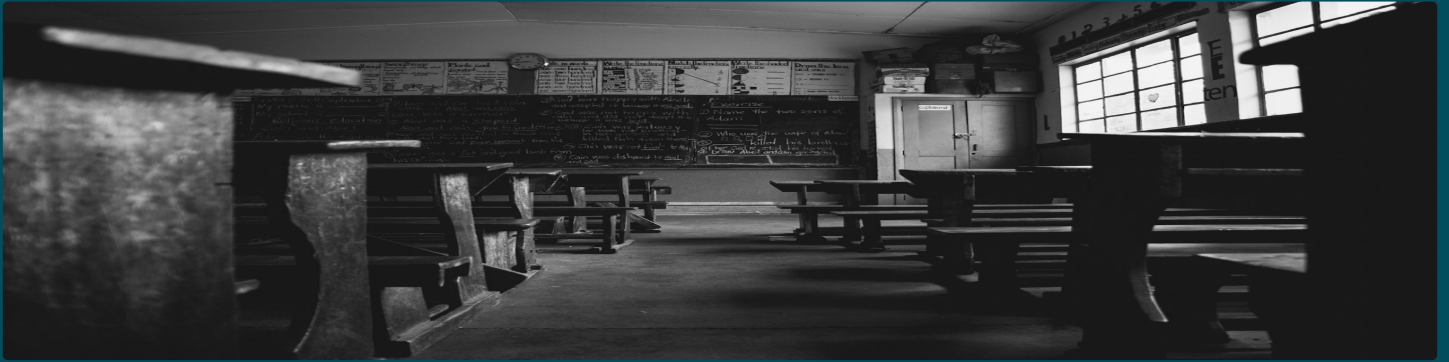




EDUCATIONAL LAW

Delhi High Court Clarifies: Delhi Government Can Regulate Private School Fees Only to Prevent Profiteering, Not to Control Fee Structure

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Introduction

In a significant ruling that reiterates the balance between educational autonomy and regulatory oversight, the Delhi High Court in LPA 213/2024, LPA 316/2024, and LPA 669/2024 (decided on 9 October 2025) held that the Directorate of Education (DoE), Government of NCT of Delhi, possesses only a limited power to regulate fees charged by recognised unaided private schools. The Court clarified that such regulation can be exercised solely to prevent profiteering, commercialization, or capitation fees, and to ensure that the fees collected are used exclusively for educational purposes as mandated by the Delhi School Education Act, 1973 (DSEA) and the Delhi School Education Rules, 1973 (DSER).

This judgment, delivered by a Division Bench comprising Chief Justice Devendra K. Upadhyaya and Justice Tushar Rao Gedela, is a landmark reaffirmation of the autonomy of private unaided institutions, while also ensuring protection against exploitation of parents and students. The decision harmonizes prior Supreme Court rulings with the statutory framework governing educational institutions in Delhi.

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Case Background

The appeals before the Court arose from writ petitions filed by two private schools i.e Bluebells School International, Kailash (W.P.(C) 8794/2018) and Lilawati Vidya Mandir Senior Secondary School (W.P.(C) 6419/2019). Both schools are recognised, unaided, and operate on privately owned land rather than government-allotted premises.

The controversy began when the Directorate of Education (DoE) issued two orders, dated 1 August 2018 (against Bluebells School) and 20 April 2019 (against Lilawati School). The DoE restrained both schools from increasing their fees for the respective academic sessions, directed that any enhanced fees already collected be refunded or adjusted, and mandated that funds be used strictly as per Rule 177 of the DSER, 1973.

Aggrieved by these directives, both schools approached the Delhi High Court, challenging the DoE's jurisdiction to interfere in fee determination. On 7 February 2024, a Single Judge quashed the impugned DoE orders, holding that the Directorate could not prescribe or fix fee structures but was empowered only to prevent profiteering and commercialization. However, the Single Judge also permitted DoE to initiate fresh proceedings in accordance with law if any financial irregularities were detected.

Both the DoE and certain groups of parents filed Letters Patent Appeals (LPAs 213/2024, 316/2024, and 669/2024) against this order, prompting a detailed examination by the Division Bench.

Legal Issue

The central question before the Court was: Whether the Directorate of Education (DoE) has the authority to control and fix the fee structure of recognised unaided private schools, or whether its power is confined to preventing profiteering, commercialization, and misuse of school funds.

This issue required a close reading of Sections 17, 18, and 24 of the Delhi School Education Act, 1973, and Rules 172 to 177 of the Delhi School Education Rules, 1973.

Statutory Framework

The Court carefully analysed the statutory provisions governing fee regulation:

Section 17(3) mandates that every school must file a statement of fees before each academic session, and no fee higher than that declared may be charged without prior approval of the Director.

