

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

No. F.DE.15 (161)/PSB/2021/ 2998-3002
Order

Dated: 16/08/21

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 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 **Delhi Public School, Phase- I, Sector- 3, Dwarka, New Delhi (School Id: 1821185)** had submitted the proposal for fee increase for the academic session **2018-19**. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said 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 21 October 2019 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 (98)/PSB/2019/1458-1462 dated 07.02.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

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

A. Financial Discrepancies

- I. The Order No. F.DE-15/Act-I/WPC-4109/Part/13/16250-254 dated 22.06.2017 issued post evaluation of fee increase proposal for academic session 2016-17, wherein, the School was given certain directions to comply before submitting the fee increase proposal for the ensuing financial year which is still pending for compliance. Because the school has challenged the aforesaid order in the Hon'ble High Court vide Writ Petition No. W.P. (C) 8970 of 2017 and the matter is sub-judice before the Hon'ble Court. Therefore, the impact of compliance or non-compliance of the direction mentioned in the aforesaid order dated 22.06.2017 has not been considered while evaluating the fee increase proposal for the academic session 2018-19.
- II. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of

Delhi Education Act/ Rules, 1973 and other instructions issued by this Directorate from time to time. And accordingly, The Directorate of Education sought online proposals from the Schools which were allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F.DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016.

Clause 9 of order No 1978 dated 16.04.2010 states, "School shall not introduce any new head of accounts or collect any fee thereof other than those permitted". And Fee/Funds collected from the parents /students shall be utilized strictly in accordance with rules 176 and 177 of the DSER – 1973.

Clause 19 of Order No. F.DE./15(56) /Act/ 2009/ 778 dated 11.02.2009 states that 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 curricular activities. All fee charged in excess of the amount so determined or determinable shall be refunded to the students/ parents within 15 days of the issue of this order'.

Clause 21 of Order No. F.DE./15(56) /Act/ 2009/ 778 dated 11.02.2009 states 'no annual charges shall be levied unless they are determined by the managing committee to cover all the 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'

Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated is 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."

Further, the Directorate of Education, vide Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999, indicated the head of Fee that recognised private unaided school can collect from the students/ parents is as under:

- Registration Fee
- Admission Fee
- Caution money
- Tuition fee
- Annual Charges
- Earmarked levies
- Development fee

Further, as per Order No.F.DE./15(56)/Act/2009/778 dated 11.02.2009 and DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999, the fee and fund collected from the students can be utilised as under:

Registration Fee and Admission Fee: Registration fee of Rs. 25 per student and admission fee of Rs. 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: It is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

Annual Charges: Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school

Earmarked Levies: Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in provision of the same.

Development Fee: It is to be treated as capital receipts and utilised towards purchase, upgradation and replacement of furniture, fixture and equipment.

Thus, based on the abovementioned provisions each head of fee has a distinct purpose and the same has to be utilised for the defined purpose. However, on examination of documents submitted by the school post personal hearing, the school explained that it has stopped the collection of "Development Fee" w.e.f. FY 2013-14 because it has limited use as per clause 14 of the order dated 11.02.2009. While on review of the fee structure submitted by the school, it has been observed that school has introduced new component in its annual charges, named as "Operational Charges" equivalent to an amount of Development Fee so that it could be utilised freely. Thus, the school has not actually stopped the collection of development fee rather it has just changed the nomenclature of its collection as "operational charges" with clear intention to utilise this collection freely as per its discretion. Thus, the claim of the school that it has stopped the collection of development fee is not correct because the school is continuously collecting the amount of development fee from the students with different name i.e. 'Operational Charges'.

The recommendation of the Duggal Committee clearly indicates that all revenue expenditures of the school should be met either from tuition fee or from annual charges depending on nature of expense whereas the capital expenditure in the form of furniture and fixtures and equipment should be met out of the development fee and not from tuition fee.

Similar observation was also noted in the previous order no. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18 which is still pending for compliance.

In view of the above, the school is hereby directed to stop collecting "Operational charges" immediately on receipt of this order. And amount already collected by the school in the form of "Operational Charges" from FY 2013-14 should either be refunded to the students or be adjusted against further fee chargeable to the students. Non-compliance with the above direction after issuance of this order shall be seriously viewed by the department while evaluating the fee increase proposal of the subsequent year.

