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

No. F.DE.15(200)/PSB/2021/ 3491-95 Dated: 10/09/21

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 the 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, **Bal Bhavan Public School (School ID- 1002277), Pocket B, Mayur Vihar, Phase II, Delhi - 110091** submitted its proposal for enhancement of fee for the academic session 2019-2020 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 **Bal Bhavan Public School (School ID- 1002277), Pocket B, Mayur Vihar, Phase II, Delhi - 110091** for the academic session 2019-2020, necessary records and explanations were called from the school through email. Further, school was also provided an opportunity of being heard on 22 Oct 2019 at 1:00 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 by the team of Chartered Accountants and after evaluation of fee proposal of the school key findings noted are as under:

A. Financial Discrepancies

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 Hon'ble 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(632)/PSB/2018/30532-30536 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that as per audited financial statements for the FY 2014-2015 to FY 2016-2017, the school had made certain additions to the building, lift and playground amounted to INR 3,12,82,391 (INR 1,36,74,926 in FY 2014-2015, INR 1,50,34,339 in FY 2015-2016 and INR 25,73,126 in FY 2016-2017) out of the school funds. In the aforementioned order, the school was instructed to recover the amount of INR 3,12,82,391 from the society. It was further noted that the school has continued to incur capital expenditure on lift and playground during FY 2017-2018 out of school funds, which totalled to INR 2,32,264.

   The school represented that the expenditure on building and sports infrastructure had been incurred from the accumulated funds/surplus available with the school and also mentioned that the school had not charged or collected any building fund or development charges from the students for same.

   The explanation and representation of the school is not tenable based on the fact that the school did not implement the recommendations of 7th CPC until 1 Dec 2019, did not even get its complete liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 until 16 Jul 2018 i.e. the first time actuarial valuation for gratuity obtained by the school (actuarial valuation not obtained towards leave encashment till date) and did not secure the funds against staff gratuity and leave encashment in plan assets, 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 Society till date, the above mentioned expenditure on building totalling to INR 3,15,14,655 pertaining to FY 2014-2015 to FY 2017-2018 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 not to incur capital expenditure on building from school funds without ensuring compliance of Rule 177.

2. 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.*"

   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."*

Based on the documents submitted by the school and taken on record, it was noted that the school stopped collecting development fee from students from FY 2016-2017. While the audited financial statements of the school for FY 2015-2016 reflected a closing balance of Development Fund of INR 3,62,89,140, the school during personal hearing mentioned that this balance was already utilised till FY 2016-2017 and no funds were available with the school towards same. The school mentioned that it was not aware of presentation to be made in the financial statements, which was subsequently rectified in the audited financial statements for FY 2018-2019 whereby previously carried over balance of Development Fund was reflected as 'Development Fund Utilised against Fixed Assets'. Thus, based on the presentation made in the audited financial statements for FY 2018-2019, it was noticed that the school had indicated both opening and closing balances of 'Development Fund' of INR 3,62,89,140 as "Development Fund Utilised against Fixed Assets". However, the school did not provide any reconciliation in respect of development fund collection and utilisation over the years to substantiate its claim that the development fund was completely utilised by FY 2016-2017.

Further, on review of fee receipts and fee structure for the FY 2019-2020 submitted by the school, it was noted that school has again started collecting "Development Fee" from students without submitting details/reconciliation regarding utilisation of existing development fund. Also, the school had not ensured compliances to the directions given by the Directorate in its Order No. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 including with relation to recovery from Society, not increasing fee and stopping collection of student fund. Thus, levy of development fee again from students led to increase in fee from students, while the school has not complied with directions in previous order issued to the school post evaluation of the fee increase proposal for FY 2017-2018.

Accordingly, the school is directed to prepare a reconciliation of development indicating collections and utilisation over several years and submit the same along with its subsequent fee increase proposal. Also, the school is directed to collect development fee only after furnishing the details of utilisation of development fund and also ensuring compliance with all the directions given by the Directorate hereinabove in this order including recovering of amounts from the Society, refunding/adjusting the excess fee collected, stopping collection of one-time and student fund, etc. in addition to the statutory compliances enunciated in clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and accounting & disclosure requirements of para 99 and 102 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India in relation to development fund, deferred income and depreciation reserve.

Further, while the school explained that the development fund was completely utilised upto FY 2016-2017, on review of the audited financial statements for FY 2017-2018 and FY 2018-2019, it was noticed that the school had utilized school funds on procurement of various capital items such as computer & software, furniture & fixtures, electrical equipment's, musical instruments, etc amounting to INR 1,21,51,239 (INR 59,04,157 during FY 2017-2018 and INR 62,47,082 during INR 2018-2019) without complying the requirements prescribed in Rule 177 of DSER, 1973 i.e. without deriving savings.

