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

No. F.DE.15(314) / PSB / 2021 / 5298-5301 **Dated: 16/12/21**

Order

WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '***the Act***') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '***the Rules***').

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon to the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

"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."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education 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/ land owing agencies.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **Apeejay Public School, (School ID-1411184), Pitampura, Delhi-110034** submitted its proposal for enhancement of fee for the academic session 2018-19. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the school for the academic session **2018-19**.

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, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-19, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 24.02.2020 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. During the aforesaid hearing compliances against order No.F.DE-15(204)/PSB/2019/1130-1134 dated 25.03.2019 issued for academic session 2017-18 were also discussed and school submission were taken on record

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 the Clause 2 of Public notice dated 04.05.1997, "*Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society means the trust or institution who has established the school, society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges*". Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30.11.1998 in 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"*. Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure."

   Clause (vii)(c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure capital expenditure/investments have to come from savings."

   As per Rule 177 of DSER, 1973, *"income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses after creation of 10% reserve"*.

   Clause 10 of Land allotment letter states "*society should complete the construction on the allotted land within two years from the date of the allotment*". And Clause 13 states "*Society should complete the fencing & boundary of land allotted to school*".

   Based on the aforementioned public notice and Hon'ble High Court judgement, the cost relating to land and building has to be met by the society, being the property of the society and school funds i.e. fee collected from students should not be utilised for construction of building and purchase of land.

   The Directorate's order No.F.DE-15(204)/PSB/2019/1130-1134 dated 25.03.2019 issued to the school post evaluation of fee increase proposal of the financial year 2017-18, wherein the school was directed to recover INR 4,58,96,987 from Society for interest paid on loan taken for the purchase of Building because the aforesaid interest was paid out of the school funds.

   An order dated 25.03.2019, it was noted that School had purchased a building worth INR 21,20,50,100 in FY 2010-11 to run Apeejay Rhythem Kinderworld, at Greater Kailash. To purchase this building, the School had utilised its overdraft facilities, taken a new loan from Dena Bank and South Indian Bank, sale proceeds of the land and investment of the school. In FY 2013-14 the school closed all the earlier loans and overdraft by a taking loan a fresh loan of INR

15,00,00,000 from Barclays Bank. Since then, the School has been paying only interest costs and has not paid anything towards the principal repayment. From the documents submitted by the school, it has been noted that earlier the loan from Barclays Bank was in the name of the Society which has now been transferred to the school's Name on the request of the Society. The loan from Barclays Bank is in the nature of short-term borrowing. Normally, the banks/financial institutions give the short-term borrowing for meeting the working capital needs of the entity while the long-term borrowing is given for meeting the capital expenditure of the entity. As the school has not provided a copy of the loan agreement. Therefore, the terms and conditions with respect to this arrangement, especially the ones relating to primary security, repayment of principal amount and the moratorium period, if any cannot be ascertained.

During the evaluation of the fee increase proposal of the school for FY 2018-19, it has been noted the school has not recovered INR4,58,96,987 from Society as directed in the order dated 25.03.2019 cited above. In the aforesaid order the school was further directed not to utilize the school funds for repayment of loan and interest thereon, but the school has not complied with the aforesaid direction. The school instead of recovering INR4,58,96,987 from the Society, has further incurred INR 2,61,54,076 towards interest on the loan in FY 2017-18 & 2018-19 without complying with the abovementioned provisions and the requirement of Rule 177 of DSER, 1973.

The documents submitted by the school post personal hearing were taken on record, the school mentioned in its reply that the school is running in huge operational losses due to which it could not implement the recommendation of 7th CPC. The school further submitted that INR 4,27,07,603 is pending for salary arrears towards the implementation of the 7th CPC. But the school has not provided the detailed calculation of this salary arrears payable like year wise and employee wise calculation. However, the salary arrears of INR 4,27,07,603 provided by the school have been considered while deriving the fund position of the school, irrespective of the fact that no provision for this amount was made in the audited financial statements of FY 2018-19.

