372

32

32

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15(96)/PSB/2019 /1433-1437 Dated: 7/2/2019

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court while issuing the aforesaid direction has observed that the issue regarding the liability of Private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.......

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

373

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of Delhi School Education Rules, 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS in response to this directorate's circular dated 23 Oct 2017 referred to above, **Brain International School (School ID-1618180), Vikas Puri, Delhi-110018** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format including the impact on account of implementation of recommendations of 7th CPC with effect from 1 Jan 2016.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the school through email. Further, school was also provided an opportunity of being heard on 4 July 2018 at 2:00 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Discrepancies

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

Financial statements of the school for FY 2014-2015, FY 2015-2016 and FY 2016-2017 revealed that the school had incurred expenditure on renovation & construction of building out of school funds totalling to INR 2,83,24,395 respectively in the aforesaid financial years, which is not in accordance with the aforementioned provisions. This expenditure was reported in the Income and Expenditure Account of the school, while renovation & construction expenses were in the nature of capital expenditure on the building. Further, these capital expenditures were incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Adjustment in the fund position of the school has been done to the extent of renovation & construction of building done in the past three financial years (based of financial statements obtained for evaluation of the fee increase proposal for FY 2017-2018).Accordingly, the amount of INR 2,83,24,395 incurred by the school towards renovation & construction of building is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

2. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The audited financial statements of the school for FY 2015-2016 indicated a payable balance to Monarch educational Society of INR 2,22,17,159 as on 1 Apr 2015 against which the school made an adjustment of INR 5,75,000 towards income tax refund pertaining to the school collected by the Society during FY 2015-2016 and reflected a closing payable of INR 2,16,42,159 as on 31 Mar 2016. The school did not provide any details regarding the amount reflected as payable to the society in its books of account. Accordingly, the amount of income tax refund pertaining to the school of INR 5,75,000 collected and retained by the society resulted in indirect transfer of funds to the society and was not in non-compliance of above directions. Thus, this amount of INR 5,75,000 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

3. From the details regarding concessions given to students during FY 2016-2017 submitted by the school and taken on record, it was noted that the school gave concessions in fees to 9 children of the member of management/society. These concessions in fees to the children of the member of management/society are considered as indirect way of remunerating members of the management/ society.

   It was further noted that the school had not furnished the details of concessions given to the members of management/ society in its annual return under Rule 180(1) for FY 2016-2017 submitted to the Directorate.

Accordingly, the school is hereby directed to recover full fee from the members of management/ society from FY 2016-2017 and onwards within 30 days from the date of this order. The school is strictly directed not to give any concessions to the children of the members of management/society in future also.

Though the school provided number of children of members of management/ society to whom fee concessions were given, but did not provide complete details of amount of concessions given to them. Thus, the amount to be recovered from the members of management/society could not be determined and included in the fund position of the school (enclosed in the later part of this order). Accordingly, compliance regarding recovery of the fee concessions from the members of management/ society will be verified at the time of evaluation of subsequent fee increase proposal of the school.

B. Other Discrepancies

1. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

   Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

   Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

   Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

   Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

   From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transport Fees, Smart Class fee, Computer Fees and Science Fees from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school, or has been incurring losses (deficit), which has been met from other fees/income which was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/889 dated 4 September 2017. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**(Deficit)/ Surplus (INR)**
	A	B	C=A-B
Transportation Charges^	73,00,565	91,28,284	(18,27,719)
Smart Class Fee	21,84,887	8,25,033	13,59,854
Science/Computer fee	2,46,888	1,66,087	80,801

^ The above include principal repayment of loan of INR 31,12,869 and interest on loan of INR 7,53,439. The school did not provide details of salary of staff involved in transportation service, which has not been included as expense in figure above and also did not apportion depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

The school explained that annual charges collected from students are not sufficient to meet the revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting other revenue expenses of the school on account of which fund balance of earmarked levies could not be separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) have been considered while deriving the fund position of the school (enclosed in the later part of this order).

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

2. Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Also, Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 Dec 1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

It was noted that the school's fee structure include 'Infrastructure and Facility creation, Events and celebration charges, education trips, Teacher Orientation & Training fees', which is collected from students at the time of admission as one-time charge of INR 15,000 for incurring capital expenditure including that on the school building. The school collected INR 15,75,000 in FY 2016-2017 against 'Infrastructure and Facility creation, Events and celebration charges, education trips, Teacher Orientation & Training fees', which has been treated as capital receipt and clubbed with development fund in the audited financial statement of the school and has been utilised by the school towards expenditure on the school building.

Thus, the school is directed not to collect 'Infrastructure and Facility creation, Events and celebration charges, education trips, Teacher Orientation & Training fees' from students with immediate effect. For the purpose of evaluation of the fee hike proposal for FY 2017-2018 the above-mentioned fee has been included in budgeted income while deriving the fund position of the school (enclosed in the later part of this order).