Based on the fact that the school did not implement the recommendations of 7^{th} CPC until 1 Dec 2019, did not even get its complete liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 until 16 Jul 2018 i.e. the first time actuarial valuation for gratuity obtained by the school (actuarial valuation not obtained towards leave encashment till date) and did not secure the funds against staff gratuity and leave encashment in plan assets, 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 totalling to INR 1,21,51,239 pertaining to FY 2017-2018 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 society within 30 days from the date of this order. The school is further directed not to incur capital expenditure from school funds unless savings are derived after ensuring compliance of Rule 177.

Also, the school has budgeted an amount of INR 1,62,50,000 towards capital expenditure in FY 2019-2020, which have not been considered as part of the budgeted expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in later part of this order) on the basis of rationale given above.

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(632)/PSB/2018/30532-30536 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that as per audited financial statements for the FY 2014-2015 to FY 2016-2017, the school had incurred expenditures on repair & maintenance of building amounted to INR 4,22,68,029 (INR 1,30,14,158 in FY 2014-2015, INR 1,63,39,894 in FY 2015-2016 and INR 1,29,13,977 in FY 2016-2017) out of the school funds. Out of total expenditure of INR 4,22,68,029, school had provided invoices of INR 1,26,85,116 only.

The school submitted copies of the invoices for evaluation of the fee increase proposal for FY 2018-2019. On review of the supporting documents related to repair & maintenance of building for FY 2014-2015 to FY 2018-2019, it was noted that the school had reported excessive expenditure on repair and maintenance of building amounting to INR 7,48,39,658. Further, from the ledger account of Building Repair and Maintenance and supporting invoices provided by the school, it was noted that during the FY 2014-2015 to FY 2018-2019 the school had incurred expenditure on various items like purchase of Cement, Sand, PVC Pipes, Tiles, and TMT Bar, etc. in bulk quantities, which are not in the nature of repairs, rather indicate towards expenditure of developmental nature on building. However, this expenditure on development of building was incurred by the school without ensuring compliance of Rule 177, as the school was not paying salaries as per the recommendations of 7th Central Pay Commission until 1 Dec 2019 and it has not secured funds towards retirement benefits of staff i.e. gratuity and leave encashment in plan-assets. In fact, the school has not even obtained an actuarial valuation for its liability towards leave encashment till date and obtained the actuarial valuation for gratuity for the first time on 16 Jul 2018.

Based on the audited financial statements and supporting documents submitted by the school, school funds utilized by the school towards expenditure of developmental nature on school building (categorised at Building Repair and Maintenance) are as under:

Particular	2014-15	2015-16	2016-17	2017-18	2018-19	Total (INR)
Repair & Maintenance of Building	1,30,14,158	1,63,39,894	1,29,13,977	1,80,86,137	1,44,85,492	7,48,39,658

During personal hearing, the school informed that these expenditures were necessary for proper functioning of the school.

The expenditure of developmental nature on the building by the school without complying the requirements prescribed in Rule 177 of DSER, 1973 could not be considered. Therefore, the amount spent on development of building, which was reported by the school as building repair and maintenance amounting to INR 7,48,39,658 is hereby added in the fund position (enclosed in the later part of the order) with the direction to the school to recover the same from the Society within 30 days from the date of this order.

Further, the school has budgeted an amount of INR 84,33,000 towards repairs and maintenance of building for FY 2019-2020, which has not been considered as part of budgeted expenses in the fund position of the school (enclosed in the later part of this order) on the same rationale as mentioned herein above. Also, the school is directed not to incur developmental expense on building without ensuring compliance of Rule 177.

4. 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.*" The school was directed by the directorate through its Order no. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to recover the cost of luxury cars purchased by the school during FY 2014-2015.

   The school submitted documents relating to sale of the car. On review of the documents submitted by the school, it was noted that the school has realized the sale proceeds of INR 13,00,000 from sale of the car and deposited the same in the school's bank account in July 2019. However, the school has not recovered the remaining balance of INR 39,54,559 from the society since the total amount spent by the school on purchase of the luxury car was INR 52,54,559.

   Accordingly, the amounts of INR 13,00,000 already received during FY 2019-2020 and remaining INR 39,54,559 to be recovered from society are 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 the remaining amount of INR 39,54,559 from the 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:*

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

   Directorate's Order no. F.DE.15(632)/PSB/2018/ 30532-30536 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school has not obtained actuarial valuation in respect to its liability towards staff gratuity and leave encashment and has not made any provision towards the same in its financial accounts.

