

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

No. F.DE.15(586)/PSB/2022/ 3504-3508

Dated: 25/05/22

ORDER

WHEREAS, Vidya Bharti Public School (School ID-1413252), Sector- 15, Rohini, Delhi-110085 (hereinafter referred to as "the School"), run by the Bharati Educational Trust (hereinafter referred to as "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 DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 School submitted its proposal for enhancement of fee 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 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 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 to be heard on 02.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019, issued for academic session 2017-18, was also discussed and submissions taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations noted are as under:

A. Financial observations

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct

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

Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school had utilised INR 16,75,602 during FY 2014-2015 towards upgradation of building without complying with the requirements of Rule 177. The school was directed to recover this amount from the society. However, the school has not recovered this amount from the society yet.

Based on the fact that the school did not implement the recommendations of 6th CPC in entirety and did not secure complete funds against staff retirement benefits (leave encashment) in investments such as group leave encashment scheme of LIC 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"*.

Accordingly, the above mentioned capital expenditure incurred during FY 2014-2015 amounting INR 16,75,602 out of school funds without ensuring compliance with rule 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.

2. As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16 Apr 2016 *"The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the 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 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."*

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."*

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 Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school had utilised INR 73,77,816 out of development fees for purchase of smart class equipment, sports material, computer, CCTV security, furniture & fixtures, music instruments, etc. during FY 2015-2016 and FY 2016-2017 and the same were not capitalised as fixed asset in the fixed assets schedule as per Guidance Note which indicated that the funds were diverted from the school. It was further noted that the school had utilised INR 27,10,967 for purchase of computers, CCTV, furniture & fixtures, sports equipment, science equipment, etc. and did not reflect the fixed assets purchased out of development fund in the financial statements for FY 2017-2018.

On review of financial statements of the school for FY 2018-2019, it was noticed that the school reflected fixed assets purchased out of development fund during the FY 2018-2019 and annexed a separate fixed assets schedule in respect of fixed assets purchased out of development fund. It was further noted that the school included an opening balance of fixed assets and reflected their written down value of INR 1,05,73,716 as on 1 Apr 2018. Also, the school did not provide any details/ bills / invoices/ fixed assets register in respect of fixed assets purchased in the previous years (that were not reported in the previous years' financial statements) and simply reported written down value of fixed assets in its Development Fund Fixed Assets Schedule as on 1 Apr 2018. In absence of correct (historic) value of assets and requisite details to substantiate that the fixed assets were in fact purchased by the school, the opening balance of fixed assets as on 1 Apr 2018 cannot be relied upon.

Accordingly, INR 1,00,88,783 (INR 73,77,816 for fixed assets purchased in FY 2015-2016 and FY 2016-2017 plus INR 27,10,967 for fixed assets purchased in FY 2017-2018) in respect of unreported fixed assets and diversion of funds 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.

Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 also noted that the school was not transferring amount from development fund to development fund utilisation at the time of utilisation of development fund. Basis the presentation made in the financial statements for FY 2018-2019 submitted by the school, it was further noted that the school has started creating development fund utilisation account but the school is not following the accounting treatment of recognition of income equivalent to the amount of depreciation charged as indicated in the guidance note cited above.

The school did not present depreciation on fixed assets purchased from development fund in the Income and Expenditure Account and did not add the amount of depreciation to the depreciation reserve. Instead, the school indicated depreciation on these fixed assets in the Development Fund Fixed Assets Schedule annexed with the financial statements and reported the closing written down



value of fixed assets as "utilised - development fund". Thus, while the school correctly reported the "utilised - development fund" equivalent to the written down value of fixed assets purchased from development fund, it did not comply with the Generally Accepted Accounting Principles by ignoring the accounting treatment of recording depreciation (on development fund assets) as expense and equivalent amount as income in the Income and Expenditure Account.

The school in its Significant Accounting Policies annexed with the financial statements reported as under:

"FIXED ASSETS - Fixed Assets are stated at cost of acquisition less depreciation.

DEPRECIATION - Depreciation on fixed assets is charged on the written down value method in accordance with the rates prescribed in Income Tax Act 1961 on such assets put to use."

The policy cited by the school in relation to fixed assets and depreciation are not in accordance with the Guidance Note cited above as the fixed assets are required to be stated at cost and depreciation to be charged at the rates prescribed in the Guidance Note.

Also, while the school reported the fixed assets purchased out of development fund at written down value, the fixed assets purchased out of general fund were reported at gross value both on the face of the Balance Sheet and the fixed assets schedule annexed with the financial statements, which contradicted the Significant Accounting Policies of the school. The fixed assets purchased out of general fund were appropriately reported at historic (gross) cost, but the Significant Accounting Policies appeared to be have been erroneously given in the financial statements.