- III. As per clause 2 of Public Notice dated 04.05.1997, "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 30.10.1998 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."

Also, 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

Further, 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 aforementioned public notice, High Court Judgement and provisions of Rules 177 of DSER, 1973, 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.

As per Directorate's order no. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18, the school was directed to recover Rs. 62,03,828 from society for the expenditure incurred by the school fixing of MS railing and gate and renovation of toilets. Post personal hearing, the school's reply that "Society does not have any source of income and hence the society can't absorb all these big spending" was taken on record.

Additionally, the school further made an addition of Rs. 2,85,376 to the building in FY 2017-18 and incurred Rs. 6,76,870 under the head of Capital Work Progress without complying with the above-mentioned provisions. It has also been noted that the above expenditure was incurred by the school before meeting the statutory liability towards employee benefits i.e. before making an investment that qualify as 'Plan Assets' as required by AS-15 "Employee Benefit" issued by the Institute of Chartered Accountants of India

Based on above-mentioned provisions, the amounts totaling to Rs. 71,66,074 incurred by the school on addition to building and towards capital work in progress, are recoverable from the society being the property of the society. Therefore, the aforesaid recovery has been included in the calculation of available fund 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.

It has also been noted that the school has started amortization of lease hold land from FY 2015-16 over the period of lease hold land. Since, land was originally allotted to the society and not the school. Therefore, the cost of land and amortization cost should be reflected in the books of the society and not in the books of the school being the original allottee of land by the land owing agencies. The same observation was also noted in the Director's



order no. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18 wherein the school was directed to pass necessary adjustment entry in its books of accounts with respect to lease hold land and amortization cost.

The reply submitted by school post personal hearing were taken on record wherein the school mentioned that "It should be noted that at the end the land is used for constructing a school for spreading the education. And once the school is fully operational, all assets and liabilities are shown in the books of accounts of the school only. Moreover, school has paid the amount eventually for this land. Hence, it is logical to show the land as capital assets in the books of the school. Similarly, the amortization of the lease will happen only in the school books. The same has been audited every year by the statutory auditors and internal auditors".

The Hon'ble Supreme Court of India in its Judgement dated 27.04.2004, in civil appeal no. 2699 of 2001 (Modern vs Union of India and Ors) and 11 connected Civil Appeals held that Director (Education) is authorized to regulate the fee and other charges to prevent commercialization of education and has the authority to regulate the fee under section 17(3) of the Act. Further, on reading of Rule 172, 175 and Rule 177 of DSER, 1973, it is clear that appropriation of savings (income) is different from transfer of funds, the management is restrained from transferring any amount from the recognized unaided school fund to society or the trust or any other institution and there is no conflict between Rule 177 and Clause 8 of Director of Education Order dated 15.12.1999

Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 states "Fees/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution."

The above position was subsequently amended through Judgement of the Supreme Court in the matter of Action Committee, Un-Aided Pvt, Schools & Ors. vs Director of Education, Delhi & Ors. on 07.08.2019, whereby words "except under the management of the same society or trust" were added to the last sentence of the above para. Thus, the sentence has to be read as follows; "No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution except under the management of the same society or trust."

Accordingly, schools cannot transfer any amount from the school fund to the society for any purpose whatsoever, including towards cost of land and building.

In view of the above provisions and based on the reply submitted by the school wherein the school has admitted that it has paid to society for the cost of land, tantamount to diversion of school fund. Accordingly, total payments of Rs. 4,02,43,963 made by the school towards cost of land is recoverable from the society and has been included the calculation of available fund 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 school is further, directed to pass the necessary adjustment entry in its books of account for the amortization of land and submit the compliance report within 30 days from the date of issue of this order.

- IV. As per the Generally Accepted Accounting Principles, if the school is creating depreciation reserve fund, then the fixed assets should be shown at Gross Value.

Also, para 67(ii) of the aforementioned Guidance Note-21 states "The financial statements should disclose, inter alia, the historical cost of fixed assets."

However, the school has practice of presenting its fixed assets at written down value resulting in non-compliance with the aforesaid para 67(ii) of Guidance Note-21 issued by The Institute of Chartered Accountants of India and at the same time Depreciation Reserve Fund is also representing in the financial statements which means that the school has not followed Generally Accepted Accounting Principles and accordingly, the school is hereby directed to comply with Generally Accepted Accounting Principles and Guidance Note-21 issued by The Institute of Chartered Accountants of India.