   The school submitted copy of actuarial valuation report of its liability towards gratuity for FY 2018-2019, it was noted that the school has obtained actuarial valuation of its liability towards gratuity of INR 1,69,27,015 and has recorded partially liability of gratuity amounting to INR 52,76,581 in the books of the account as on 31 March 2019. Also, the school has not obtained actuarial valuation in respect of its liability towards staff leave encashment and had not recorded the provision for same in its books of account.

Further, it was noted that the school has not made any investment in 'plan-assets' such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits. Accordingly, the amount of INR 52,76,581 equivalent to the amount of provision of gratuity created by the school as on 31 March 2019 has 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 this amount in investments that qualify as plan assets as per Accounting Standard 15 within 30 days from the date of this order.

Further, the school is directed to obtain actuarial valuation reports for both leave encashment, create provisions equivalent to the amount of liability determined by actuary towards gratuity and leave encashment in its books of account and make earmarked equivalent investments against provision for gratuity and leave encashment with LIC (or any other agency) so as to protect against its the statutory liabilities towards staff.

6. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 Dec 1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

   - Registration Fee
   - Admission Fee
   - Caution Money
   - Tuition Fee
   - Annual Charges
   - Earmarked Levies
   - Development Fee

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

   The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

   Clause 17 of Order No. F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 issued by this Directorate states "*No admission Fee of more than two hundred rupees per student, at the time of admission shall be charged. Admission Fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school.*"

   On review of audited financial statements for FY 2016-2017 to FY 2018-2019 and sample of fee receipts submitted by the school, it was observed that the school is collecting one-time miscellaneous charges of INR 25,000 from students at the time of admission. No private recognised school can collect fee other than those prescribed in aforementioned order dated 15 Dec 1999. Further, collecting one-time charge from students at the time of admission of students takes the form of admission fee, which can be collected only upto an amount of INR 200. Thus, collection of one-time fee from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education in contravention of the aforementioned clause.

The school explained that it stopped collecting one-time fee under the name of "miscellaneous charges" from students from FY 2019-2020 and submitted a sample of fee receipts for FY 2019-2020 that indicated that the school is not charging one-time miscellaneous fee from students. However, on review of the fee receipts for FY 2019-2020, it was noted that the school has added this amount of INR 25,000 under the head "Annual Charges" and has started collecting increased "Annual charges" from students at the time of admission.

While the school has stopped collecting one-time miscellaneous fee, it has substantially inflated the amount of "Annual Charges" that are collected from students at the time of admission and has thus, tried to camouflage one-time fee under Annual Charges as the same amount of INR 25,000 that was collected against one-time miscellaneous fee from students at the time of admission was added to Annual Charges. Thus, this is reflective of the intentions of the school of profiteering and commercialisation of education, which is in contravention of DSEA&R, 1973.

Based on the audited financial statements of school for FY 2018-2019, the school collected a total sum of the INR 52,10,000 from students at the time of admission. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fee has been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected during FY 2019-2020 from students in respect of one-time charge under the disguise of Annual Charges within 30 days from the date of this order.

Further, the school is directed not to collect one-time miscellaneous charge directly or under the disguise of Annual Charges from students at the time of admission or otherwise with immediate effect.

7. The school was directed by the directorate through its Order no. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to stop collecting activity fee/ student fund.

   On review of fee structure and sample of fee receipts for the FY 2019-2020, it was noted that school has merged the head of student fund with Annual Charges, this has resulted in non-compliance of the aforementioned order.

   The school represented that it had collected only one levy as "Student Fund" from the students. The amount collected as student fund was used to meet cost of various activities such as school function & festival celebration, sports and other co-curricular activities, photography, seminars, presentations & workshop, smart/digital classes & software expenses. The school further requested the directorate to allow the merging of student fund with annual charges.

The explanation and representation of the school is not tenable on factual grounds that, the school is charging earmarked levies in the form of student fund from all students (Nursery to XII). Therefore, 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).

Therefore, the school is again directed to stop the collecting student fund, which is being charged under the disguise of increased Annual Charges. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the increase annual charges of INR 1,04,14,570 (based on amount collected during FY 2018-2019) has been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected from students in respect of student fund under the disguise of Annual Charges within 30 days from the date of this order. Further, the school is directed not to increase or club fee heads on its own without approval of the Directorate.

8. Directorate's order no. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 regarding fee increase proposals for FY 2017-2018 states "*Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-2018 and if the fee is already increased and charged for the academic session 2017-2018, the same shall be refunded to the parents or adjusted in the fee of subsequent months*".

