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

No. F.DE.15 (482) / PSB / 2022 / 2673-2678 Dated: 10/05/22

ORDER

WHEREAS, **Mother Divine Public School (School ID-1413211), Rohini, Delhi-110085,** (hereinafter referred to as **"the School"**), run by the **MD Memorial Charitable and Education Society (Regd.)** (hereinafter referred to as the "**Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND 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 DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 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 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 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 DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order no. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, 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 the DOE, the **Mother Divine Public School (School ID-1413211), Rohini, Delhi-110085,** submitted the proposal for fee increase for the academic session **2018-19**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2018-19.**

AND WHEREAS, in order to examine that the proposals submitted by the schools for fee increase for justifiability or not, the DoE 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 DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE 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 30.10.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. FDE15 (245) PSB/2019/1340-1344 dated 29.03.2019 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 the subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants and the key observations noted are as under:

A. Financial Observations

1. 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.*"

While the school has obtained actuarial valuation in respect of its liability towards retirement benefits and has reported the same in its audited financial statement of FY 2018-19. However, the school has not invested an equivalent amount in a fund that qualify as "plan assets" within the meaning of AS-15.

The similar observation was also noted in the Directorate's order no. FDE15(245) PSB/2019/1340-1344 dated 29.03.2019, issued post evaluation of fee increase proposal of FY 2017-18, wherein the school was directed to deposit an equivalent amount in plan assets as per the requirements of AS-15. But until now the school has not complied with aforesaid direction.

Since, the school has not invested equivalent amount of its liability in plan asset within the meaning of AS-15. Therefore, liability towards retirement benefits of INR 1,91,87,604 reported by the school in its audited financial statements of FY 2018-19, has not been considered while deriving the fund position of the school. And the school is hereby directed to investment this amount in plan assets within 30 days from the date of issue of this order and the submit the compliance report within 30 days from the date of issue of this order.

2. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development fund Account.*"

The review of the audited financial statement for the FY 2017-18 and FY 2018-19, revealed that the school has not credited the interest earned in the bank account to development fund balance. The interest earned by the school on the development account has been treated as revenue receipts rather than the capital receipts which is not in accordance with the above-mentioned provisions. However, during the personal hearing the school has accepted this mistake and confirmed that it will pass the requisite adjustment entries while preparing the finalizing its audited financial statements for the FY 2019-20.

Further, it has also been noted that the school in FY 2017-18, has utilized development fund of INR 6,74,491 for repair and maintenance of the assets which is not in accordance with the provision of the clause 14 of the order dated 11.02.2009. As per clause 14 of the order dated 11.02.2009, the development fund is a capital receipts which should be utilized only for purchase, replacement and up gradation which is of capital nature only.

Therefore, the school is directed to treat interest earned on the development fund bank account as a capital receipt and credit the same to development fund account and also ensure that development fund collected should be utilized only towards purchase, up gradation and replacement of furniture, fixtures and equipment only.

3. Para 99 of Guidance Note-21 Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India (ICAI) 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 abovementioned 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/utilization 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 utilization of each fund balanced)
d) *Restrictions, if any, on the utilization of specific assets."*

Based on the presentation made by the school, in the audited financial statements of FY 2018-19, it has been noted that the school has reported the cost of assets purchased out of development fund as utilisation of development fund. But has not been treating this development utilization of deferred income. As per the above cited guidance note, the development fund utilization account should be treated as deferred income and the same be written off in the proportion of depreciation charged to income and expenditure account which the school is not doing. Secondly, the depreciation reserve balance as per fixed assets schedule is INR 1,66,59,211 while the balance on the face of the balance sheet is INR 1,40,18,265 resulting difference of INR 26,40,946 . As per the Depreciation reserve fund schedule the school has reported that it has utilized INR 26,40,946 for purchase of fixed assets. However, this addition is neither reflected in the fixed assets schedule nor reflected on the face of the balance sheet. This indicates that the school has diverted its assets after its purchase and therefore, the same is recoverable from the management of the school/ society. Accordingly, this amount of INR 26,40,946 has been included while deriving the fund position of the school with the direction to the school to recover this amount form the school management/ society within 30 days from the date of issue of this order.