Also, from the audited financial statements submitted by the school, it was noted that the school is charging depreciation as per the depreciation rates prescribed under the Income Tax Act, 1961 instead of rates of depreciation as per Appendix I of Guidance Note 21.

Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 also noted that the school had utilised development fund amounting INR 7,20,802 and INR 11,30,897 in the FY 2015-2016 and FY 2016-2017 for meeting revenue expenditure in contravention of clause 14 mentioned above. It is further noted that the school had spent INR 4,92,998 for meeting revenue expenditure in contravention of clause 14 in the FY 2017-2018. The school, in the personal hearing explained that it has stopped charging revenue expenses from development fund account with effect from FY 2018-2019.

It was also noted that the school purchased certain fixed assets such as furniture, fixture and equipment and indicated the same as purchased from general fund instead of development fund. While the school collected development fund, non-charging of furniture, fixture and equipment against the same is not a correct practice, which resulted in overstatement of development fund as under:

Fixed Assets	FY 2016-2017	FY 2017-2018	FY 2018-2019
Computers	-	60,991	22,088
Furniture and Fixture	68,253	12,600	19,591
Music Instruments	-	-	7,360
Office Equipment	58,186	69,750	11,791
Total	1,26,439	1,43,341	60,830

Further, from the financial statements submitted by the school, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. Thus, the school did not comply with the condition cited above.

Since the school did not report depreciation of fixed assets purchased from development fund in the Income and Expenditure Account and did not include the same in the depreciation reserve, rather, the school only reported depreciation reserve on fixed assets purchased from general fund in its financial statements. Thus, the school did not comply with the requirement of clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 that "*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..*" Also, the said condition was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others. Accordingly, the school is directed to stop collection of development fund with immediate effect unless it complies with the requirement stated above. On this ground, the balance of development fund reflected in the audited financial statements of the school for FY 2018-2019 has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

Accordingly, the school is directed to charge depreciation on fixed assets purchased out of development fund and report the same as an expense in the Income and Expenditure Account. Also, the school must comply with the accounting treatment of recognition of income equivalent to the amount of depreciation charged as indicated in the Guidance Note and charge depreciation as per the rates prescribed in the Guidance Note. Further, 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 together with detailed break up of opening block of gross value of fixed assets, additions and deletions to assets, closing gross block of fixed assets, opening balance of depreciation reserve, depreciation expense during the year, adjustments (if any), closing balance of depreciation reserve together with opening and closing net block of fixed assets in the fixed assets schedule annexed with the financial statements.

Also, the school must be careful while drafting its Significant Accounting Policies and Notes to Accounts and ensure consistency in the presentation in financial statements and Notes enclosed with the financial statements. The school must rectify its Significant Accounting Policies relating to fixed assets and depreciation. The school is also directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments to development fund account. The school is further directed to follow DOE instructions and ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment. Also, purchase of fixed assets in the nature of furniture, fixture and equipment should be adjusted against development fund and not general fund.

3. According to para 7.14 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*Plan assets comprise:*
 - *assets held by a long-term employee benefit fund; and*
 - *qualifying insurance policies.*"

The school submitted actuarial valuation report for measuring its liability towards leave encashment and a statement/intimation of LIC in respect of gratuity. However, on review of the financial



statements of the school for FY 2018-2019, it was noted that the school created provisions for gratuity and leave encashment which were not equivalent to the amount of liability determined by LIC/ actuarial valuation as on 31 Mar 2019.

Further, it was noticed that the school in its Significant Accounting Policies and Notes to Accounts annexed to its financial statements for the year ended 31 Mar 2019 mentioned "the institution is providing leave encashment on the basis of valuation determined by the management or on the basis of actuarial valuation report whichever is lower". The policy of the school is not appropriate as either it should prepare its own estimate (backed up with calculations and detailed rationale) of follow the valuation determined by the actuary. Also, the school did not submit any calculation/ backup as the basis for creating provision towards gratuity and leave encashment.