In addition to the above, the claim of the school with respect to huge operational loss as per audited financial statements was also analysed. On review of the audited financial statements from FY 2014-15 to 2018-19 (submitted for evaluation of fee increase proposal), it has been noted that the school has accumulated operational loss over the years and the reason for this accumulated operational loss was the utilization of school funds for payment of interest on the loan which was taken for the purchase of the building. It has also been noted that investment of INR 3,45,34,140 and the sale proceeds of the land of INR 2,19,47,070 were also utilized for the purchase of the aforesaid building. The calculated operational surplus/ (loss) of the school is as under.

Particulars	Amount in INR
Accumulated Loss as per Audited FS 2018-19 (A)	**19,50,93,258**
Interest paid on loan from FY 2010-11 to 2013-14 (calculated based on the interest paid in FY 2014-15)	6,60,94,504
Interest paid in FY 2014-15	1,65,23,626
Interest paid in FY 2015-16	1,49,60,572

Particulars	Amount in INR
Interest paid in FY 2016-17	1,44,12,789
Interest paid in FY 2017-18	1,33,84,690
Interest paid in FY 2018-19	1,27,69,386
FDR liquidated	3,45,34,140
Proceeds of Sales of Land (at Panchseel)^ INR 2,19,47,070	-
Depreciation on Building	16,54,19,481
Total (B)	**33,80,99,188**
Calculated Surplus (B-A)**	**14,30,05,930**

^Sale Proceeds of Land has not been considered in the above calculation being a capital receipt.

From the above table, it is apparent that the school has utilized its funds to meet the obligation of the Society which is not in accordance with the above-mentioned provisions. If the school funds had not been used for the purchase of the building as mentioned above, the net surplus of the school would have been to INR 14,30,05,930 against the reported loss of INR 19,50,93,258 as on 31.03.2019. Because, as per the aforesaid provisions the cost relating to the building should be borne by the society running the school and the school funds should not be utilized for the acquisition of land and building.

It is also apparent from the above, that firstly the school funds were used to purchase the building and thereafter school funds are being used for payment interest which translates to constituting capital expenditure as a component of the fee structure of the school, while the school is yet to implement the recommendations of 7th CPC.

In view of the above, the total payment of INR 7,20,51,063 made by the school towards interest cost from FY 2014-15 to 2018-19 (restricted to documents asked for an evaluation of fee increase proposal) is recoverable from the Society. Therefore, the same has been included while deriving the fund positions of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order. The details of interest paid by the school from FY 2014-15 to 2018-19 is as under:

Financial Year	Interest Paid (in INR)
2014-15	1,65,23,626
2015-16	1,49,60,572
2016-17	1,44,12,789
2017-18	1,33,84,690
2018-19	1,27,69,386
Total	**7,20,51,063**

The school is hereby directed not to utilize school funds for repayment of loan taken for purchase of building and payment of interest thereon and make necessary rectification in the general fund.

2. The Hon'ble High Court of Delhi in its judgement dated 30.10.1998 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 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Rule 177 of DSER, 1973 states "*income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run*". And the aforesaid savings shall be arrived at after providing for the following, namely:

a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
b) The needed expansion of the school or any expenditure of a developmental nature;
c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
d) Co-curricular activities of the students;
e) Reasonable reserve fund, not being less than ten percent, of such savings.

Accordingly, based on the above-mentioned provisions, the cost relating to land and building has to be met by the society being the property of the society and should be met out of the school funds.

From the review of the ledger accounts and the supporting documents submitted by the school with respect to repair and maintenance expenses. it has been noted that the school incurred huge expenditures on repair and maintenance. During the personal hearing, this was discussed with the school, in the reply the school has submitted that these expenditures were incurred on regular repair and maintenance activities carried out in the school to keep the assets functional and in proper shape. During the last three financial years, the school spent INR 1,57,08,057 on various activities relating to repairs and maintenance. Below are the details of the expenditure incurred by the school on repair and maintenance.

Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Total (in INR)
Building	7,02,413	73,86,766	32,14,198	**1,13,03,377**
Electrical Equipment	2,28,437	9,64,943	2,38,168	**14,31,548**
Garden & Ground	1,40,305	4,87,270	5,96,758	**12,24,333**
Other	62,475	1,27,791	15,58,533	**17,48,799**
Total	**11,33,630**	**89,66,770**	**56,07,657**	**1,57,08,057**

From the review of the ledger account of "Building repair and maintenance" submitted by the school, it was noted that the school spent INR 86,60,319 for construction of Reception, civil work, flooring, roof, sand, concrete mixture, etc. which appears to be of capital nature while the school has reported the same as revenue expenditure in its income and expenditure account. During the personal hearing, the school was asked to provide the ledger accounts along with the supporting documents for the above repair and maintenance accounts. Although, the school provided the ledger accounts of all the above repair and maintenance accounts but did not provide all the supporting documents. In the absence of complete supporting documents, no conclusive conclusion could be drawn as to whether these expenditures were of the revenue nature or of capital nature. Therefore, the school management is hereby directed to look into this aspect and report the revenue expenditure and capital expenditure in its financial statements after distinguishing them correctly.

3. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"An enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the Financial Statements do not differ materially from the amounts that would be determined at the balance sheet date."*

According to para 7.14 of the Accounting Standard 15 – *"Employee Benefits' issued by the Institute of Chartered Accountants of India*", Plan assets comprise:

(a) assets held by a long-term employee benefit fund; and
(b) qualifying insurance policies."

The school was directed by Directorate through its Order No.F.DE-15(204)/PSB/2019/1130-1134 dated 25.03.2019 issued post evaluation of the proposal for fee enhancement for FY 2017-18, to get the actuarial valuation for gratuity and leave encashment and report the same in its audited financial statements equivalent to the liability determined by the actuary. The school was also directed to invest equivalent amount in plan assets as per requirement of AS-15 issued by ICAI.

From the record submitted by the school, it has been noted that although the School has obtained the actuarial valuation report of its retirement benefits as on 31.03.2019. However, the date of the actuarial valuation report was after the balance sheet sign date. It has also been noted that provisions reported by the school for retirement benefits in the financial statements of FY 2018-19 were not in agreement with the actuarial valuation report.

The receipts and payment accounts of FY 2018-19 revealed that the school has invested INR 3,77,85,076 with LIC for retirement benefits which qualify as plan assets within the meaning of AS-15 issued by ICAI. Accordingly, the amount deposited by the school with LIC has been accepted and allowed. However, the school did not report the fund value of an investment with LIC in any of its audited financial statements. Thus, the school has understated the value of the investment in its audited financial statements to the tune of the amount deposited with LIC.

Therefore, the school is hereby directed to report correct provisions of retirement benefits in its audited financial statements and invest an amount equivalent to liability determined by the actuary in plan assets as per the requirement of AS-15 issued by ICAI within 30 days from the date of issue of this order.

4. From review of the audited income and expenditure account for the FY 2017-18 and 2018-19 it was noted the school has incurred expenditure on 'Other Activities'. During personal hearing the school was asked to the submit the ledger account along with supporting documents in relation these expenditures incurred by the school during the above-mentioned period. The school submitted the ledger account along with some supporting documents were taken on record. From scrutiny of ledger account and review of the supporting documents, it has been noted that the school has paid INR 18,00,000 to Ms. Richa Khurana towards the 'Counselling Charges to students for preparation of exam and to staff for admission related to best practices and the school also reimbursed INR 4,92,000 to her on account of rent. Additionally, the school has also paid INR 1,57,000 to Mr. Ashish Khurana for consultancy charges during the above period. But the school did not provide the contract copy for this consultancy arrangement made with Ms. Richa Khurana and Mr. Ashish Khurana. From the record submitted by the school, it appears that Ms. Richa Khurana and Mr. Ashish Khurana are close relatives however, the school has not provided any explanation on the same. In view of the above, the authenticity of the total expenditure of INR 24,49,000 incurred by the school towards counselling and consultancy charges is questionable.

Accordingly, it been included while deriving the fund position of the school with the direction to the school to recover this amount from society/school management within 30 days from the date of issue of this order

During the personal hearing, the school was asked to submit the ledger account and supporting documents for this expenditure. Against which the school has submitted the ledger account and some invoices. From an examination of the invoices of M/s KLSK Management Services Private Limited and M/s BALK Management Services Private Limited, it was noted that the description given by the services provider in the invoices indicate provision for services for the particular months without mentioning any details regarding a number of staff days, nature of staff, rate agency commission, and GST. Further, the school did not provide a copy of the agreement for these contractors. Further, from verification on the Ministry of the Corporate Affairs (MCA) website, it was noted that both the above company has the same registered office thus seems to be related to each other.

Whereas the school entered into the agreement with M/s Baaz Detective and Security Services for a minimum of 45 support staff. And the school has continuously been utilizing the services from Baaz Detective and Security Services and making payment to the agency on submission of the valid invoice and other details. Whereas the school does follow the same set of procedures while making payment to M/s KLSK Management Services and M/s Balk Management Services which gives the scope for doubt. Accordingly, the total payment of INR 30,34,200 (as per the below table) made by the school M/s KLSK Management Services Private Limited & M/s BALK Management Services Private Limited is questionable as the school failed to establish the authenticity of the payment made to these vendors. Therefore, total payment of INR 30,34,200 made by the school to these vendors has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society/ school management within 30 days from the date of issue of this order.

(Amount in INR)

Particulars	KLSK Management Services P. Ltd	BALK Management Services P. Ltd
FY 2017-18	9,84,000	4,18,700
FY 2018-19	11,53,500	4,78,000
Total	**21,37,500**	**8,96,700**

5. From the review of the audited financial statements of the school of FY 2017-18 and 2018-19, it was noted that the school incurred expenditure on the purchase of premium mobile phones and laptops for INR 5,01,350 which appears to be of personal expenditure rather than purely of school expenditure. However, considering the materiality of the amount involved no impact has been given while deriving the fund position of the school. Further, the school management is directed to refrain from doing personal nature expenditures out of the school funds. Details of expenditure that appears to be of personal nature are tabulated below:

S. No	Particulars	Quantity	Amount (in INR)
1	Macbook	3	1,76,500
2	Apple Iphone XS Max 512 GB	1	1,36,700
3	Redmi Mobile phones	17	1,88,150
	Total	**21**	**5,01,350**

6. Rule 177 of DSER, 1973 states "*income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   (a) award of scholarships to students,
   (b) establishment of any other recognised school, or
   (c) assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run".

   On review of the audited financial statements of the FY 2016-17, 2017-18 & 2018-19, it was noted that the school incurred INR13,41,020 for payment of scholarships to the students. The above payment of scholarship was not made in accordance with the requirement of Rules 177 of DSER, 1973.

   Accordingly, the amount paid by the school as a scholarship to students is recoverable from society. Therefore, it has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

7. The audited financial statements of school of the FY 2018-19 revealed Building worth INR 26,67,47,616 (gross block) on the assets side of the balance sheet while the corresponding capital contribution/ corpus funds from the society is not reflecting on the liability side of the

balance sheet. Out of which building worth INR 21,20,50,100 were purchased by utilising the school funds and by taking loans from banks as reported in point no. 1 above.

