

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

No. F.DE.15(454)/PSB/2022/ 2305-2307

Dated: 27/04/22

ORDER

WHEREAS, every school is required to file a 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 in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '**the Rules**'). Such estimate will also provision for donation, gratuity, reserve fund and other items under rule 177(2) and savings thereafter, if any, in terms of the proviso to the rule 177(1).

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 accounts and other records maintained by the school at least once in each financial year. Section 18(5) and 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 Hon'ble Supreme Court in the judgment dated 27 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Director 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 Jan 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.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 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 of DoE for increase in fee for the session 2018-2019 and 2019-2020.

AND WHEREAS in response to this directorate's circular dated 27 Mar 2019 referred to above, **Salwan Public School (School ID – 1002268), Kondli Gharouli Complex, Mayur Vihar, New Delhi-110096** submitted its proposal for enhancement of fee for the academic session 2018-2019 in the prescribed format.

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 **Salwan Public School (School ID – 1002268), Kondli Gharouli Complex, Mayur Vihar, New Delhi-110096** for the academic session 2018-2019, necessary records and explanations were called from the school through email. Further, school was also provided an opportunity of being heard on 26 Nov 2019 at 2:30 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

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



A. Financial Discrepancies

1. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings.*"

Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation 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.*"

Directorate's order no F.DE.15 (144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school had utilised development fees for purchased of library books and vehicle during FY 2015-2016 and FY 2016-2017. Therefore, the school was directed to make necessary adjustment in the development fund account and development utilisation account.

The school represented that Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 does not prescribed any detailed list of items which can be purchased from development fund. There is also no prohibition of such purchase from the said fund. Further, the said order refers only to purchase, upgradation and replacement of "furniture, fixture and equipment". In the absence of any detailed list prescribed, what items get covered under these abbreviated three words will have to be interpreted in common parlance and any other nearest law applicable. Library books and vehicles (not luxury cars) and especially the school buses can well be purchased out of development fund as these expenses are a part of educational activity imparted by school. They would come within the ambit of development fund, if a liberal approach is adopted. Secondly, it may be appreciated that the school/society are required to follow the relevant provisions of Income Tax Act and Rules, 1961 under which the society is registered as Charitable Entity under Section 12/12AA. Appendix-I to income Tax Rules details of various assets items with different rates of depreciation. This Appendix gives details of various assets which are classified under the main heads viz, Building, Furniture and Fittings, Plant & Machinery, Ships and Intangible Assets. Equipment fall under the head Plant & Machinery, Vehicle and library books being part of this head, this school buses/vehicles and books can be funded out of development fund.

Further, it is a matter for consideration that buses being a capital cost cannot be funded out of Transport Fund either as Transport Fund is against Transport Fee which is an earmarked levy and can only be charged for revenue expenditure of running and maintenance of transport. Therefore, capital expenditure which gets classified under the head equipment can be funded only out of development fund.

The explanation and representation of the school is not tenable in view of legal provisions and directions included in Directorate's orders since development fund can be utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others.

Based on the presentation made in the financial statements of the school for FY 2017-2018 and FY 2018-2019, it was noted that the school has continued to utilize development fund for purchased of library books, purchased of vehicle and payment of establishment expenditure.

The expenditure of capital nature (other than those covered under development fund) are covered under Rule 177 of DSER, 1973. However, the school incurred the same without ensuring compliance with the requirements of Rule 177. Based on the fact that the school did not implement the recommendations of 7th CPC till 1 Oct 2018, made partial investment in group gratuity scheme of LIC for securing staff gratuity and did not make any investment in group leave encashment scheme of LIC or other insurer for securing staff leave encashment till date, the school did not comply with the requirements of Rule 177 (1) i.e. *"Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school"*.

Further, on review of fixed assets schedule relating to assets procured from development funds enclosed with the audited financial statements for FY 2018-2019, it was noted that the school indicated bus and library books under the assets purchased from development fund. Thus, the above assets which were purchased from development fund were not in the nature of furniture, fixture and equipment should not comprise part of the assets purchased from development fund. Thus, the school has reported non-qualifying assets under development fund and cumulative depreciation thereon under depreciation reserve for development fund assets.