The value of the retirement benefits (Gratuity and Leave Encashment) as per actuarial valuation/ statement of LIC and provision created of gratuity and leave encashment in its financial statements are as under:

Particulars	Gratuity (In INR)	Leave Encashment (In INR)
Liability determined by LIC (Gratuity) and Actuarial valuation report (Leave Encashment) as on 1 Feb 2019 and 31 Mar 2019 respectively (as per LIC's Statement and Actuarial Valuation) (A)	1,62,52,393	35,94,418
Provision as on 31 Mar 2019 (as per audited financial statements for FY 2018-2019) (B)	1,75,31,351	33,96,981
Under/(Over) Provisioning of liability as on 31 Mar 2019 (A-B)	(12,78,958)	1,97,437
Fund Value of Group Gratuity Scheme of LIC as on 31 Mar 2018 (as per LIC's statement/ intimation) not reported in the financial statements by the school	1,52,57,782	-

Accordingly, based on the documents and information submitted by the school, it had under or over-stated the liability towards retirement benefits in its financial statements for FY 2018-2019. Also, the school has not made any investment in group leave encashment policy of LIC or other insurer to earmark and secure funds for leave encashment of staff. Further, the school did not reflect the fund value of the group gratuity policy with LIC as on 31 Mar 2018 as an asset in its audited financial statements for FY 2017-2018. However, the school included the value of investment with LIC in its financial statements for FY 2018-2019.

Based on the statement of LIC submitted by the school in respect of gratuity, the fund value of group gratuity policy as on 31 Mar 2018 amounting INR 1,52,57,782 has been considered while deriving the fund position of the school (enclosed in the later part of this order).

The school is directed to reflect its liability towards staff retirement benefits (both gratuity and leave encashment) along with corresponding investments correctly in the financial statements. Also, the school must rectify its Accounting Policy in relation to Leave Encashment. Further, the school is directed to start depositing amount group leave encashment scheme of LIC or other insurer in order to secure funds towards leave encashment of staff.



4. On review of the financial statements of the school, it is noted that school has reflected interest free loans from Ms. Prachi Grover and M/S Bharati Education Trust in its balance sheet. The balances appearing in the balance sheet of FY 2014-2015 to FY 2018-2019 is enclosed in the table below:

Party Name	FY 2014-2015	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019
Ms. Prachi Grover	76,300	76,300	76,300	76,300	-
M/S Bharati Education Trust	1,39,25,701	1,39,25,701	1,38,97,373	1,37,67,101	1,36,98,381

As the loan is appearing in the balance sheet from FY 2014-2015, it could not be ascertained whether these loans were created on account of receipt of funds or by passing a book entry. Further, the school has paid INR 76,300 to Ms. Prachi Grover during the FY 2018-2019. In the absence of any details regarding these loans, the same have not been considered in the fund position of the school (enclosed in the later part of this order).

The school is directed to submit the details regarding these interest free loans in its compliance report. The same would be checked at the time of evaluation of subsequent fee increase proposal.

5. Sub section (1) of section 13 of Right to Education Act, 2009 states *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure."*

Section 2(b) of Right to Education Act, 2009 states *"capitation fee means any kind of donation or contribution or payment other than the fee notified by the school"*.

Further, Sub section (2) of section 13 of Right to Education Act, 2009 states *"Any school or person, if in contravention of the provisions of sub-section (1),-*

- receives capitation fee, shall be punishable with fine which may be extend to ten times the capitation fee charged;*
- subjects a child to screening procedures, shall be punishable with fine which may extend to twenty five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contraventions."*

On review of the fee collected from students for FY 2017-2018 and FY 2018-2019, difference was noted in the annual charges collected from the students on the basis the no. of students and annual charges reflected in the financial statements. Hence, the school was asked to provide a reconciliation of the fee collected and fee reflected in the financial statements. In response to which the school disclosed that it has collected one-time educomp charges from students at the time of admission, which were merged under the head "Annual Charges" in its financial statements of FY 2017-2018 and FY 2018-2019 and the school did not reflect these charges separately.

Based on the reconciliations provided by the school, it was observed that the school has collected one-time educomp charges of INR 20,61,500 and INR 20,71,500 during FY 2017-2018 and FY 2018-2019 respectively. Further, on review of the fee structure and return & documents submitted by the school under Rule 180 of DSER, 1973, it was noticed that the school neither disclosed one-time educomp charges in fee structure submitted by the school nor did it disclose the same in its fee hike proposal or the documents submitted thereunder to the Directorate.

Hence, one-time educomp charges collected by school at the time of admission gets classified under the definition of capitation fee, being non-notified fee collected from students and indicates non-compliance of the RTE, 2009. Also, collection of one-time fees from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education.

Therefore, the school is directed to stop collecting one-time educomp charges from the students with immediate effect. Also, the school is directed to provide its explanation within 30 days from the date of this order to the Directorate as to why a fine equivalent to ten times of capitation fee charged during the FY 2017-2018 and FY 2018-2019 should not be imposed on the school for collecting capitation fee from students and not complying with the provisions of RTE, 2009.