   As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school states "*The school shall not increase the rates of tuition fee without the prior sanction of the Directorate of Education Delhi Admin. and shall follow the provisions of Delhi School Education Act/Rules, 1973 and the instructions issued from time to time*".

   Directorate's order no. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 2019 regarding fee increase proposals for FY 2018-2019 and FY 2019-2020 states "*In case, the schools have already charged any increased fee prior to issue of this order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal.*"

   On review of fee structure and sample of fee receipts submitted by the school for the FY 2015-2016 to FY 2019-2020, the school had collected increased fee from students of class KG in FY 2016-2017, class KG & 1st in FY 2017-2018, class KG to 2nd in FY 2018-2019 and class KG to 3rd in FY 2019-2020 without prior approval of the Directorate. It was noted that the school had spent school funds on purchase of luxury vehicles and other capital items, construction and development of building and has been increasing fee from students, which clearly indicates profiteering and commercialisation of education.

The school explained that there is no increase in the fee paid by these students (of class KG in FY 2016-2017 promoted to class 1 in FY 2017-2018 promoted to class 2 in FY 2018-2019 and then promoted to class 3 in FY 2019-2020) as compared with the fee paid by them in previous classes. The school further explained that it did not decrease the fee collected from students in previous year after they were promoted to next class and has submitted the proposals for fee increase to DOE accordingly.

The contention of the school is incorrect, as it has revised its fee structure for particular classes without prior approval of the Directorate. The school did not provide the exact amount of increased fees collected from students during FY 2016-2017 to FY 2019-2020. Therefore, exact amount of excess fee collected by school could not be derived on account of non-submission of requisite information by the school. Thus, no adjustment is reflected in the fund position of the school enclosed in the later part of this order).

Accordingly, the school is hereby directed to calculate the excess fee collected from students from FY 2016-2017 to FY 2019-2020 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to increase any fee/charge of any class without approval from the Directorate.

B. Other Discrepancies

1. On review of Accounting Policies and Notes to Accounts attached with the audited financial statements for FY 2018-2019, inconsistency was noticed between the accounting policy related to fixed assets and reporting in the Balance Sheet.

   The Accounting Policies and Notes to Accounts mentions that, fixed assets are carried at cost i.e. gross value, whereas on the face of Balance Sheet, fixed assets were reported at written down value. Therefore, there is inconsistency in the financial statements of the school.

   Accordingly, the school is directed to ensure consistency between the accounting policy related to fixed assets and reporting done in the Balance Sheet.

2. 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 Admn. 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	2016-2017	2017-2018	2018-2019
Total No. of Students	3042	3062	3099
No. of EWS students	558	571	614
% of EWS students to total no. of students	18.34%	18.64%	19.81%

While the school in its response mentioned that it takes admission under EWS category on the basis of list of admissions provided by the Directorate, it 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 2019-2020 amounting to INR 25,29,74,846 out of which cash outflow in the year 2019-2020 is estimated to be INR 14,98,54,421. This results in net surplus of INR 10,31,20,425.The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2019 (as per audited financial statements of FY 2018-2019)	12,98,065
Investments (Fixed Deposits) as on 31 March 2019 (as per audited financial statements of FY 2018-2019)	23,64,754
Total Liquid Funds Available with the School as on 31 Mar 2019	**36,62,819**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2018-2019) [Refer Note 1]	13,31,93,251
Add: Amount recoverable from Society on account of capital expenditure on building incurred without compliance of Rule 177 of DSER,1973 (FY 2014-2015 to 2018-2019) [Refer Financial Discrepancy No. 1]	3,15,14,655
Add: Amount recoverable from Society on account of capital expenditure incurred without compliance of Rule 177 of DSER,1973 (FY 2017-2018 to 2018-2019 [Refer Financial Discrepancy No. 2]	1,21,51,239
Add: Amount recoverable from Society on account of school funds utilized on expenditure of development nature on building without compliance of Rule 177 of DSER, 1973 (FY 2014-2015 to 2018-2019) [Refer Financial Discrepancy No. 3]	7,48,39,658
Add: Amount recovered on account of receipt of sale proceeds of car during the FY 2019-2020 [Refer Financial Discrepancy No. 4]	13,00,000
Add: Remaining balance recoverable from the society for purchase of Luxury Car [Refer Financial Discrepancy No. 4]	39,54,559
Gross Estimated Available Funds for FY 2019-2020	**26,06,16,181**
Less: FDR against specific liabilities (jointly with CBSE and DOE) (as per audited financial statements of FY 2018-2019)	23,64,754
Less: Staff retirement benefits [Refer Financial Discrepancy No. 5]	52,76,581
Less: Refund/Adjustment of increased annual charged collected from students during FY 2018-2019 and FY 2019-2020 [Refer Financial Discrepancy No. 8]	Amount not quantified
Net Estimated Available Funds for FY 2019-2020	**25,29,74,846**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	14,98,54,421