Since the school did not make any adjustment in development fund account and development utilisation account as suggested in the Directorate's order no F.DE.15 (144)/PSB/2019/1946-1950 dated 22 Feb 2019, the school is directed again to make necessary adjustments in its financial statements and follow DOE instruction regarding development fund and ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment.

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings."*

On review of the audited financial statements of the school for FY 2017-2018, it was noted that the school has purchased a vehicle (School Bus) of INR 17,83,117. It was further noticed that the school had utilised development fund for purchased of vehicle (School Bus). The school explained that the vehicle was purchased to meet the needs of the school.



While the school maintained a separate fund for transport fee, but it made certain adjustments by way of transfer from/to general fund to/from the transport fund, the reason for which seemed to be surplus/deficit in fund account. The income and expense towards transport service from the financial statements of the school for FY 2016-2017 to FY 2018-2019 were evaluated and it was noted that the school was charging transport fee, which was not even adequate to cover revenue (operating) expenses for providing the transport service to students. Based on details provided by the school, calculation of surplus /deficit is enclosed below:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Income			
Transport Fees	66,86,950	65,16,950	73,04,198
Interest Income	3,66,815	1,57,645	41,466
Sale of Scrap	6,450	2,075	6,800
Total Income (A)	70,60,215	66,76,670	73,52,464
Expenses			
Staff payment & benefit	37,33,479	47,32,308	58,81,122
7 th CPC Arrears	-	-	7,69,293
Administrative & General Expenses (Parking, toll etc)	1,079	71,969	39,439
Depreciation*	2,45,182	7,70,660	4,63,265
Bank Charges	-	-	1,623
Vehicle Running and Maintenance	10,18,827	10,43,389	9,18,196
Vehicle Hiring Charges	17,31,430	15,91,219	16,99,567
Total Expenses (B)	67,29,998	82,09,545	97,72,505
Surplus/(Deficit) (C)=(A-B)	3,30,217	(15,32,875)	(24,20,040)

* Even after excluding depreciation, the school is not able to meet revenue expenses in relation to transport facility during FY 2017-2018 and FY 2018-2019.

The school explained that the bus was purchased to meet the transport needs of the students, which was required for effective operation of the school. However, the school did not provide any relevant explanation for operating the transport facility in such huge deficit.

Thus, it has been observed that the school has purchased bus for provision of transport facility despite there being deficit from operation of transport facility and has submitted proposal for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance. Earmarked levies in the form of transport fee are to be charged on no-profit no-loss basis and the school was not able to recover the cost of bus from the transport fee collected from students indicating that the school has shifted the burden of capital cost of bus to all the students of the school, who are not even availing the transport service.

Accordingly, the amount spent by the school on purchase of bus of INR 17,83,177 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

The school is further directed to ensure that transport vehicles are procured only from the transport fund and not from school funds unless savings are derived in accordance with Rule 177.

3. Rule 177 of DSER, 1973 states "(1) 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 managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:

1. award of the scholarships to students,
2. establishment of any other recognised school, or
3. 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.

(2) The savings referred to in sub-rule (1) 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 development nature,
- (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or 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."

Directorate Order No. F.DE.15(144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school had provided financial assistance of INR 55,43,501 (INR 50,00,000 in FY 2014-2015 plus INR 44,277 in FY 2015-2016 and INR 4,99,224 in FY 2016-2017) to Salwan Public School, Tronica City, which was run by the same management. The school was directed to recover this amount from the society.