B. Other observations

1. As per Appendix II to Rule 180 (1) of DSER, 1973, the school is required to submit final accounts i.e. receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

Para 1 of Standard on Auditing (SA) 700 (Revised) – ‘Forming an Opinion and Reporting on Financial Statements’ notified by the Institute of Chartered Accountants of India states “*This Standard on Auditing (SA) deals with the auditor’s responsibility to form an opinion on the financial statements. It also deals with the form and content of the auditor’s report issued as a result of an audit of financial statements.*”

SA 700 also include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants (CA).

The auditor had signed the audit report and financial accounts of the school for FY 2018-2019 on 9 Aug 2019. Thus, the school did not comply with the requirement of submission of audited final accounts in accordance with the timeline prescribed in Rule 180(1).

Further, on review of the audited financial accounts submitted by the school, it was noted that while the auditor duly signed the Receipt and Payment Account and included a cross-reference to his audit report of even date, the auditor only gave his opinion (in his audit report) on the true and fair view:

- In the case of Balance Sheet, of the state of affairs of the school and
- In the case of Income and Expenditure Account, of the excess of expenditure over income for the accounting year.

Thus, the auditor did not give his opinion on the Receipt and Payment Account. The school did not provide reasonable justification for auditor’s non-inclusion of receipt and payment account in his audit opinion.

Accordingly, the school is directed to ensure that the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted as per the prescribed timelines to the Directorate. The school is also directed to ensure that the audit opinion is issued by the auditor on the complete set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account.



2. On examination of the financial statements submitted by the school, it was noted the financial statements were not appropriately authenticated by the representatives of the school, since only the Balance Sheet, Income and Expenditure Account, Receipt and Payment Accounts and Significant Accounting Policies and Notes to Accounts were signed by the Principal and Chairperson. While all the pages of the financial statements were stamped and initialled by the Chartered Accountant, the schedules annexed to the financial statements were not signed or initialled by any of the representatives of the school. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

The school is directed to ensure that the entire set of financial statements (all pages including Schedules) must be signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

3. 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).

Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 directed the school to follow fund based accounting in respect of earmarked levies and not to charge magazine fee and medical fee as earmarked levy.

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 fee, medical fee, mid-day meal fee, and magazines charges, newspaper charges and ID card charges from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income, which was also highlighted in Directorate's Order No. F.DE.15(436)/PSB/2019/ 1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. Details of calculation of deficit, based on breakup of expenditure 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 [^]	17,32,590	19,17,342	(1,84,752)
Medical/ Mid-Day Meal Fee	13,08,200	8,68,004	440,196
Magazines/ Newspaper/ ID card charges	10,32,020	9,80,082	51,938

[^] The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

Based on 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). Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school is collecting magazine fee and medical fee from all its students and directed the school to stop the collection of magazine fee and medical fee. However, the school has continued to charge magazine fee and medical fee from the students of all classes. It is further noted that the school is charging ID card charges from all the students of the school.

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 magazine fee, medical fee and ID card charges 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 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.

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. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

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

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

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 9 Sep 2010 stated *"In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial-year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year."*

Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24 Apr 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school has not reflected the un-refunded caution money of ex-students as income in its financial statements after the expiry of 30 days of communication to them to collect their caution money together with interest.

It was noted from the financial statements of the school for FY 2018-2019 that the school is not refunding interest along with the caution money to the students. Further, the financial statements of the school indicate that it is not crediting interest to caution money payable account.

Therefore, the school is again 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. Further, the school is directed to ensure that interest on caution money is paid to the students along with the caution money refund at the time of leaving the school. Also, the school is directed to credit interest in the caution money payable.

Thus, on account of the above, entire balance reported in the financial statements for FY 2017-2018 of the schools has been considered while deriving the fund position of the school (enclosed in the later part of this order).

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, *the society 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	2016-2017	2017-2018	2018-2019
Total Students	1,433	1,454	1,478
EWS students	199	197	214
% of EWS students	14%	14%	14%

During the personal hearing of the school, the school mentioned that it takes admission under EWS category on the basis of list of admissions provided by the Directorate. However, 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.

6. Review of the proposal for enhancement of fee for FY 2018-2019 submitted by the school indicated that the school did not include/disclose swimming pool charges, medical charges, magazine fee, newspaper charges and ID card charges collected by it from students in its proposal for fee hike submitted for FY 2018-2019.