Further, Clause 10 of Land allotment letter states "*society should complete the construction on the allotted land within two years from the date of the allotment*". And Clause 13 states "*Society should complete the fencing & boundary of land allotted to school*".

ased on the above, when the society transfers building to school accounts, the equivalent amount of capital contribution should also be reflected on the liability side of the balance sheet. So that the contribution made by the Society towards school building is established. Because the sources of Building worth INR 21,20,50,100 is already known (as reported in point no.1). Therefore, the school is required to submit sources of funds that were used in the construction of the remaining school building worth INR 5,46,97,516 (INR 26,67,47,616 *minus* INR 21,20,50,100) along with the details of accounting entries passed in the books of accounts. In this regard, the concerned District Deputy Director is directed to take necessary steps in order to identify the actual sources of funds that were used for the construction of the school building and submit its report to HQ. The finding of this report will be utilized while evaluating the fee increase proposal of the school for the subsequent year. In the absence of detailed information, no financial impact has been taken while deriving the fund position of the school. Further, the audited financial statements revealed INR 2.59 Corers payable to Society as on 31.03.2019. Therefore, the school is directed to treat this amount of INR 2.59 Crores as a capital contribution received from society until the final inquiry is concluded by the concerned district Deputy Director.

8. As per Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02. 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 a 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.*"

The audited financial statement of FY 2018-19 revealed the closing balance of development fund is INR 11,42,54,235 (i.e. opening balance of development fund plus amount received during the year minus amount utilized during the year) on the liability side of the balance sheet while the available balance of cash/bank and investment is INR 1,73,18,359 (INR 1,23,38,629 + INR 17,43,959 + INR 32,35,771) on the asset sides of the balance sheet. This has resulted in a net difference of INR 9,69,35,876 (INR11,42,54,235 – INR1,73,18,359) between the closing balance of the development fund and corresponding liquid assets available with the school as on 31.03.2009. As per clause 14 of the order dated 11.02.2009, the development fund is for a specific purpose therefore, there should always be a matching between the unutilized fund balances of the development fund and the amount available in the form of cash/bank balance and investment at the end of the year. However, this fact is reflected in the audited financial statements submitted by the school with the fee increase proposal.

Additionally, from the detailed analysis of fund movement of the school from FY 2014-15 to 2018-19, it has been noted that the available closing balance of cash/ bank and investment with the school should have been INR 2,71,17,051 as on 31.03.2019. Below is the working of diversion of funds:

Particulars		Amount (in INR)
Development Fund as on 31.03.2014 (As per audited financial statements) [a]		3,37,13,922
Add: For the period 2014-15 to 2018-19		
-Total Receipts (Development fund and Tuition fee and other Fee) [b]		82,25,21,913
- Net Interest free Loan received during the period [c]		4,47,75,000
Less: All Expenditure (Revenue & capital expenditure except depreciation) [d]		87,38,93,785
Net Cash/Bank and Investments should be as on 31.03.2019 [e=a+b+c-d]		2,71,17,051
-Closing Balance of Cash & Bank as on 31.03.2019 (As per audited financial statements)[f]	1,73,18,359	
-Closing Balance of Cash & Bank as on 31.03.2013 (As per audited financial statements)[g]	1,06,57,381	
-Net Increase in Cash/Bank and Investment over the period [h=f-g]	-	66,60,978
Diversion of School Funds [e-h]		**2,04,56,073**

From the above table, it can be concluded that the school has diverted the school funds to the tune of INR 2,04,56,073 as the same is not traceable from the audited financial statements. Accordingly, the differential amount of INR 2,04,56,073 is recoverable from the Society/ School management. Therefore, it has been included while deriving the fund position of the school with the direction to the society to recover this amount within 30 days from the date of issue of this order. And in view of above discrepancy, no adjustment for development fund balance appearing in the audited financial statements has been made while deriving the fund position of the school.

B. Other Discrepancies

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

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 11.02.2009 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.*"

Clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ......*"

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, computer fee, science fees, activity fees etc. 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 that have been utilized for meeting other expenses of the school, which was also mentioned in Directorate's order no. F.DE-15(204)/PSB/2019/1130-1134 dated 25.03.2019. Details of the calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-17, 2017-18 & 2018-19 is given below.