The school represented that the Rule 177 (1)(c) clearly mandates that a school can assist any other school under the same management, out of its savings. The saving referred under Rule 177 of DSER, 1973, not only include the savings for any financial year but also such accumulated savings of past years resting in reserve funds. Thus, a school can assist not only from the savings of a particular financial year but also out of the past reserve fund in case of a deficit in any of the financial years. Therefore, the school had complied with all the provisions of Rule 177 of DSER, 1973, before transfer of any funds to its sister institution. In any case, the usage of reserve fund of the alleged 10% under Rule 177 (1)(e) has not been defined under the DSEA&R, 1973 and thus the entire year end surplus or past savings/reserves can be used to assist other sister schools.

The explanation and representation of the school is not tenable based on the fact that the school did not did not completely secure funds against its obligations towards staff gratuity and did not secure any funds towards leave encashment of staff in group leave



encashment scheme of LIC or other insurer, the school did not comply with the requirements of Rule 177 (1) i.e. *"Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school"*.

Since the school has not recovered any amount from the concerned school/society till date, the above mentioned financial assistance of INR 55,43,501 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the concerned school/society within 30 days from the date of this order. The school is further directed not to provide any financial assistance from school funds without ensuring compliance with the requirements of Rule 177 in entirety.

4. The "Director" is not a prescribed position for an unaided private school as per the Recruitment Rules. Thus, the Director is not entitled to any payment whatsoever from the school funds. However, from the records submitted by the school and taken on record, it was noted that the school had paid salary to the Director of INR 11,26,429 during FY 2017-2018 and INR 15,05,388 during FY 2018-2019.

This issue was also highlighted in the Directorate's order no F.DE.15 (144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018, which noted that the school had paid salary to the Director totalling to INR 32,06,740 during FY 2014-2015 to FY 2016-2017 and the school was directed to recover this amount from the society.

The school mentioned that salary is paid to the Director for overseeing day to day functioning of the school.

The school represented that the post of Manager/Director under DSEA&R 1973 is a statutory post. The Manager, by whatever name called, is responsible and liable under Section 27 of DSEA, 1973 and has been given financial authority under Rule 59 (2) (I) of DSER, 1973. Further, Rule 91 of DSER, 1973 clearly specifies that remuneration can be paid even to a Manager of an aided school except that grant will not be admissible against such payments. It clearly demonstrates that this post surely not "honorary". The perception of the Department that unaided school Manager/Director cannot be paid by the school, is without any support of law.

Since the Recruitment Rules applicable to the private school does not envisage appointment of a Director, the salary paid by the school to the Director is in nonconformity to the prescribed rules.

Since the school has not recovered any amount from the Society till date, the amount totalling to INR 58,38,557 (INR 32,06,740 plus INR 26,31,817) paid as honorarium/salary to the Director during FY 2014-2015 to FY 2018-2019 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Director or the Society within 30 days from the date of this order.



Further, the school is directed not to pay any remuneration/ honorarium/ allowance to the Director. In case, the school has paid any remuneration/ honorarium/ allowance to the Director subsequently, the school is directed to recover that amount from the Director or Society within 30 days from the date of this order.

5. 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 benefit 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."* Further, according to para 7.14 of the Accounting Standard 15, *"Plan assets comprise:*
- *assets held by a long-term employee benefit fund; and*
 - *qualifying insurance policies."*

On review of the audited financial statements of the school for FY 2018-2019, it was noted that the school created provision as per actuarial valuation report in case of leave encashment as on 31 Mar 2019. Though the school created provision equivalent to the amount of liability determined by LIC in case of gratuity, instead of reporting the plan-assets separately on the assets side of the Balance Sheet, the school deducted the amount deposited with LIC from the provision of gratuity and reflected the net provision of INR 97,86,977 towards gratuity on the face of the balance sheet. It was however noted that the school disclosed the gross value of gratuity provision and value of investment in plan assets in the "Gratuity Fund" schedule annexed with the audited financial statements for FY 2018-2019. The presentation in the financial statements resulted in reporting under-provisioning of gratuity and non-reporting of value of investments in group gratuity scheme as under:

Particulars	Gratuity (In INR)	Leave Encashment (In INR)
Liability as per actuarial valuation report / LIC as on 31 Mar 2019 (A)	2,93,29,291	74,34,790
Provision as on 31 Mar 2019 (as per audited Balance Sheet as on 31 Mar 2019) (B)	97,86,977	74,34,790
Under Provisioning of liability as on 31 Mar 2019 (A-B)	1,95,42,509	-
Fund Value of Group Gratuity Scheme as on 31 Mar 2019 including interest thereon (as per LIC's statement/ certificate) not reported in its audited Balance Sheet as on 31 Mar 2019	1,95,42,509	-

Further, it was noted that the school has not made any investment in 'plan-assets' such as group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits. Also, the school has not secured amount equivalent to its obligation towards staff gratuity as the investment is short by INR 97,86,977 as on 31 Mar 2019, which has been reported as provision for gratuity by the school in Balance Sheet.

Based on the statement/certificate from LIC, fund value of plan assets in the form of group gratuity as on 16 July 2019 amounted to INR 1,95,42,509 along with the amount of INR 74,34,790 equivalent to the amount of provision of leave encashment created by the school as on 31 Mar 2019 have been considered while deriving the fund position of the school (enclosed in the later part of this order) with a direction to the school to deposit amount of INR 74,34,790 in investments that qualify as plan assets as per Accounting Standard 15 within 30 days from the date of this order.

The school is directed to keep on depositing funds in the gratuity and leave encashment policies with LIC in subsequent years to ensure the value of the plan-assets matches the actuarial valuation. Further, the school is directed to accurately disclose the provisions of gratuity and leave encashment along with corresponding investments in plan-assets in its financial statements.

B. Other Discrepancies

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 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 Feb 2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

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

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by

the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately."

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 was noted that the school charges earmarked levies in the form of Transport Fees, Science Fees and Smart Class Fees from students. It was noted that the school maintained a separate fund for transport fee, but it made certain adjustments by way of transfer from/to general fund to/from the transport fund, the reason for which seemed to be surplus/deficit in fund account. The school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income, which was also mentioned in Directorate Order F.DE.15(144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. Details of calculation of surplus or deficit, based on separate summary of income and expenses provided by the school for FY 2017-2018 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/ (Deficit) (INR)
	A	B	C=A-B
Transport Fees [^]	66,76,670	82,09,545	(15,32,875)
Science Fees	9,87,360	9,21,450	65,910
Smart Class Fees	27,60,250	20,64,827	6,95,423

[^] The school has apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles.

The school is incurring heavy loss in operation of transport service, which is met from surplus from other earmarked levy or from other fee (tuition fee/ annual charges) collected from all students of the schools, which is not in accordance with provisions of DSEA&R, 1973. Therefore, the school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directed not to transfer the financial impact (i.e. deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e. it must not adjust the deficit from school funds. Further, the school is instructed to operate transport facility strictly on no-profit no-loss basis.

Based on aforementioned, earmarked levies are to be collected only from the user students availing 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. Directorate Order No.

F.DE.15(144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school is collecting Smart Class Fees from all its students and directed the school to stop the collection of Smart Class Fees. However, the school is continuing to charge Smart Class Fees from the students of all classes.

The school represented that smart class fee is charged only from user students. The smart board facility has not been extended to all the classes and hence this is not a levy which is applicable to all the students of the school. Only selected classes are in use of smart boards as additional non-mandatory tool of education and hence extra facility has a cost involved. As some of the costs cannot be identified separately e.g. electricity consumption, repair & maintenance, supervision by common IT cell, relevant teachers' pro-rata salary costs. Therefore, such recovery from a partial number of user students cannot be kept as "fund" looking into the ground reality of segregation of common expenses, such recovery is treated as a part and parcel of "School Fund".

Based on the details on record, it was noted that school charges smart class fee from all students. The fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the Smart Class Fees and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable.