Particulars	Amount (INR)
Estimated Surplus as on 31 Mar 2020	**10,31,20,425**

Notes:

1. Fees and incomes as per audited financial statements of FY 2018-2019 have been considered with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020 with an adjustment of INR 1,04,14,570 towards student fund (Financial Discrepancy No. 7) and INR 52,10,000 towards one time miscellaneous charges (Financial Discrepancy No. 6) to be adjusted/ refunded to students (included as income in the audited financial statements of FY 2018-2019), which would not accrue during FY 2019-2020.

2. Per the Budget Estimate for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2019-2020 of INR 19,23,14,000, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expenses heads as budgeted were considered. Further, during review of budgeted expenses, certain discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2019-2020:

Expense Heads	FY 2018-2019	FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Examination Expenses	8,15,526	13,63,000	8,97,079	4,65,921	No reasonable justification/ explanation provided by the school for such increase in expense as compared with FY 2018-2019. Accordingly, budgeted expenses for FY 2019-2020 have been restricted to 110% of the expense incurred during FY 2018-2019.
Printing & Stationery Expenses	6,23,634	19,64,000	6,85,997	12,78,003	
Function & Cultural Activities	17,55,321	31,32,000	19,30,853	12,01,147	
Student Activity Art & Craft	1,33,712	9,46,000	1,47,083	7,98,917	
Sports & Music	13,40,351	60,39,000	14,74,386	45,64,614	
Student Welfare	5,14,148	18,77,000	5,65,563	13,11,437	
Advertisement Expense	4,59,710	6,33,000	5,05,681	1,27,319	
Generator Expenses	1,89,139	5,93,000	2,08,053	3,84,947	
Internet port and telephone charges	5,47,715	9,03,000	6,02,487	3,00,514	
Vehicle insurance and running and maintenance expenses	12,59,964	19,42,000	13,85,960	5,56,040	
Music Instrument Repair & Maintenance	2,65,886	12,30,000	2,92,475	9,37,525	
Computer & Printer Maintenance	4,56,272	10,48,000	5,01,899	5,46,101	

Expense Heads	FY 2018-2019	FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Software & Website Expenses	15,05,016	18,62,000	16,55,518	2,06,482	
Repair & Maintenance of others	4,58,534	56,02,000	5,04,387	50,97,613	
Repair & Maintenance of Building	1,44,85,492	84,33,000	-	84,33,000	Refer Financial Discrepancy No. 3
Capital Expenditure (Out of Development Fund)	-	1,62,50,000	-	1,62,50,000	Refer Financial Discrepancy No. 2
Total	**2,48,10,420**	**5,38,17,000**	**1,13,57,421**	**4,24,59,580**	

In view of the above examination, it is evident that the school has adequate funds for meeting all the budgeted expenses for the financial year 2019-2020.

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 2019-2020 on the basis of existing fees structure and 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, it was recommended by the team of Chartered Accountants that along with 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 2019-2020 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, recommendation of the team of Chartered Accountants along with 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 2019-2020. 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 2019-2020.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2019-2020 of **Bal Bhavan Public School (School ID- 1002277), Pocket B, Mayur Vihar, Phase II, Delhi - 110091** 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 2019-2020. In case, the school has already charged increased fee during FY 2019-2020, 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. Further, the school must not collect development fee from students without ensuring compliance with the directions given in this order.

2. To communicate with the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.

3. Not to collect fee from students at the rate applicable for previous class after they are promoted to higher class, as the existing fee structure for that class will be applicable.

4. To ensure that salaries and benefits are paid to the staff in accordance with section 10(1) of DSEA, 1973 and Directorate's order dated 25 Aug 2017.

5. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of India in its Judgment of Modern School vs Union of India and Others. Therefore, school must not include capital expenditure as a component of fee structure (to be submitted by the school under section 17(3) of DSEA, 1973).

6. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

7. To rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).

8. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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
Bal Bhavan Public School
School ID-1002277
Pocket B, Mayur Vihar, Phase II
Delhi - 110091

No. F.DE.15(200)/PSB/2021/ 3491-95

Dated: 10/09/21

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE concerned ensure the compliance of the above order by the school management.
4. Guard file.

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