Therefore, the accounting treatment and presentation in the audited financial statements with respect to the utilization of development funds is not in accordance with accounting treatment prescribed in Guidance Note-21 issued by the ICAI. Hence, the school is directed to ensure correct accounting treatment with respect to depreciation reserve fund and development fund utilization account in accordance with Guidance Note-21 cited above.

B. Other Observations

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

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

Rule 176 provides "*Income derived from collections for specific purposes shall be spent only for such purpose.*" Further, as per Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*" And as per Sub-rule 3 of Rule

177 of DSER, 1973 "*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.*"

The audited Financial Statements revealed that the school has been collecting earmarked levies in the form of Transport Fees, Science Fee, Computer Fee, Smart class Fee, Activity fee and Facility fees from the students. However, the school has been not maintaining separate fund accounts for these earmarked levies and 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.

Further, as per the Guidance Note 21, Accounting by Schools issued by the ICAI, earmarked levies collected from students are a form of restricted funds, which are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet. The above-mentioned 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 ('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). However, the school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note cited above.

The similar observation was also noted in order no. FDE15(245) PSB/2019/1340-1344 dated 29.03.2019 issued for academic session 2017-18, wherein the school was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from the students. In view of aforesaid orders, it is noted that school has not complied with legal positions laid for charging, collecting, and accounting of earmarked levies. During the personal hearing the school also submitted that at times, these are used to meet shortfall in Tuition Fee vis-à-vis Establishment cost as Tuition Fee is not sufficient and thus, it has utilised the earmarked levies for meeting the shortfall if any. Details of income and expenditure of earmarked levies as per the audited financial statements for FY 2016-17 to 2018-19 are as follows:

Particulars	**Transport Fees**	**Smart class fee**	**Activity fee**	**Science & Computer fee**	**Facility Fees**
For the year 2016-17					
Fee Collected during the year (A)	42,71,042	11,39,450	27,02,969	10,47,842	11,67,691
Expenses during the year (B)	45,37,553	11,56,514	28,42,192	14,03,671	11,70,125
Difference for the year (A-B)	**(2,66,511)**	**(17,064)**	**(1,39,223)**	**(3,55,829)**	**(2,434)**
For the year 2017-18					
Fee Collected during the year (A)	47,20,715	14,68,200	41,27,100	11,32,590	15,93,035
Expenses during the year (B)	45,27,508	12,79,072	46,77,720	15,50,990	18,28,454
Difference for the year (A-B)	**1,93,207**	**1,89,128**	**(5,50,620)**	**(4,18,400)**	**(2,35,419)**
For the year 2018-19					
Fee Collected during the year (A)	42,01,420	22,71,900	51,29,254	10,23,750	15,12,875

Expenses during the year (B)	41,00,532	16,64,400	49,30,669	22,43,522	16,50,182
Difference for the year (A-B)	**1,00,888**	**6,07,500**	**1,98,585**	**(12,19,772)**	**(1,37,307)**
Total	**27,584**	**7,79,564**	**(4,91,258)**	**(19,94,001)**	**(3,75,160)**

From the above table, it can be observed that the school is earing surplus from transportation charges and smart class while incurring deficit on activity, science & compute fee and facility fee which is either met from the tuition fee or annual charges or vice versa. Therefore, 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, 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.

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

2. From examination of the documents submitted by the school, it has been observed that admission under EWS category is below 25%, year wise details has been tabulated below.

Particulars	**FY 2016-17**	**FY 2017-18**	**FY 2018-19**
Total Students	2,774	2,750	2,749
EWS Students	646	655	662
% of EWS students	23.29%	23.82%	24.08%

Therefore, the school is directed to ensure that students from Economically Weaker Sections are admitted to the school as per the condition of land allotment, provisions of DSEA, 1973 and Right to Education Act, 2009.

3. 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."*

Basis the presentation made in the audited financial statements for FY 2017-2018 and FY 2018-2019, it has been noted that the fixed assets purchased out of development fund have been shown at gross value whereas other fixed assets have been shown at written down value. Therefore, the accounting policy followed by the school for accounting of fixed assets is inconsistent.

Accordingly, the school is directed to disclose asset at gross value on the face of balance sheet on the assets side and the accumulated depreciation on the assets on liability side of the Balance Sheet.