It has also been observed that till FY 2017-18, the school was presenting the fixed assets (purchased out of development fund) on the face of the financial statements at written down Value (WDV) and at the same time depreciation reserve fund is also reflecting at the liability side of the financial statements. This implies that General reserve was debited twice with the amount of depreciation. First at the time of charging depreciation on fixed assets and second, at the time of creating depreciation reserve fund through appropriation accounts. Therefore, the school has created deprecation reserve fund out of the general fund.

Further, 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 incurrance 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." Further, Para 102 of the abovementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
- Assets, such as investments, and liabilities belonging to each fund separately
- Restrictions, if any, on the utilization of each fund balanced
- Restrictions, if any, on the utilization of specific assets

Thus, creation of depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts as per clause 14 of the order dated 11.02.2009, is mere accounting head for appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note-21 issued by The Institute of Chartered Accountants of India. Thus, the Depreciation Reserve Fund will not have any financial impact in the calculation of fund position of the school and accordingly, has not been considered in the calculation of fund position of the school.

Below is the summary of depreciation reserve fund which was created by the school out of general reserve/out of income and expenditure appropriation account:

(Figures in Rs.)

Particulars	As per Audited FS for FY 2015-16	As per Audited FS for FY 2016-17	As per Audited FS for FY 2017-18	Total
Depreciation Reserve Fund created through	36,13,065	47,74,570	1,50,38,470	2,34,26,105

appropriation from Income & Expenditure Account			
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- V. As per Para 99 of Guidance note on "Accounting by school" issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "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".

Taking the cognizance from the above para, the school should have created the 'Development Fund Utilization Account' as deferred income to the extent of cost of assets purchased out of Development Fund. And then this deferred income should be amortized in proportion to depreciation charged in revenue account. However, the school has not created Development Fund Utilization separately as required by Para 99 till date.

The similar observation was noted in order no. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued for academic session 2017-18 wherein the school was directed to follow the provisions of Para 99 of Guidance Note – 21. Accordingly, the school is again directed to create Development Fund utilization account and make necessary adjustment in Development Fund account.

Details of Fixed assets purchased out of Development Fund till FY 2017-18 are as under:

Particulars	As per Audited FS for FY 2016-17 (Closing balance)	As per Audited FS for FY 2017-18 (for the year)#	Total
Utilisation of Development Fund	4,15,01,602	2,64,41,255	6,79,42,857

#The school also need to take appropriate impact of sale of fixed assets (purchased out of development fund) of Rs. 16,85,821 while deriving the balance of development fund utilization account.

- VI. The financial statements of the school revealed Rs. 15,15,38,738 as on 31.03.2018 under "Facility Expansion Fund" which was created out of the General Reserve Fund and Income and Expenditure Account in the FY 2015-16, 2016-17 and 2017-18. As per the school, this fund shall be utilised (but not limited) for meeting the expansion plan relating to additional construction of rooms, additional storey, hostel and other important school facilities, purchase of land and construction of new school building, purchase/replenishment of heavy items like vehicle, DG set/ Electrical items which relate to building, renovation of existing school buildings, various process improvement and cost reductions initiatives which include projects like solar energy, science lab innovation, technology advancement for school education.

The similar observation was also noted in Directorate's order No. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18. Since this fund was created out of surplus of the school, therefore it would be part of the free reserves available with the school. The reply submitted by the school post personal hearing was taken on record wherein the school explained that "For providing education to more and more students, it requires to have additional rooms, additional storey and related facilities. It would be illogical to treat these reserves as free and don't ask parents for fee hike. It is just asking

employees to keep working on the same salary. If this is the phenomenon, it will impact quality of education".

In this regard it is pertinent to mention that:

- a) Clause 2 of Order No. 1978 dated 16.04.2010 states "All Schools to explore and exhaust the possibility of utilizing the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowances of the employees"
- b) Clause 2 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11.02.2009 states " All Schools must, first of all, explore the possibility of utilising the existing reserves to meet any shortfall in payment of salaries and allowances of employees"
- c) Clause 3 of Order No. 1978 dated 16.04.2010 and Clause 11 of Order No. F.DE/ 15(56) /Act/ 2009/ 778 dated 11.02.2009 state that "The schools should not consider the increase in fee to be the only source of augmenting their revenue. They should also venture upon other permissible measures for increasing revenue receipts"
- d) Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 state "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."
- e) Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."

Based on the above-mentioned provisions the contention of the school is illogical and against the provision of the DSEAR, 1973 and other orders issued by Directorate from time to time. On the one hand, the school is earmarking crores of rupees for different purposes and on the other hand seeking fee hike from the Directorate which clearly indicates that the school has indulged in profiteering and commercialization of education. Therefore, the school is directed to utilize its fund for educational purposes only.

- VII. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 state that "Earmarked levies shall be charged from the user student only."

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."

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-21 "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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

On review of audited financial statements submitted by the school, it has been noted that the school charges earmarked levies in the name of transport fee, exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, miscellaneous fee, municipal tax fee, website fee, science fee, computer fee, Other fee- trip/tour and excursion, other activity fee – NIE/NTSS/STSC and Almanac fee and sports and activities fee but 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. Details of surplus generated or deficit incurred out of these earmarked levies during FY 2015-16 to 2017-18 are as under:

Particulars	Surplus/Deficit
Transportation Fee	-58,79,648
Activity Fee	-3,18,912
Sports and Swimming fee	-8,97,431
Science fee	9,52,241
Computer fee	-2,37,213
Trip/Tour fee	5,29,621
NTSC/STSC	1,30,725
Hostel fee	1,59,20,259
Almanac/ID Card/Craft Kit etc.	10,56,220
Virtual/Smart class fee	1,55,13,048
Elect/ Airconditioning Fee	25,99,585
Exam / Assignment Fee	-15,45,805)
Housekeeping Charges	20,64,375
Insurance Charges	1,69,499
Magazine/bulletin Fee	5,54,966
Maintenance fee	22,48,168
Medical Fee	-7,04,439)
Miscellaneous fee	2,56,394

In view of the above, the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students of the school, a separate charge cannot be levied towards this services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, miscellaneous fee, municipal tax fee, website fee, Almanac fee, sports and activities fee and PTA Fund and Scholarship Fund from all the students loses its character of earmarked levy. Thus, the school is

directed not to charge exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, miscellaneous fee, municipal tax fee, website fee, Almanac fee, sports and activities fee and PTA Fund and Scholarship Fund as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges. The direction was also given to the school vide order No. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 which has not been complied with by the school till date. Accordingly, the school is again directed not to charge exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, miscellaneous fee, municipal tax fee, website fee, Almanac fee, sports and activities fee and PTA Fund and Scholarship Fund as earmarked fee with immediate effect. Failure to comply with this order shall be dealt in accordance with the provisions of section 24(4) of DSEA, 1973.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from the 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 in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

VIII. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determined at the balance sheet date.

Further, 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 financial statements of the school revealed Rs.11,22,36,016 towards provision for gratuity and Rs. 4,61,70,588 towards provision for leave encashment as on 31.03.2018 based on the actuarial valuation report. However, the school has not deposited any amount with LIC (or any other agency) as instructed by the Directorate's vide DOE order No. F.DE-15/Act-I/WPC-4109/Part/13/16250-254 dated 22.06.2017 issued by the Directorate of Education post evaluation of fee increase proposal for academic session 2016-17 and order No. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18.

The school explained that it has maintained investment in the form of fixed deposit with the banks which cannot be construed as investment in 'Plan Assets' within the meaning of AS-15. And therefore, the said investment has not been considered while deriving the fund position of the school. However, the actual payment made by the school during the financial year 2018-19 has been considered while evaluating the fund position of the school.

The school is again directed to make investment that qualify as 'Plan Assets', equivalent to total liability determined by the actuary, within 30 days from the date of issue of this order. Non-compliance with this direction will be viewed seriously while evaluating the fee increase proposal for the subsequent financial year.



Below are the details of amount of gratuity and leave encashment not considered while deriving the fund position of the school for FY 2018-19:

Particulars	(Figures in Rs.)	
	Provision for Gratuity	Provision for Leave encashment
Balance as on 31.03.2018	11,22,36,016	4,61,70,588
Add: Provision made during FY 2018-19	1,72,56,975	48,83,565
Less: Balance as on 31.03.2019	12,52,44,349	4,95,75,156
Gratuity paid	42,48,642	14,78,997
Provisions not considered while deriving the fund position of the school	1,30,08,333	34,04,568

- IX. Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 states "development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account". This clause was upheld by the Supreme Court in the matter of Modern School vs Union of India & Ors through its judgement dated 27 April 2004 and was also reiterated by the Directorate in Clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

Also, 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

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

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

Further, as per clause 8 of order dated 15.12.1999, fees/ funds collected from the parents/ students shall be utilised strictly in accordance with rules 176 and 177 of DSER, 1973. No amount whatsoever shall be transferred from the recognised unaided school fund of school to the society or trust or any other institution.