(Amount in INR)

Particulars	**Transportation Fee***	**Science Fee**	**Computer Fee**	**Activity Fee**
For the year 2016-17				

Particulars	Transportation Fee*	Science Fee	Computer Fee	Activity Fee
Fee Collected during the year (A)	1,23,80,767	28,08,562	5,71,267	-
Expenses during the year (B)	1,38,94,818	52,330	10,31,429	56,436
Difference for the year (A-B)	**-15,14,051**	**27,56,232**	**-4,60,162**	**-56,436**
For the year 2017-18				
Fee Collected during the year (A)	1,23,52,701	28,61,236	5,84,550	-
Expenses during the year (B)	1,35,52,905	44,990	19,49,297	28,72,998
Difference for the year (A-B)	**-12,00,204**	**28,16,246**	**-13,64,747**	**-28,72,998**
For the year 2018-19				
Fee Collected during the year (A)	1,51,94,547	27,12,448	2,78,636	4,68,000
Expenses during the year (B)	1,41,17,886	22,644	44,79,860	25,39,779
Difference for the year (A-B)	**10,76,661**	**26,89,804**	**-42,01,224**	**-20,71,779**
Total	**-16,37,594**	**82,62,282**	**-60,26,133**	**-50,01,213**

*The school has not apportioned 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.

Based on the above-mentioned provisions, earmarked levies are to be collected only from the user students availing of the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form.

Further, based on the fact that the fee head of 'activity fees' has not been defined for recognized private unaided school and the purposes for which the school has utilized the same is covered under 'Annual Charges' collected by the school from the students. Therefore, the school is directed not to collect activity charges separately from students with immediate effect.

Further, the school is hereby directed to maintain a separate fund account depicting clearly the amount collected, amount utilized and balance amount for each earmarked levy collected from students and not to collect pupil funds from students with immediate effect. Unintentional surplus, 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 proposals for enhancement of fee ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. As per Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02. 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 a 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.*"

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.*"

As per, Para 102 of the aforementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

(a) In respect of each major fund, opening balance, additions during the period, deductions/utilisation during the period and balance at the end;
(b) Assets, such as investments, and liabilities belonging to each fund separately;
(c) Restrictions, if any, on the utilisation of each fund balance;
(d) Restrictions, if any, on the utilisation of specific assets."

From the presentation made in the audited financial statements of FY 2018-19, it was noted that the school is following accounting treatment as mentioned in para 99 and 102 of the guidance note cited above. As the school has not reported "Fund utilized against assets", which should be equal to the cost of assets purchased from the development fund minus depreciation charge. Further, the school has also not created the depreciation reserve account in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is hereby directed to follow clause 14 of the order dated 1102.2009 relating to collection and utilization of development fund/fee and at the same follow proper accounting treatment in accordance with para 99 of the guidance note.

On account of the above development fund balance reported in the audited financial statements of the school for FY 2017-18 has not been considered while deriving the fund position of the school.

3. Clause 3 of the public notice dated 04.05.1997 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 11.02.2009 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.*"

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 09.09.2010 states "*In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing Academic year.*"

On review of audited Financial Statements for the year ended 31.03.2018 and post evaluation of proposal for enhancement of fee for FY 2018-19 it has been noted that:

- As on 31.03.2018 caution money balance as per audited financial statements is INR 15,69,000 however as per calculation cation balance money should be INR 13,65,000 or less for 2730 students (including EWS students)

- School had not refunded the caution money along with interest thereon on to the students. Hence, the school is directed to refund caution money along with interest to students.

The school had not reflected un-refunded caution money belonging to ex-students as income in the next financial year after the expiry of thirty days from the date of communication with the students to collect their caution money and had also not taken this into account while projecting fee structure for ensuring academic year. The school is instructed to follow DOE's directions in this regard.