The school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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

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."*

Further, Clause 4 of Order no .DE/15(150)/Act/2010/4854-69 dated 9 Sep 2010 states *"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 the income shall also be taken into account while projecting fee structure for ensuing academic year"

The following were noted under Directorate's Order No. F.DE.15(144)/PSB/2019/1946-1950 dated 22 Feb 2019:

- School had not refunded interest on caution money along with refund of caution money.
- School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days.

From the information provided by the school, it was noted that the school has not yet started paying interest along with caution money refund to students. During the personal hearing, school mentioned that the school is not refunding interest along with caution money to students at the time of leaving the school. Also, the school mentioned that no communication has been sent to ex-students for collection of their caution money and thus, the school has not made any adjustment towards unclaimed caution money.

Accordingly, the school is directed to repay caution money along with interest earned thereon to the ex-students or the students at the time of their leaving the school. Further, the school is directed to communicate with ex-students to collect their caution money together with interest thereon and any unclaimed amount after 30 days of such communication should be treated as income by the school in its books of account.

Since the school is yet to send communications to ex-students to collect their caution money, the amount of liability presented in the audited financial statements for FY 2017-2018 has been adjusted while deriving the fund position of the school (enclosed in the later part of this order).

3. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation 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."* Further, 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."

Basis the presentation made in the audited financial statements for FY 2017-2018 and FY 2018-2019 and details regarding utilisation of development fund submitted by the school, it was noted that the school was not presenting development fund appropriately in its audited financial statement, as it did not bifurcate between development fund account and deferred income to be recorded after utilisation of the development fund account. The same issue was also highlighted in the Directorate's order no F.DE.15 (144)/PSB/2019/1946-1950 dated 22 Feb 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018. Thus, the presentation and disclosure of development fund was inaccurate and not in accordance with Guidance Note cited above. It was noted that the school has utilised development funds for purchase of furniture & fixtures, plant & machinery etc but the same was not shown as deduction or utilisation in the development fund account.

Thus, the accounting treatment and presentation of the development fund in financial statements of the school were not in accordance with the accounting treatment and disclosure requirement prescribed in the guidance note cited above. Therefore, incorrect balance of development fund presented by the school in its audited financial statements for FY 2018-2019 has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

The school is instructed to make necessary rectification entries relating to development fund and comply with the accounting treatment and disclosure requirements indicated in the Guidance Note. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.

4. As per Order No. F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 April 2016, *"The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix -II of Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."*

Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

Further, Para 58(i) of the Guidance Note states *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*



Basis the presentation made in the financial statements for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school is reporting fixed assets (other than those fixed assets purchased from development fund) at written down value, which is not in accordance with the disclosure requirements included in the guidance note cited above.

Further, from the financial statements of the school for FY 2017-2018 and FY 2018-2019, it was also noted that the school did not charge depreciation at the rates specified in Appendix I to the Guidance Note, which was a contravention of the directions issued by this Directorate

Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. The school is further directed to follow rates of depreciation specified in the Guidance Note.

Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school.

5. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admin. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. of Students	1,599	1,629	1,659
No. of EWS students	238	258	274
% of EWS students to total students	14.88%	15.84%	16.52%

The school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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 2018-2019 amounting to INR24,27,63,440 out of which cash outflow in the year 2018-2019 is estimated to be INR13,22,99,610. This results in net surplus of INR 11,04,63,830. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	4,94,874
Investments (Fixed Deposits) as on 31 Mar 2018 (as per audited	12,65,49,604

