This is an unfair representation of the Committee's view. The Committee has taken unbiased view that is consistent with the decision of the 11 judge bench of the Supreme Court to curb commercialization and profiteering from education</p>
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	<p>Supreme Court Judgment of TMA Pai the Schools have autonomy to fix their own fees and admit the students.</p> <p>h) The Recommendations made by sub-group II are almost missing in the report and even if included, they are in incomplete and distorted form. Whereas the suggestion of sub-group I (where there was no parents representative) were taken in totality (100%).</p> <p>i) I have raised many objections in various meetings but all my objections were either unheard or not recorded at all, each time I have to protest and get my recommendations / suggestions included / recorded in the minutes but none of those recommendations / suggestions / submissions have been reproduced in the draft report.</p> <p>j) Regarding Suggestive Norms submitted by Sub-Group I, I raised objections against most of the components / suggestion of subgroup I but even after justifying the same, those suggestive norms have been reproduced in totality in the draft report.</p> <p>k) Most of the items of Suggestive Norms are either parts of term fees or of capital expenditure many items of the suggestive norms are the basic requirement of School education and hence should</p>	<p>on the one hand and to leave unaided schools free to fix their fees.</p> <p>h) The Report of Sub group II in which parents representatives suggestions/ recommendations were compiled, is included in Part II of the Committee's report. It was not incumbent on the Committee to accept all recommendation of the Subgroups. In discussions a variety of views emerge. The greatest area of agreement is carved out to represent the Committee's view.</p> <p>i) All members were requested at the end of each meeting to furnish their submissions in writing. Accordingly Dr Jain's suggestions were incorporated in full in the final minutes which form a part of the Report. If the Committee found many of his suggestions unacceptable, the position must be accepted.</p> <p>j) The objection raised were discussed and a view taken.</p> <p>k) There are two views in the matter. The Committee went by the majority view. The funds are invested by the Trust/Management of the School. When these assets are used for the purpose of</p>
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	<p>not be charged separately. I have always objected, in our committee Meetings, that all items of capital investments like library resources, Lab equipments, Computers & Accessories, Xerox machine, Audio visual equipments, hardware & Software, LCD's CD's, sport equipments Lights & sounds equipments, indoor & outdoor play equipments, water coolers, Lab safety equipments, Furniture & fixture, Cafeteria equipment, Canteen Equipments, Infrastructure costs, maintenance costs, DVD's, CD's, DVD players cameras, pen drives, portable Hand over, PA systems video conference equipments, security alarms, CCTV Cameras, Tea/Coffee vending machines etc. are of infrastructure cost and hence should not be collected from the parents / students. There are clear guidelines about the same as the infrastructure cost of equipments / facilities should not be collected from students / parents. It is the responsibility of the management to provide all required infrastructure. Therefore the above items and all other items of suggestive list of sub-group I should not be considered while fixing fees but the same have been conveniently reproduced.</p> <p>l) As stated above & during our Committee meetings that most of the items of suggestive norms proposed by subgroup I are part of term fees and also part of school education, for which the tuition fees / term fees are</p>	<p>education of students, it is necessary to recover the depreciation of various assets and incur revenue expenditure for maintaining such assets in good condition. The Committee's view is that the General Accepted Accounting Principles should apply to all such items. Their illustrative listing in Appendix does not vitiate such application of accounting principles.</p> <p>l)No item can be charged twice for the purposes of fees.</p>
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	<p>collected. Therefore how the schools can charge separately for the same activities?</p> <p>m) The suggestive norms are nothing but a legal way to exploit the parents / children.</p> <p>n) Many items in the list of Fixed Assets have not been mentioned but they are part of depreciation. How can you provide depreciation on assets which are not shown in the list of assets? These items are Air Conditioners, Toys, Gymnasium Goods, Sewing Machines, Lift, Biometric machines, Motor Vehicles etc.</p> <p>o) Most of the School buildings belong to a particular Trust & the Schools pay rent to the trust therefore how the schools can avail of the depreciation on building?</p> <p>p) Further, when the building is the property of trust, the repairs & maintenance is the responsibility of the trust / owner, therefore how the school can demand repair & maintenance charges?</p> <p>q) Most of the schools get land, water and electricity at subsidized rates from the Govt. then how they can be categorized as unaided schools. They are getting indirect aid from the Govt.</p>	<p>m) Not true</p> <p>n) Accounting principles cannot be altered by this Committee. Depreciation will have to be charged on all assets acquired by the school. Since these are standard accounting practices, no mention need be made of these by the Committee.</p> <p>o) When the school building is owned by an entity other than the school, the Depreciation cannot be claimed by the school. However, when the title of the building is with the school, it will be entitled to its depreciation.</p> <p>p) This will depend on the nature of agreement between the school and the landlord. Repairs of routine nature, generally termed as 'current repairs' shall have to be carried out by the tenant school.</p> <p>q) Indirect subsidies of general nature cannot convert an unaided school to aided school. If the same tariff (for electricity or water) applies to all 'educational' institutions as a category, it is deemed to be reasonable classification and not subsidy to any individual institution. Similarly MIDC offers plots at less than commercial rate, to all school which take up such plots in their area to assist</p>
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	<p>r) The amount of depreciation and other expenses incurred towards optional activities / subjects should only be collected from the students who opt for optional subjects and a separate account should be kept for the same but there is no mention about the same.</p> <p>s) Further it has been clearly discussed & decided in the meeting that there will be a basic syllabus for which the tuition fees will be same for all students, At the same times the schools can offer optional subjects, the students will have the choice to select / opt for particular subject/s and accordingly they can pay the additional amount of fees for the optional subject/s. However the optional subjects should not be mandatory for all and should be taught after school hours only. But there is no mention about the same in the Draft Report. Therefore considering the above facts, I have no option but to disagree totally with the said Draft report which is one sided, incomplete & distorted.</p>	<p>industry. This cannot convert them into aided school. Besides, determination of criteria for unaided category is not within the purview of this Committee.</p> <p>r) While there is some merit in this contention, it will not be possible to cover such variations by any general formula without making accounting unduly complicated. The Committee considers that activity related directly to curriculum should be for all students. Extra- curricular activities where unduly heavy expenditure is involved would be optional and charged only to the beneficiaries.</p> <p>s) This concept of basic syllabus was not found acceptable because of the prevailing diversity of Boards.</p>
7	I strongly protest against the said Draft Report and also making it very clear that under no circumstances this report be submitted to the government. The suggestions /	7 The Committee has noted the views and found the greatest area of agreement in the Report presented.