4. The school has prepared a Fixed Assets Register (FAR) that only captures asset name, date and amount. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of assets and documenting complete details of assets at one place. The school is directed to update the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of 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 2018-19 amounting to INR **29,72,79,046** out of which cash outflow in the year 2018-19 is INR **25,20,69,018**. This results in net surplus of INR **4,52,10,027.** The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.18 as per Audited Financial Statements	56,57,822
Investments in FDRs as on 31.03.18 as per Audited Financial Statements	1,15,51,164
Investment in endowment investments as on 31.03.18 as per Audited Financial Statements	16,37,098
Investment with LIC for Retirement Benefit **(Refer Financial Discrepancies No. 3)**	3,77,85,076
Liquid funds as on 31.03.18	**5,66,31,160**
Add: Recovery of Interest paid on loan **(Refer financial discrepancy No.1)**	7,20,51,063
Add: Amount to be recovered from society/School management towards unreasonable expenditures incurred by the school **(Refer financial discrepancy No.4)**	24,49,000
Add: Amount to be recovered from society/School management towards unreasonable Housekeeping expenditures incurred by the school **(Refer financial discrepancy No.5)**	30,34,200
Add: Amount to be recovered from society/School management towards capital expenditure **(Refer financial discrepancy No.6)**	-
Add: Recovery of scholarships paid **(Refer financial discrepancy No.7)**	13,41,200
Add: Diversion of school Funds **(Refer financial discrepancy No.9)**	2,04,56,073
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1 below)**	18,03,20,962
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	17,82,562
Total Available funds for FY 2018-19	**33,80,66,220**
Less: Investment in the joint name of Deputy of Director **(As per School's submission)**	16,37,098
Less: Development Fund Balance as on 31.03.2018 **(Refer financial discrepancy No.9)**	-
Less: Caution money as on 31.03.2018 **(Refer Other Discrepancies no. 3)**	13,65,000
Less: Staff retirement benefits Gratuity and leave encashment Investment made with LIC **(Refer Financial Discrepancies No. 3)**	3,77,85,076
Net Available Funds for FY 2018-19	**29,72,79,046**
Less: Audited expenses for the session 2018-19 **(Refer Note 1 below)**	20,93,61,415
Less: Arrears of salary on implementation of 7th CPC **(Refer Note 2 below)**	4,27,07,603
Net Surplus	**4,52,10,027**

Note No. 1: All the income and expenditure as per audited financial statements has been considered while deriving the fund position of the school as indicated in the above table except specifically provided for in financial and other observations.

Note No. 2: As per order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states " *the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

On review of audited Financial Statements of the school and based on the explanation provided by the school, the school has been paying salary as per VI pay commission. Accordingly, the impact of salary arrears amounting to INR 4,27,07,603 which is still pending for payment (as provided by the school) has been considered while deriving the fund position of the school, with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

ii. In view of the above examination, it seems that the school have sufficient funds for meeting all the expenditure for the financial year 2018-19. In this regard, the Directorate of Education vide circular no. 1978 dated 16.04.10 states that,

"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."

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 and other discrepancies, that funds are available with the school to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

AND WHEREAS, the school has to recover INR 9,93,31,536 on account of interest paid for purchase of building, unreasonable expenditure incurred by the school, recovery for scholarship and diversion of school funds. Accordingly, the school is directed to recover the aforesaid amounts within 30 days from the date of issue of this order from the society and shall submit the copy of receipt along bank statement showing receipt of the amount.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the funds are available with school for meeting financial implication for academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2018-19 of **Apeejay School, (School ID-1411184), Pitampura, Delhi-110034** has been rejected by the Director of Education.

Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2018-19 and if the fee is already increased and charged for the academic session 2018-19, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To communicate 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 all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days to the 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 India 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. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions 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 Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Apeejay School (School ID 1411184)
Road No. 42, Sainik Vihar, Pitampura, Delhi – 110034

No. F.DE.15(314**) / PSB / 2021 /** 5298-5301 **Dated:** 16/12/21

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-B) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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