Particulars	Amount (INR)
financial statements of FY 2017-2018)	
Investment against retirement benefits (gratuity) with LIC (as per audited financial statements of FY 2017-2018)	1,30,78,012
Total Liquid Funds Available with the School as on 31 Mar 2018	14,01,22,490
Add: Fees/Incomes for FY 2018-2019 (as per audited financial statements of FY 2018-2019) [Refer Note 1]	12,02,45,636
Add: Amount recoverable from Society on account of development funds utilized for purchased of vehicle during FY 2017-2018 [Refer Financial Discrepancy No. 2]	17,83,177
Add: Amount recoverable from society for assistance provided to sister school in contravention of Rule 177 of DSEA 1973 [Refer Financial Discrepancy No. 3]	55,43,501
Add: Amount recoverable from Society/ Director for salary paid to him during FY 2014-2015 to FY 2018-2019 [Refer Financial Discrepancy No. 4]	58,38,557
Gross Estimated Available Funds for FY 2018-2019	27,35,33,361
Less: FDR submitted with DoE (as per audited financial statements of FY 2018-2019)	21,24,636
Less: FDR submitted with CBSE (as per audited financial statements of FY 2018-2019)	5,89,041
Less: Development Fund as on 31 Mar 2019 [Refer Other Discrepancy No. 3]	-
Less: Caution Money balance as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	10,78,945
Less: Investment in LIC against Staff retirement benefits (gratuity) (as per audited financial statements of FY 2018-2019)	1,95,42,509
Less: Staff retirement benefits – Leave Encashment [Refer Financial Discrepancy No. 5]	74,34,790
Less: Depreciation Reserve [Refer Note 2]	-
Net Estimated Available Funds for FY 2018-2019	24,27,63,440
Less: Expenses for FY 2018-2019 (as per audited financial statements for FY 2018-2019) [Refer Note 1]	11,20,55,592
Less: Arrears of salary as per 7 th CPC for the period Jan 2016 to Mar 2018 (as per separate computation of 7 th CPC submitted by the school)	2,02,44,018
Estimated Surplus as on 31 Mar 2019	11,04,63,830

Notes:

1. The school submitted its financial statements for FY 2018-2019. Based on the financial statements for FY 2018-2019, all fee and incomes have been considered, while following adjustments were made to the expenses before being considered in table above:

Expense Heads	Actuals FY 2018-2019	Amount Allowed	Amount Disallowed	Remarks
Gratuity	81,02,481	-	81,02,481	This is only provision made by

Leave Encashment	18,71,468	-	18,71,468	the school. Investments made in plan-assets (group gratuity) by the school during FY 2018-2019 have been considered separately in the fund position above. Further, provision of leave encashment created by the school as on 31 Mar 2019 have been considered in entirety while deriving the fund position of the school. Hence, the provision made during FY 2018-2019 have not been considered to avoid duplicity.
Fees Written off	59,258	-	59,258	Being a non-cash expense, does not result in cash outflow. Hence, it has not been considered.
Depreciation against development fund	52,32,390	-	52,32,390	Depreciation, being a non-cash expense, does not result in cash outflow. Hence, it has not been considered.
Depreciation on other assets	17,81,751	-	17,81,751	
Total	1,70,47,348		1,70,47,348	

2. The school has charged depreciation on fixed assets purchased from development fund and reflected the same on the liabilities side of the Balance Sheet of the school. Depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009) is more of an 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, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

In view of the above examination, it is evident that the school has sufficient funds for meeting all the budgeted expenditures for the financial year 2018-2019.

- ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states "All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase." The school has sufficient funds to carry on the operation of the school for the academic session 2018-2019 based on the existing fees structure and even after considering existing funds/reserves.



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, certain financial irregularities were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2018-2019 and payment of salaries as per the recommendations of 7th CPC are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

And whereas, the relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for payment of salaries as per the recommendations of 7th CPC and meeting the expenses for the financial year 2018-2019. Since the school has accumulated surplus funds, increasing fee from students would result in profiteering and commercialisation of education. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2018-2019.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2018-2019 of **Salwan Public School (School ID – 1002268), Kondli Gharouli Complex, Mayur Vihar, New Delhi-110096** 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/charges during FY 2018-19. In case, the school has already charged increased fee during FY 2018-19, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize 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

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



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



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

To:
The Manager/ HoS
Salwan Public School
School ID – 1002268
Kondli Gharouli Complex
Mayur Vihar, New Delhi-110096

No. F.DE.15(454)/PSB/2022/ 2305-2309

Dated: 27/04/22

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 (East) to 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