recommendations made by parents in various Committee Meetings and Sub-Committee II meetings should be incorporated.

Therefore I request your good self to kindly prepare a fresh report after making required modifications / changes / alterations etc. by incorporating / including all recommendations and suggestions of parents and particularly those suggested by me, not later than the next meeting i.e. before 10th October, 2009 so that the same can be finalized in the next meeting scheduled on 10th October, 2009. I propose that the report may be prepared in 5 parts i.e.

1. General Introduction with comments on why the committee was appointed, its purpose etc.

2. Terms of References

3. Issues where there were consensus between parents & the management

4. Suggestions from School Management

5. Suggestions from Parents representatives.

Chapter 6: Dissent Note of Dr A Kulkarni & Committee's comments

S. No	Gist of point made by Dr Avisha Kulkarni	Views of the Committee
1	<p>Since the committee was dominated by representatives of managements I am not surprised that the draft report also heavily leans in their favour.</p> <p>The judgment of the Supreme Court in the TMA Pai case is being selectively used to back the managements' stance. The draft overlooks the fact that the SC in this very case and several other cases has made it clear that education cannot be a business and in any case profiteering should not be permitted under any circumstance.</p> <p>It was precisely keeping in mind the spirit of these judgments and its aim of providing affordable education that the state government issued a GR on May 27, 2003. Hence any move to dilute the provisions of the Maharashtra anti-capitation fee act and other relevant laws and GRs should not be supported by our committee.</p>	<p>This is an unfair representation of the Committee's view. The Committee has taken unbiased view that is consistent with the decision of the 11 judge bench of the Supreme Court to curb commercialization and profiteering from education on the one hand and to leave unaided schools free to fix their fees.</p> <p>This is incorrect. The judgment has been quoted for recognizing the right of unaided schools to fix their fees, as well as for curbing profiteering and commercialization of education.</p> <p>The Supreme Court judgment requires Governments to rework any regulation/enactment that lays down the fee structure. The Committee cannot ignore this.</p>
2	<p>I also strongly object to the observation that aided schools, which form 90 per cent of the schools in Maharashtra, cannot be blamed for the poor quality of education provided by them. We should recognize the fact that high levels of corruption in the education department and the lack of a comprehensive and sustained policy to upgrade the infrastructure in these schools and upscale the skills of the teachers have resulted in the present situation. Initiatives taken by</p>	<p>The hon'ble member makes serious allegations against the Government. The Committee dissociates with the view.</p>