Section 18 requires every school to maintain a “School Fund” or, in the case of unaided institutions, a “Recognised Unaided School Fund.” All income, including fees, must be used solely for educational purposes.

Section 24 empowers the Director to inspect schools and issue directions for rectification of defects. Failure to comply may attract withdrawal of recognition or other statutory action.

Rules 172–177 detail how fees are to be collected, deposited, and used, and expressly forbid diversion of school funds for non-educational purposes.

Collectively, these provisions create a framework that promotes transparency and accountability in fee collection but stops short of empowering the DoE to unilaterally dictate fee structures of unaided private schools.

Arguments Advanced

For the Directorate of Education (DoE):

The DoE contended that its authority under Section 17(3) and related provisions of the DSEA and DSER empowered it to regulate and, when necessary, restrict school fee increases. Citing precedents like *T.M.A. Pai Foundation v. State of Karnataka*, *Unni Krishnan v. State of A.P.*, *Islamic Academy of Education v. State of Karnataka*, and particularly *Modern School v. Union of India* (2004), the DoE argued that the State has a duty to prevent exploitation and commercialization in education. It emphasized that its actions were directed toward ensuring fairness and preventing profiteering.

For the Schools:

The schools argued that the Single Judge’s interpretation correctly limited the DoE’s powers. They asserted that fee determination is part of an unaided institution’s autonomy, constitutionally protected under Article 19(1)(g) of the Constitution, subject only to reasonable restrictions preventing profiteering and capitation. The schools also contended that reopening fee structures that had been in operation for several years would be unjust, contrary to settled law on finality of administrative actions.

Judicial Analysis and Precedents

The Division Bench undertook a detailed examination of Supreme Court jurisprudence. It reaffirmed the twin principles from *T.M.A. Pai Foundation* and *Islamic Academy*, that educational institutions have the freedom to fix their fees but must avoid profiteering and capitation.

The Bench revisited *Modern School v. Union of India* (2004), noting that paragraph 17 of the Supreme Court’s decision cannot be read in isolation. It must be read along with paragraph 16, where the Court clarified that the regulatory power of the State is confined to preventing commercialisation and ensuring the proper use of funds. The Bench concluded that *Modern School* does not authorize the DoE to control or redesign fee structures of unaided private schools.

The Court also cited *Modern Dental College & Research Centre v. State of Madhya Pradesh* (2016), where the Supreme Court observed that regulatory measures are permissible only to prevent exploitation of students and commercialization of education. This reinforced the view that the DoE’s jurisdiction extends to preventing profiteering but not to micro-managing school finances.

Findings of the Court

The Delhi High Court upheld the Single Judge’s interpretation that the Directorate of Education may regulate fees only to prevent profiteering, commercialization, and capitation fees, and to ensure funds are used for educational purposes.

The Court emphasized that the statutory framework (Sections 17, 18, and 24 with Rules 172–177) supports such limited regulatory intervention. It rejected the contention that DoE enjoys unbridled power to restructure fee design.

However, the Court also recognized that if the DoE, upon inspection or audit, discovers irregularities such as diversion of funds, excessive surpluses, or misuse of fee income as it is empowered under Section 24 to issue corrective directions, withdraw

recognition, or take other statutory measures. These actions, however, must comply with principles of natural justice and due process.

Final Order

The Division Bench dismissed all three appeals (LPA 213/2024, LPA 316/2024, and LPA 669/2024) and affirmed the Single Judge’s judgment dated 7 February 2024. It reiterated that the Directorate of Education’s authority is confined to preventing profiteering and commercialization and ensuring fees are used properly. The Court granted liberty to the DoE to proceed afresh against the schools if statutory violations are found, provided due procedure and natural justice are followed. No costs were awarded.

Implications of the Judgment

This decision holds immense significance for Delhi’s educational ecosystem. It draws a clear line between “regulation” and “control” for empowering the State to prevent abuse but protecting institutional autonomy. Private unaided schools retain the freedom to determine their fee structures, subject to transparency and lawful use of funds. The ruling also provides clarity to parents and educational authorities alike, ensuring that fee regulation is based on objective, lawful grounds and not administrative discretion.

Conclusion and Author’s Opinion

The Delhi High Court’s judgment strikes a delicate balance between autonomy and accountability. It reaffirms that while education is a noble pursuit, it must not become a vehicle for profit. At the same time, the ruling protects private schools from excessive bureaucratic interference.

In the author’s view, the decision is both constitutionally sound and practically fair. It ensures that the State’s supervisory role remains targeted at curbing profiteering and capitation without undermining the financial independence of educational institutions. This judgment will be a guiding precedent for other States grappling with similar issues of fee regulation. The ruling is a timely reminder that in matters of education, transparency and fairness, not control and should guide policy and governance.

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