4. Directorate's order. FDE15(245) PSB/2019/1340-1344 dated 29.03.2019 issued for academic session 2017-18 noted that the opening balances of Investments for the FY 2015-16 do not reconcile with the closing balance of investments for the FY 2014-15. Following are the details of differences in opening and closing balance of investments:

Particulars	CB of FY 2014-15	OB of FY 2015-16	Differences
Investment against specific fund	31,32,645	33,41,022	2,08,377
Other Investment	1,09,67,769	1,14,08,278	4,40,509

In the aforesaid order, the school was directed to submit the reconciliation and reason for such differences. During the personal hearing this was again discussed with the school and the school was asked to submit reconciliation statement. But the school has not submitted the details for review. Therefore, the school is once again directed to explain the reason for such difference. Non-compliance with this direction may would be reviewed seriously under the provision of DSEAR, 1973.

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

i. The total funds available for the year 2018-19 amounting to INR **8,37,22,569** out of which cash outflow for the year 2018-19 is estimated to be INR **8,46,28,040**. This results in net deficit of INR **9,05,471**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.18 as per audited Financial Statements	34,09,904
Investments (Fixed Deposits) as on 31.03.18 as per audited Financial Statements	1,05,33,544
Liquid funds as on 31.03.2018	**1,39,43,448**
Add: Recoverable from the Management of the School/ Society against assets diversion **(Refer Financial Observation No. 3)**	26,40,946
Add: Fees for 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	7,55,14,821
Add: Other income for 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	8,59,736
Less: Retirement benefits **(Refer Financial Observation No. 1)**	-
Less: Development Fund as on 31.03.2018	59,27,677
Less: FDR with DOE (As the details provided by the School)	15,89,233.00
Less: Provision for 4 months' salary reserves **(Refer Note 2 below)**	-
Less: Depreciation Reserve Fund **(Refer Note 3 below)**	-
Estimated Availability of Funds for 2018-19	**8,37,22,569**
Total cash outflow (Revenue Expenditure + Capital Expenditure - Depreciation)	8,03,89,727
Less: Arrears of salary payable as per audited financial statements of 2017-18 **(Refer Note 4 below)**	42,38,313
Net Deficit	**9,05,471**

Note 1: Fee and income as per audited financial statements of FY 2018-19 has been taken.

Note 2: As per the audited financial Statements of FY 2017-18, the school has provided INR 1,54,49,274 towards 4 months' salary reserves without having investment in the joint name of the school and Deputy Director Education as per the requirement of Form-II of Right of Children to Free and Compulsory Education Act 2009. Therefore, this has not been considered in the above calculation.

Note 3: The depreciation is non-cash items that does not involve any cash out flow. Further, it is clear that the depreciation reserve fund is the notional account of notional fund for which there is no requirement to have equivalent fund neither in bank account nor in the form of fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on financial fee structure of the school which is in contravention of the Judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004), wherein the Hon'ble SC has clearly stated that the "*capital expenditure cannot form part of financial fee structure of the school*". Accordingly, charging of depreciation from the Income and Expenditure account implies that the school is including capital component in its fee structure which is not permissible.

Note 4: Post personal hearing the school submitted that it has implemented the recommendation of 7th with effect from 1st July 2019. Further, as per the audited financial statements, the school has reported the liability of INR 42,38,313 on account of arrears salary which has been considered while deriving the fund position of the school.

ii. In view of the above examination, it is evident that the school does not have sufficient funds to meet expenditure for the academic session 2018-19 at the existing fee 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 along with certain financial and other observations, that the sufficient funds are not 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 accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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 funds are not available with the school for meeting financial implication for the academic session 2018-19.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 2% to be effective from 01 July 2022.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for the academic session 2018-19 of **Mother Divine Public School (School ID-1413211), Rohini, Delhi-110085** has been accepted by the Director (Education) and the school is allowed to increase the fee by 2% to be effective from 01 July 2022

1. To increase the fee only by the prescribed percentage from the specified date.

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 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
Mother Divine Public School
School ID 1413211
Rohini, Delhi-110085
No. F.DE.15 (482)/PSB/2022 / 2673-2678

Dated: 10/05/22

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 (North West-B) 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