However, on review of audited financial statements, it has been noted that the school has transferred Rs.2,00,00,000 during financial year 2017-18 out of development fund to purchase capital items for Human Resources Development Centre (HRD Centre). Accordingly, the above transfer was not in accordance with above-mentioned provisions. In this regard the school had submitted a legal opinion to substantiate the validity of such transfer.

It is quite surprising to mention here that on the one hand, the school has been submitting online fee increase proposal from financial year 2016-17 to the Director (Education) seeking increase in fee on the grounds that school do not have sufficient funds even to pay salaries to its staff. On the other hand, the school has transferred Rs. 5,00,00,000 to build Human Resources Development Centre (HRD Centre) before making all the payments as per provisions of Rule 177 of DSER, 1973. This clearly depicts that the school is intentionally diverting the school funds so that it could exhaust all its surplus accumulated by the school over the year then it could get the fee increase from the Director (education). This is clear example of profiteering and commercialisation of education.

The Hon'ble Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India] held that education is a noble profession. It emphasized that the commercialization and exploitation is not permissible in the education sector and institutions must run on 'no-profit-no-loss' basis". The Hon'ble Supreme Court categorically held that "Though education is now treated as an 'occupation' and thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble". Therefore, profiteering and commercialization are not permitted.

Accordingly, the above transfer of Rs.2,00,00,000 is recoverable from the society and therefore, has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order and to pass the necessary adjustment entries in the development fund account.

- X. As per Section 18(4) of DSEA, 1973 read with Rule 177 of DSER, 1973, Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed.

As per order no. F.DE.15(98)/PSB/2019/1458-1462 dated 07.02.2019 issued by the Directorate of Education for academic session 2017-18, the school was directed to recover Rs. 22,01,123 from the society towards the amount incurred by the school on purchase of car in FY 2014-15 and 2016-17. However, the school has not complied with the order dated 07.02.2019.

Accordingly, the school is once again directed to recover this amount from the society and therefore, Rs.22,01,123 has been included in the calculation of fund availability of the school with the direction to recover this amount from the Society.

B. Other Discrepancies

- I. As per Right to Education act, pupil teacher ratio for primary classes and upper primary classes should be 30: 1 and 35:1 respectively. Also, as per the affiliation bye-laws prescribed by Central Board of Secondary Education (CBSE), the student's teacher ratio



should not exceed 30:1 and section teacher ratio must be 1:1.5 excluding principal, physical education teacher and counsellor to teach various subjects.

The information collected from the school relating to number of total students and teachers have been tabulated below:

Particulars	FY 2016-17	FY 2017-18
Total Number of Students (A)	3246	3170
Number of Teacher excluding Coach (B)	194	194
Students to teacher ratio (A/B)	16.73	16.34

From the above calculation, it has been observed that there is one teacher on every 16 or 17 students which is much higher than the standard prescribed by the CBSE and RTE Act. Hence, it seems that there is overstaffing of teaching staff in the school. Therefore, the school management is required look into this aspect and try to establish an equilibrium, without compromising the standard of education, between the standard prescribed by the CBSE and the existing student teacher ratio.

- II. As per audited financial statements of the school, the auditor has used "Limitation of use" of its report paragraph which states "These financial statements have been prepared solely to enable the society to prepare its consolidated financial statements in accordance with the accounting principles generally accepted in India for the schools and in accordance with Accounting standards issued by the Institute of Chartered Accountants of India and not to report on the school as a separate standalone entity".

Similar observation was also noted in order No. F.DE.15 (98)/PSB/2019/1458-1462 dated 07.02.2019 issued for academic session 2017-18 and the school was directed to do away with the restriction on immediate basis so that financial statements can be used by the DoE

As per reply submitted by the school, it is noted that the school has got certificate from Statutory Auditors that the audited accounts can be shared by the school and Society with any Competent Authority including Department of Education.