	<p>committed persons in the field of education have indeed resulted in dramatic improvement in the teaching quality of certain schools.</p> <p>Also, it will be wrong to presume non-aided schools provide vastly superior quality of education. Some of them employ poorly qualified staff and get away with it because of lack of supervision by their respective boards which are based in New Delhi.</p> <p>And if there is rampant commercialization of education by these non-aided schools it is because of failure of the government machinery to take firm and timely action.</p>	<p>In general, the perception is that the unaided schools have better quality that attracts students to them.</p> <p>The Committee recommends measures to curb commercialization and profiteering</p>
3	<p>I had articulated these views during the various meetings of our committee but were turned down mostly on the ground that the majority does not agree with them. But given the very composition of the committee I am not surprised that the majority, comprising of representatives of managements, rejected by suggestions. I feel that the committee's commitment should have been to ensure that education is not converted into a business. Unfortunately, that has not happened.</p> <p>I also wish to reiterate my objection to the manner in which my comments at the meetings were leaked to outsiders and that too in a distorted form. The minutes of the committee were also sent to high authorities even before they were confirmed by the members and even before the report is ready.</p>	<p>The comments are unjustified</p> <p>It had been clarified to the hon'ble member that it was the State Government which had furnished the Committee minutes to the Court along with its Affidavit.</p>
4	<p>As per the GR of 2003 if the PTA is convinced that an institution is indulging in profiteering then it can complain to the Dy. Director of education who in turn conduct an audit and frame a new fee structure which roots out profiteering. This crucial provision, which is in complete consonance with SC judgments in</p>	<p>The Committee considered various options before making its recommendations on redress mechanism.</p>

	TMA Pai and other cases, should not be done away with under any circumstances.	
5	<p>As per the GR within 30 days school should have democratically elected PTA, if school fails to do that, without any valid reason, heavy penalty (10 or 15 % of revenue, which managements are asking as surplus amount) should be imposed . PTA body is must as this is the body authorized to monitor that there is no commercialization of education.</p> <p>A 15- day extension can be granted and if the PTA is still not formed then a notice for withdrawal of NOC granted by the government to start the school should be served on the management.</p>	The Committee's recommendations in Para 27 cover this adequately.
6	<p>If the school has got land or any other facilities from the govt or municipal corporation then it can not be called unaided and govt has right to control as supported by the Supreme Court judgment Union of India / Jain Sabha.</p> <p>I had recommended a reasonable surplus of ten per cent but the majority said it should be 15%. If the majority recommendation is accepted then my suggestion in the above paragraph regarding government land etc should be taken into consideration.</p>	<p>Indirect subsidies of general nature cannot convert an unaided school to aided school. If Government /MIDC offers plots at less than commercial rate, to all schools in a given area as a policy, this cannot convert them into aided school. Besides, determination of criteria for unaided category is not within the purview of this Committee.</p>
7.	<p>Also, the accounts of the school should be given to the PTA regularly whether there is a proposal for a fee hike or not. Ideally they should be uploaded on the school's website. This will ensure transparency.</p> <p>Any proposal for increase should be intimated to the parents latest by September as the admissions for the next academic year close by October. This will give fair chance to parents to either accept the hike or move out to affordable schools. This without</p>	The Committee considered various alternatives and have made recommendations on similar lines in Para 31.

	<p>prejudice of the PTA's right to consider the fee hike proposal and complain to the education dept. if it suspects profiteering.</p>	
<p>8</p>	<p>To eliminate or reduce the discrimination in the education system it was my suggestion to have a uniform board and all managements of different boards should come together to achieve this goal in the best interest of the children who are the future of our nation. Though the idea was in no time rejected in this report now it is stated that each school management under same board should have freedom to decide their curriculum and fees will be charged according to their curriculum. This is a dangerous recommendation and will give the managements the freedom what they want. My suggestion was that till we achieve one nation one board system at least each board should have fix the curriculum for which their should be fix fees and only as per additional facilities (e.g air condition, etc) the school can charge extra.</p> <p>More importantly NO Legal fee expenses should be permitted if the case is being fought against parents/ students.</p> <p>I reserve the right to add points, which may have been left out, before the final meeting takes place.</p>	<p>Enforcement of a rigid uniformity in curriculum was not considered desirable.</p> <p>This can cut both ways. It can encourage parents to resort to litigation. A final view on this will have to be taken by the Government.</p> <p>Yes, of course.</p>

Part –II

1. Government G.Rs

2. Minutes of the seven Meetings

3 Reports of the Two Sub Groups

Part –III

Other Correspondence of the Committee