3. As per Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*" However it was noted that the school had utilised development fund including 'Infrastructure and Facility creation, Events and celebration charges, education trips, Teacher Orientation & Training fees' collected from students during FY 2016-2017 towards 'Renovation and Construction Expenses' of INR 69,08,358 (out of total payment reflected in Receipt and Payment Account of INR 86,59,686) during FY 2016-2017, which was not in accordance with the direction included in above order.

Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/889 dated 4 September 2017 issued post evaluation of the proposal for enhancement of fee for FY 2016-2017 noted that the school had not deposited funds collected as development fees in a separate bank account and no interest was credited to development fund. Further, the school has followed unsuitable financial practices and improper accounting procedures resulting in unacceptable situation of negative opening balance of development fund, at the same time, is not maintaining depreciation reserve fund and using development fund for non-permissible items. The school has neither reserves, nor investment and yet has continued to incur and budget capital expenditure. It was further noted the school has continued to reflect negative balance of development fund in its audited financial statement for FY 2016-2017 and has not created depreciation reserve.

Also, para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*" The school is not following appropriate accounting of development fund in accordance with the guidance note. Thus, the school is instructed to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.

Also, Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/889 dated 4 September 2017 directed the school not to charge development fees till the time the school comply with the instructions in this regard in entirety. While, the school has not ensured compliance with the requirements of Clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009, it has continued to charge development fee from students. The school is strictly directed not to charge development fee from students till the time it ensures compliance. Non-compliance of this will be dealt in accordance with section 24(4) of DSEA, 1973.

The school is directed to follow DOE instruction regarding development fund and depreciation reserve and ensure that development fund is maintained in a separate bank account and utilised only towards purchase of furniture, fixture and equipment and maintain Depreciation Reserve, equivalent to the depreciation charged in the revenue accounts.

4. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) Assets held by a long-term employee benefit fund; and
(b) Qualifying insurance policies.

It was noted that the school has not got its liability for retirement benefits valued by an actuary and was also not recording the provision for same in its books of account. At the time of personal hearing, school management mentioned that it was not paying retirement benefits to its staff, which is a contravention of DSEA, 1973 and Payment of Gratuity Act, 1972. Accordingly, the school is directed to get its liability for retirement benefits valued by an actuary and record the same as provision in its books of account. Further, the school is directed to invest the amount against liability for retirement benefits in investments that qualifies as 'plan-assets' in accordance with Accounting Standard 15 within 30 days from the date of this order.

In absence of actuarial valuation of retirement benefits and provision for the same in the financial statements of the school, no amount has been considered while deriving the fund position of the school (enclosed in the later part of this order).

5. Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/889 dated 4 September 2017 issued post evaluation of the proposal for enhancement of fee for FY 2016-2017 noted that school does not have a defined procurement process and did not provide flow chart describing the procurement cycle. The management of the school does not follow tendering process.

   The school submitted quotations obtained in relation to purchase of 3 items/capital goods. However, the school did not provide details of any process followed by it for selection of service providers. Accordingly, the school is instructed to strengthen its internal control mechanism on awarding contracts in relation to goods and services to ensure that the same are awarded at competitive and arm's length prices.

6. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/889 dated 4 September 2017 issued post evaluation of the proposal for enhancement of fee for FY 2016-2017 noted that school had not refunded interest on caution money along with refund of caution money to exiting students and was instructed to include interest earned on caution money in the refund amount. It was noted that the school is yet to comply with these instructions.

During the personal hearing, it was mentioned that the school has stopped the practice of collecting caution money from students from FY 2017-2018 onwards.

On account of continued non-compliance by the school, the school is strictly directed to open separate bank account/create fixed deposit with bank for depositing caution money collected from students and interest earned on this account has to be refunded to the students along with refund of caution money at the time of leaving the school.

After detailed examination of all the material on record and considering the clarification submitted by the school, it was finally evaluated/ concluded that:

i. The total funds available for the year 2017-18 amounting to INR 10,72,82,172 out of which cash outflow in the year 2017-18 is estimated to be INR 7,54,58,895. This results in net surplus of INR 3,18,23,277. The details are as follows:

Particulars	**Amount (INR)**
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	17,14,564
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	12,75,326
Total Liquid Funds Available with the School as on 31 Mar 2017	**29,89,890**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	7,58,85,387
Add: Recovery from Society against Renovation and Construction expenses of Building during FY 2014-2015 to FY 2016-2017 [Refer Financial Finding No. 1]	2,83,24,395
Add: Recovery from Society of amount of income tax collected by the society [Refer Financial Finding No. 2]	5,75,000
Add: Amount of fee concessions given to members of management/society to be recovered [Refer Financial Finding No. 3]	-
Gross Estimated Available Funds for FY 2017-2018	**10,77,74,672**
Less: Caution Money as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	4,92,500
Less: Retirement Benefits [Refer Other Finding No. 4]	-
Net Estimated Available Funds for FY 2017-2018	**10,72,82,172**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 2]	7,20,09,026
Less: Arrears of salary from January 2016 to March 2017 on account of implementation of 7th CPC [Refer Note 2]	34,49,868
Estimated Surplus as on 31 Mar 2018	**3,18,23,277**

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.

2. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 9,64,18,162, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering in the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount allowed	Amount Disallowed	Remarks
Salaries and wages including allowances	3,85,26,519	5,31,92,000	4,56,07,531	75,84,469	Amount considered based on the calculation sheet in accordance with 7^{th} CPC submitted by the school.
Salary Arrear from Jan'16 to Nov'17	-	60,63,546	34,49,868	26,13,678	Salary arrears from Jan'16 to Mar'17 considered based on calculation sheet in accordance with 7^{th} CPC submitted by the school. Salary as per 7^{th} CPC from Apr 2017 to March 2018 is already included above.
Bus Loan/Cab Repayment during the year	38,66,308	38,66,308	-	38,66,308	The school has been collecting transport fee, which is not even sufficient to meet the operating expenses of the buses and thus, has been incurring losses on transport. Accordingly, the capital repayment and interest thereon has not been considered as
Interest on Vehicle loan	7,53,440	7,00,000	-	7,00,000	

Particulars	FY 2016-2017	FY 2017-2018	Amount allowed	Amount Disallowed	Remarks
					allowable payment from school funds. Further, the school has not complied with the requirements of Rule 177.
Renovation & Construction Expenses	69,08,358	47,00,000	-	47,00,000	Expenses budgeted on construction of building has not been considered on account of non-compliance with the requirements of Rule 177 by the school.
Fixed assets purchase during the year	8,30,960	14,94,812	-	14,94,812	No details were provided by the school regarding this budget. Thus, the same has not been considered.
Total	**5,08,85,585**	**7,00,16,666**	**4,90,57,399**	**2,09,59,267**	

In view of the above examination, it is evident that the school has sufficient funds for meeting all the budgeted expenditures for the financial year 2017-2018.

ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states "*All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.*" The school has sufficient funds to carry on the operation of the school for the academic session 2017-2018 on the basis of existing fees structure and after considering existing funds/reserves.

As per direction no. 2 of Public Notice dated 4 May 1997, it is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society. Thus, renovation and construction expenses incurred on the building of INR 2,83,24,395 should not be met out of the fee collected from students and is required to be recovered from the society.

Whereas per point no. 22 of Order No. F.DE./15 (56)/Act/2009/778 dated 11 Feb 2009, user charges should be collected at 'no profit and no loss' basis and should be used only for the purpose for which these are collected. The school has continued to charge earmarked fee higher than the expenses incurred against smart class fees, computer and science fee whereas the expenses incurred are more than transport charges collected from students. The school has utilised the surplus earned for meeting the revenue expenses of the school and deficit on transport charges. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levy charged from the students in accordance with the DSEA & R, 1973 and orders, circulars, etc. issued thereunder. Surpluses/deficit under each earmarked levy collected from the students should be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019.

Whereas per point no. 14 of Order No. F.DE./15(56)/ACT/2009/778 dated 11 Feb 2009, Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up-gradation and replacement of furniture, fixture and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the deprecation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account. The school is directed to open separate bank account and comply with the directions with regard to proper accounting and presentation of Development Fund in the School's financial statements and utilisation of development fund only towards purchase of furniture, fixtures and equipment.

Whereas Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies.

The school is directed to ensure compliance with Accounting Standard 15 including measurement of its liability towards retirement benefits of the staff by a qualified actuary and making the investment against the liability so determined in the mode specified under the said Accounting Standard.

And whereas, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial irregularities that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings which were also noted (appropriate instructions against which have been given in this order), the funds available with the school for implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

And whereas, recommendations of the team of Chartered Accountants along with relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for meeting the financial implications of 7th CPC salary and other expenses for the financial year 2017-2018. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2017-2018.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2017-2018 of **Brain International School (School ID-1618180), Vikas Puri, Delhi-110018** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2017-2018. In case, the school has already charged increased fee during FY 2017-2018, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To communicate with the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.

3. To rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

6. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

385

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This order is issued with the prior approval of the Competent Authority.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education,
GNCT of Delhi

To:
The Manager/ HoS
Brain International School
School ID 1618180
Vikas Puri, Delhi-110018

No. F.DE.15(96)/PSB/2019/1433-1437

Dated: 07/2/2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Spl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education,
GNCT of Delhi