Accordingly, audited financial statements have been used by the team of Chartered accountants for the purpose of evaluation of fee increase proposal of FY 2018-19.

- III. As per 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."

However, on review of audited financial statement for the FY 2015-16 to 2018-19, it has been observed that the school is being refunding only the principal amount of caution money without any interest thereon to the students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. As per reply of the school, the school has submitted that it will calculate the interest @3.5% p.a. (equal to SBI saving account rate) and add into total Caution Money Liability. However, on review of audited financial statements of FY 2018-19, it cannot be established that whether the school has included the amount of interest into total caution money liability or not.

Further, as per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall

be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of Audited Financial Statements of FY 2018-19 submitted by the school, it has been noted that the school has not considered the un-refunded caution money as income of FY 2018-19. In the absence of available information, the amount of un-refundable caution money belonging to ex-students which could have been treated as income and the correct balance of caution money cannot be determined. Therefore, the school is directed to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the subsequent year.

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 FY 2018-19 amounting to Rs. 69,75,80,804 out of which cash outflow in the FY 2018-19 is estimated to be Rs. 37,95,23,963. This results in net balance of Surplus amounting to Rs. 31,80,56,841 for FY 2018-19 after all payments. The details are as follows:

Particulars	(Figures in Rs.)	
	Amount	
Cash and Bank balances as on 31.03.18 (as per audited Financial Statements of FY 2017-18)	2,03,33,176	
Overdraft Balance as on 31.03.2018 (as per audited Financial Statements of FY 2017-18)	(5,94,86,856)	
Investments as on 31.03.18 (as per audited Financial Statements of FY 2017-18)	49,63,15,000	
Total Liquid Funds Available with the School as on 31 Mar 2018	45,71,61,320	
Add: Fees and other incomes for FY 2018-19 based on audited financial statements of FY 2018-19 of the school	31,42,88,114	
Add: Recovery from Society of amount spent on Building as directed in precious order [Refer Financial discrepancies No. III]	62,03,828	
Add: Recovery from Society of amount spent on Building in FY 2017-18 [Refer Financial discrepancies No. III]	9,62,246	
Add: Recovery from Society of amount spent on acquisition of land [Refer Financial discrepancies No. III]	4,02,43,963	
Add: Recovery from Society of amount spent out of development fund on purchase of capital items to build up Human Resource Development Centre [Refer Financial discrepancies No. IX]	2,00,00,000	
Add: Recover from Society of amount incurred by the school for purchase of Luxury Car (Refer Financial discrepancies No. X)	22,01,123	
Gross Available Funds for FY 2018-19	84,10,60,594	
Less: Development Fund Balance as on 31.03.2018 (Refer Note 1)	14,04,10,982	
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, Delhi Public School	9,03,206	

Particulars	Amount
Less: Fixed Deposit with Bank in the joint name of DDE and Manager, Delhi Public School	14,09,102
Less: Caution money as on 31.03.2018	7,56,500
Net Available Funds for FY 2018-19	69,75,80,804
Less: Actual expenses for FY 2018-19 (as per audited Financial Statements of FY 2018-19) (Refer Note 2 and Financial Discrepancies No. VIII)	37,95,23,963
Net Surplus	31,80,56,841

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacement of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's 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." Over a number of years, the school has accumulated development fund. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve. However, development fund may be considered as included in the aforesaid fund position of the school. Accordingly, adjusted Development fund balance as on 31.03.2018 has been left with the school to meet its future requirements.

Note 2: As per the response submitted by the school during hearing, the school has implemented 7th CPC in October 2016 w.e.f. 01-01-2016 and accordingly, the expenses shown in the above calculation is inclusive of 7th CPC impact.

- ii. The School has sufficient funds to carry on the operation of the School for the academic session 2018-19 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 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 the sufficient 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, 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 school has sufficient funds for meeting financial implication for the 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 fee increase of **Delhi Public School, Phase- I, Sector- 3, Dwarka, New Delhi (School Id: 1821185)** is 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 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 discrepancies/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 discrepancies/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 section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This 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
Delhi Public School (School Id: 1821185)
Phase- I, Sector- 3, Dwarka, New Delhi
No. F.DE.15 (161)/PSB/2021 / 2998-3002

Dated: 16/08/21

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 concerned ensure the compliance of the above order by the school management.
4. Guard file.



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