The school must ensure that it discloses all heads of income in its proposal for enhancement of fee including earmarked levies. The school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

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 INR 7,29,04,009 out of which cash outflow in the year 2018-2019 is estimated to be INR 6,89,47,982. This results in net surplus of INR 39,56,027. 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)	33,81,549
Investments (Fixed Deposits) including accrued interest as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	67,84,274
Investments (in group gratuity scheme of LIC) including accrued interest as on 31 Mar 2018 (as per Statement of LIC) [Refer Financial Observation No. 3]	1,52,57,782
Total Funds Available with the School as on 31 Mar 2018	2,54,23,606

Particulars	Amount (INR)
Add: Fees and other income for FY 2018-2019 (based on audited financial statements of FY 2018-2019) [Refer Note 1]	5,36,05,621
Add: Recoverable from society towards upgradation of building out of development fund [Refer Financial Observation No. 1]	16,75,602
Add: Recoverable from society on account of diversion of development fund [Refer Financial Observation No. 2]	1,00,88,783
Gross Estimated Available Funds for FY 2018-2019	9,07,93,612
Less: FDR held jointly with DOE as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	5,00,070
Less: Development Fund Balance as on 31 Mar 2019 [Refer Financial Observation No. 2]	-
Less: Caution Money Payable as on 31 Mar 2018 (as per the audited financial statements of FY 2017-2018)	21,31,750
Less: Retirement Benefits - Investment in group gratuity scheme of LIC as on 31 Mar 2018 [Refer Financial Observation No. 3]	1,52,57,782
Less: Interest fee loan [Refer Financial Observation No. 4]	-
Net Estimated Available Funds for FY 2018-2019	7,29,04,009
Less: Expenses for FY 2018-2019 (based on audited financial statements of FY 2018-2019) [Refer Note 1]	5,03,10,496
Less: Arrears of salary as per 7th CPC for the period Apr 2018 to Mar 2019 [Refer Note 3]	94,65,028
Less: Arrears of salary as per 7th CPC for the period Jan 2016 to Mar 2018 [Refer Note 4]	91,72,459
Estimated Surplus as on 31 Mar 2019	39,56,027

Notes:

1. The school submitted its audited financial statements for FY 2018-2019. Based on the audited financial statements for FY 2018-2019, all fees and incomes were 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
Depreciation	11,76,221	-	11,76,221	Depreciation, being a non-cash expense, does not result in cash outflow. Hence, it has not been considered.
Employee Welfare including Retirement Benefits	27,42,968	22,98,941	4,44,027	Amount considered based on statement of LIC reflecting the amount deposited with LIC in group gratuity policy during FY 2018-2019. Remaining amount, being provision does not result in cash outflow. Hence, the same has been disallowed.

Expense Heads	Actuals FY 2018-2019	Amount Allowed	Amount Disallowed	Remarks
Previous Year Expenses (development fee)	18,59,764	-	18,59,764	Adjustment of revenue expenditure incurred out of development fund in the previous years, does not result in cash outflow. Hence, it has not been considered.
Total	57,78,953	22,98,941	34,80,012	

2. The school did not provide adequate details for computation of salary as per 7th CPC for the FY 2018-2019. In absence of detailed computation, an amount equivalent to 30% of the actual salary paid by the school during FY 2018-2019 i.e. INR 94,65,028 has been considered as the impact of 7th CPC for FY 2018-2019.
 3. The school had proposed salary arrears of INR 1,13,52,000 in the budget for FY 2017-2018, which comes to 37% of the actual salary paid in the FY 2016-2017 on account of partial implementation of 6th CPC. In absence of actual calculations, the arrears of salary till March 2018 have been restricted to 30% of the actual salary paid by the school in FY 2016-2017, which comes to be INR 91,72,459 and the excess amount of INR 21,79,541 has not been considered in the evaluation of fee increase proposal.
- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fee structure. In this regard, 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."

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 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, it has been noted that the school has incurred INR 1,17,64,385 towards upgradation of building out of development fund, diversion of fund out of development fund, which was not in accordance with Rule 177 of DSER, 1973 and other orders. Therefore, the school is directed to recover INR 1,17,64,385 from the Society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with the above direction shall be taken up in accordance the provisions of DSEA&R, 1973.

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 available with the school for meeting financial implication for the academic session 2018-19.

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 status 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 session 2018-2019 of **Vidya Bharti Public School (School ID-1413252), Sector- 15, Rohini, Delhi- 110085** 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)

**Dy. Director of Education
(Private School Branch)**

Directorate of Education, GNCT of Delhi

To:

The Manager/ HoS
Vidya Bharti Public School
School ID-1413252,
Sector- 15, Rohini, Delhi- 110085

No. F.DE.15(586)/PSB/2022/ 3504-3508

Dated: 25/05/22

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)

Dy. Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi