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

No. F.DE.15 (336)/PSB/2020/ 9595 **Dated:** 21/12/2020

Order

WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '***the Act***') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '***the Rules***').

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.......

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit the their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate, **Darbari Lal DAV Model School, Shalimar Bagh, Delhi-110088 (School ID- 1309175)** had submitted the proposal for fee increase for the academic session 2019-20. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2019-20**.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 08 November 2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

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

A. Financial Discrepancies

1. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/99/23033/23980 dated 15.12.1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

Further, Rule 177 of DSER, 1973 states that income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And the aforesaid savings shall be arrived at after providing for the following, namely:

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

The audited financial statements of the school for FY 2018-19 revealed that there was a receivable balance (of Reserve Fund) of Rs. 5,55,83,978 from DAV CMC (Society) which has been carried over from the previous year. Similar observation was also noted in order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued post evaluation of fee increase proposal for academic session 2017-18 wherein the audited financial statements of the school for FY 2016-2017 reflected a receivable balance (of Reserve Fund) of Rs. 4,41,24,354 from DAV CMC (Society). As per school submission, society pays interest to the school on this amount @ 8% p.a. and the society has paid interest income of Rs. nil in FY 2016-17, Rs. 73,42,292 in FY 2017-2018 and Rs. 41,17,332 in FY 2018-19.

Post hearing the school has submitted its reply and confirmed that it has recovered the aforesaid amount from society school in FY 2019-20. Accordingly, the aforesaid amount has been considered while deriving the fund position of the school. Further, the school is directed to not transfer any amount to the society in contravention of aforesaid provisions in future.

2. As per clause no. 2 included in the Public Notice dated 04.05.1997, "it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society." Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

Based on the aforementioned order, provision of the act 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.

The Directorate in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18, noted that school incurred expenditure of Rs. 8,68,972 on construction of building out of school funds in FY 2014-15, which is in contravention of the aforesaid provisions. Moreover, the above capital expenditure was incurred without complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, the aforesaid amount of Rs. 8,68,972 has been considered while deriving the fund position of the school 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 aforesaid amount is still recoverable from the society. Moreover, the school has submitted that additions to Building of Rs. 8,68,972 in FY 2014-15 represents construction of workstations for staff room costing of Rs. 7,56,566 and construction of ATM room costing of Rs. 1,02,956 and as such there was no addition made for construction of classroom. While the school had represented the same under the head of building in its audited financial statements and the same is also certified by its statutory auditor. Accordingly, the submission of the school is not tenable therefore, school is again directed to recover the aforesaid amount of Rs.8,68,972 within 30 days from the date of issue of this order.

3. As per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 "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." However, in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 it was noted that the school had incurred an expenditure on purchase of two CNG Buses for Rs. 37,77,400, during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the direction included in above order.

The above capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Also, the school has not maintained transport fund account and has not created any reserve out of the savings of transportation services for purchase of vehicles. The school funds utilised for purchase of buses, in fact relates to all fee-paying students and not the transport service user students only. Thus, the amount spent by the school on purchase of vehicle of Rs. 37,77,400 was added to the fund position of the school 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. As of now the School has not recovered this amount from the society but has submitted that the students availing buses are paying transport charges which is part of total income of the school. Accordingly, the purchase of bus is to be met out of school income. Also, the development fee is considered as income and utilisation of development fund for purchase of buses, though wrong, cannot be isolated and put on society. Hence, no amount has been recovered from the society.

The submission of school is incorrect and in view of clause 14 of order dated 11.02.2009 and Rule 177 of DSER, 1973. Therefore, school is again directed to recover the aforesaid amount within 30 days from the date of issue of this order and comply with the provision of clause 14 of the order dated 11.02.2009 and Rule 177 of DSER, 1973. Moreover, school has budgeted for buses amounting Rs. 20,00,000 out of development fund which is in contravention of aforesaid provisions and the bus cannot be purchased out of development fund. Therefore, the proposed expenditure on bus out of development fund has not been considered while deriving the fund position of the school.

Further, as per Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India "*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.*"

Regarding compliance of para 99 of Guidance Note, it was noted that the school transferred an amount equivalent to the purchase cost of the assets from development fund to general reserve instead of accounting treatment as indicated in the guidance note stated above. During hearing, the school has accepted to rectify these discrepancies and thus, school submissions have been taken on record and the same shall be examined at the time of evaluation of fee proposal of the next academic session.

Further, on analysis of the development fee collected and utilised from FY 2016-17 to 2018-19 indicate that the school has been collecting development fee more than its requirement. Over the period of three years, the school has generated surplus of Rs. 4,78,80,706 from development fee. This analysis indicates that the school is generating more funds than the actual requirements for purchase/ upgradation of furniture fixtures and equipment etc. and thereby the school is accumulating surplus under this head. Therefore, the school is directed to determine the actual requirement of development fee to be collected from the students from the subsequent financial year and do not indulge in any kind of commercialisation of education. The details of development fee collected and corresponding expenditure incurred by the school, as per the financial statements of the school, is as under:

(Figures in Rs.)

Particulars	**2016-17**	**2017-18**	**2018-19**
Development fee collected during the year	2,25,95,930	2,22,22,675	2,12,07,105
Expenditure against development fee	1,19,52,928	25,64,000	36,28,076
Surplus /(deficit) generated of development fee during the year	**1,06,43,002**	**1,96,58,675**	**1,75,79,029**

Particulars	2016-17	2017-18	2018-19
Total			4,78,80,706

Moreover, the Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 that, *"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."*

In view of aforesaid order dated 16.04.2010, the accumulated balance of development fund amounting Rs. 4,78,80,706 as on 31.03.2019 has not been considered rather it has been restricted equivalent to one year's collection of Rs. 2,12,07,105 as collected in FY 2018-19, while deriving the fund position of the school.

4. As per Rule 177 of DSEA & R 1973, "*(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 management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:-

1. *award of 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 developmental nature;
(c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
(d) co-curricular activities of the students;
(e) reasonable reserve fund, not being less than ten per cent, of such savings."

However, as per details provided by the school, it was noted that the school is paying scholarships to meritorious students without deriving savings in accordance with Rule 177 of DSER, 1973. The school has awarded scholarships amounting to Rs. 2,10,000 during FY 2016-2017 and Rs. 1,77,600 during the FY 2017-18 from the school funds. Hence, this amount of Rs 3,87,600 scholarship awarded to students is hereby added to the fund position of the school 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 issue of this order. The similar observation was also noted in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session

2017-18 and school was directed to recover the amount paid in FY 2016-17. However, till date school is failed to recover this amount.

Further, the school has also budgeted an amount of Rs. 2,50,000 towards scholarship during FY 2019-2020, and in view of provisions of Rule 177 of DSER, 1973 the same cannot be considered as allowable expenditure while deriving the fund position of the school.

5. On review of audited financial statements of the school and further, discussion with the school during personal hearing, the school explained that administration charges are paid to DAV CMC at the rate of 4% of the basic salary paid by the school to its staff till 2016-17. From FY 2017-18, the DAVCMC has started to charge from school administrative charges @7% of the basic salary. The similar observation was also noted in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 and it was directed to the school to not charge administrative charges @7% of the basic pay.

However, instead of the reducing the administrative charges to 2% as per the direction of DoE, the school has increased the same to 7% of basic pay in FY 2017-18 and 2018-19 and has paid Rs.13,38,885 and Rs. 53,25,339 respectively to the society. It has also been noted that during FY 2018-19 school has debited administrative charges in the schedule of Establishment Cost. Thus, the excess amount paid by the school towards administrative charges (i.e. more than 2%) is recoverable from the society and accordingly it has been included in the calculation of fund position to the school. Year-wise details of the administrative charges are as follows:

(Amount in Rs.)

Particulars	**2017-18**	**2018-19**
Basic Pay	6,72,07,288	14,68,53,402
Total	**6,72,07,288**	**14,68,53,402**
Applied Rate	4%	7%
Administrative charges (as per applied rate) (A)	26,83,031	1,02,46,367
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	13,44,146	29,37,068
Difference (A-B)	13,38,885	73,09,299
Less: Administrative charges payable (as per audited financial statements)	-	19,83,960
Balance recoverable from Society	**13,38,885**	**53,25,339**

Further, it has also been noted that school has budgeted administrative charges @7% of basic pay amounting to Rs.1,16,03,767 in FY 2019-20. However, while deriving the fund position of the school the same has been restricted to 2% of the basic pay and thus, administrative charges for Rs. 82,88,405 has not been considered while deriving the available fund of the school. Further, the school is also directed to recover the excess amount paid to the DAV CMC within 30 days from the date of issue of this order.

6. As a practice adopted by the schools under the management of DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance, which is transferred to DAV CMC. DAV CMC in turn manages and maintains the common pool of funds for all schools under its management and uses the same for payment of gratuity and leave encashment liability as and when the same arises in respect of the staff of respective school at the time of his/her resignation/ retirement. During hearing, the school has submitted that actuarial valuation for gratuity and leave encashment as at 31.03.2019 have been taken but has not make any investments in the 'Plan Assets' as defined in AS-15 issued by the Institute of Chartered Accountants of India (ICAI). According to para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies."

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). As per the actuarial valuation report, total liability towards gratuity and leave encashment as on 31.03.2019 are Rs. 17,09,75,637 and Rs. 3,21,79,740 respectively. However, the gratuity and leave encashment liability recognised in the financial statements as on 31.03.2019 are Rs.6,45,40,071 and Rs. 3,59,98,988 respectively. Additionally, the school has proposed Rs. 1,29,74,191 towards gratuity and Rs. 55,60,368 towards leave encashment for the FY 2019-20 without depositing any amount in the plan assets in accordance with AS-15 despite being directed several times. Since the school has not deposited any amount in the plan assets in accordance with AS-15 issued by ICAI in compliance of directions given in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 and Order no. F.DE-15/Act-I/WPC-4109/Part/13/959 dated 13.10.2017. Therefore, these provisions towards gratuity and leave encashment have not been considered while deriving the fund position of the school.

However, as per details provided by the school the amount for gratuity and leave encashment paid during the FY 2019-20 amounting to Rs. 67,62,074 and Rs. 15,92,481 respectively to the retiring employees have been considered in the calculation of available fund of the school.

7. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, the recognised private unaided school can collect following fees from the students/ parents:

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

- Development Fee

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

However, on review of school fee proposal for session 2019-20 it has been noted that the school has been charging fee in the name of Orientation Charges amounting Rs. 5,000, Stipulated Learning Charges amounting Rs. 5,000 and Community Outreach Programme amounting Rs. 5,000 at the time of new admission. During discussion, the school has submitted that earlier it was charging and collecting fee in the name of Students Activity Welfare Fund amounting Rs. 11,000 at the time of new admission and charged the same till 2017-18 only.

Similar observation was also noted in order issued for session 2016-17 in most of the schools run by DAV CMC wherein it was instructed

......School is not allowed to charge one time fees at the time of admission for development activity of students. Charging of one-time fees at the time of admission tantamount to capitation fee which is prohibited under section 13 of the Right of Children to Free and Compulsory Education Act, 2009. The school is hereby directed not to charge any such fee from the students in future and to adjust the fee already collected against monthly fee due...

Thus, in view of aforesaid legal provisions and directions given, school is not allowed to charge any fee in the name of Orientation Charges, Stipulated Learning Charges and Community Outreach Programme fee at time of admission. The collection of these fee at the time of admission will be treated as charging of capitation fee and therefore, school is directed to stop the collection of Orientation Charges, Stipulated Learning Charges and Community Outreach Programme fee immediately. The school is hereby directed not to charge any such fee from the students in future and to adjust the fee already collected against monthly fee due.

Further, for the purpose of evaluation of the fee hike proposal for FY 2019-20, the above-mentioned fee has been included in the income of the school while deriving the fund position.

8. As per order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 it was observed that an amount of Rs. 5,00,000 was paid to DAV CMC on account of advertisement and publicity. During personal hearing, the school provided a justification that this amount was paid during FY 2016-2017 as part subscription to defray the expenses of holding function in Jawahar Lal Nehru Stadium where the students of this school also participated besides other schools. However, the school could not provide supporting documents in relation to the event such as list of participant schools, number of school participants, amount of contribution, total cost incurred, supporting of the invoices, basis of allocation of cost, etc. The school has not recovered the said amount from the society till date and submitted that it had paid this amount to the society as part of school's share for the event held.

School has failed to provide the aforesaid documents or records to substantiate its submission and thus, school is required to recover this amount from the society within 30 days from the date of issue of this order.

B. Other Discrepancies

1. As per Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 "*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 "*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.*" And as per clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 "*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.*"

   As per Rule 176 of the DSER, 1973 "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

   Further, sub-rule 3 of Rule 177 of DSER, 1973 provides "*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).*" And, 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.*"

   However, as per audited financial statements of the school, it has been noted that the school charges earmarked levies in the form of Transport Fees, Science fee, IT Charges, Activity Charges, Group Insurance, Internet Charges and Computer Fee from students, safety and security (newly introduced). However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

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

The similar observation was also noted in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 and order No. F. DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26.09.2017issued for academic session 2016-17 and it was directed to the school to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies 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. During hearing school has submitted to comply with the aforesaid directions. It was also submitted that at times, they have been used to meet shortfall in Tuition Fee vis-à-vis Establishment cost as Tuition Fee is not sufficient and thus, utilised the earmarked levies for meeting the shortfall.

As the school has not complied with the directions issued in the previous order. Therefore, the school is once again directed to comply with direction of the Department and submit the compliance report within 30 days from the date of issue of this order.

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, 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.

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing and stationery, etc. The similar observation was also noted in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 and it was directed to school to not collect pupil fund from students with immediate effect. The school has submitted that the Pupil Fund is maintained as per rule 171 framed under DSEA & R, 1973 and these funds are specifically used for the purpose for which these are collected and is regulated as per the provision of the said rule. The school failed to understand the directions of the department and that as per order dated 15.12.1999 school cannot charge the fee other than prescribed heads of fee. Therefore, school is once again directed to stop the collection of pupil fund from students immediately.

Further, for the purpose of evaluation of the fee hike proposal for FY 2019-20, the above-mentioned fee has been included in the income of the school while deriving the fund position.

3. As per order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 it was observed that the school has prepared not prepared Fixed Asset Register (FAR). During hearing the school has submitted that it has formed a team for physical verification of fixed assets and all the data has been captured in Microsoft excel post physical verification of fixed assets. It is also submitted that it had purchased a software in July 2018 and feeding the data in the software since 01.04.2014 by taking closing balance of 31.03.2014.

School was asked to provide the copy of fixed assets register either in soft copy or hard copy but it failed to submit fixed assets register both in soft copy and hard copy. In the absence of the same, it cannot be ascertained whether has prepared fixed assets register or not and that too in the proper format. Further, school has failed to provide any reason or justification for considering 31.03.2014 as cut off date for preparation of fixed assets register and therefore, school is directed to submit proper reason for adopting 31.03.2014 as cut off date for preparation of fixed assets register.

Also, School is once again directed to prepare proper FAR, which should include details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The same shall be verified at the time of evaluation of fee proposal of the school for next academic session.

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

i. The total funds available for the FY 2019-20 amounting to Rs. **38,74,46,645** out of which cash outflow in the FY 2019-20 is estimated to be Rs. **36,50,04,750.** This results in net balance of Surplus amounting to Rs. **2,24,41,895** for FY 2019-20 after all payments. The details are as follows:

Particulars	**Amount in Rs**
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	(29,88,665)
Investments (Fixed Deposits) as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	7,90,547
Current Account Balance with DAV CMC as on 31.03.2019 (as per audited Financial Statements of FY 2018-19)	8,98,47,240
Capital fund/ Reserve fund of Schools/Colleges with DAV CMC in the books of Schools/ Colleges as on 31.03.2019 **(as per observation 1 of Financial Discrepancy)**	5,55,83,978

Particulars	Amount in Rs
Add: Recovery of additions to building reflected in financial statement for FY 2014-15 from the Society **(as per observation 2 of Financial Discrepancy)**	8,68,972
Add: Recovery of additions to vehicles reflected in financial statement for FY 2016-17 from the Society **(as per observation 3 of Financial Discrepancy)**	37,77,400
Add: Recovery from Society for the scholarships paid by school during the FY 2016-17 and 2017-18 **(as per observation 4 of Financial Discrepancy)**	3,87,600
Add: Recovery of excess administration charges from DAV CMC **(as per observation 5 of Financial Discrepancy)**	66,64,224
Less: Development Fund **(as per observation 3 of Financial Discrepancy and Note 1)**	2,12,07,105
Less: Excess fee collected by school **(Refer Note 2 below)**	-
Less: Fixed Deposits in the joint name of Secretary, CBSE and Manger, School as on 31.03.2019 (as per School's submission)	7,90,547
Available funds	**13,29,33,644**
Fees for FY 2018-19 as per audited Financial Statements. (We assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	24,68,43,194
Other income for FY 2018-19 as per audited Financial Statements. (We assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	76,69,807
Total available funds for 2019-20	**38,74,46,645**
Total cash outflow (Refer Note 3 to 8)	33,59,55,246
Less: Arrears of salary as per 7th CPC (as per school submission)	2,90,49,504
Estimated Surplus/(Deficit)	**2,24,41,895**

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 states "*All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.*" Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 4,78,79,706 in its audited financial statements of FY 2018-19. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication for FY 2019-20. However, development fund equivalent to amount collected in FY 2018-19 amounting Rs. 2,12,07,105 from students has not been considered as fund available with school.

Note 2: The Directorate vide its Order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16.04.2016 issued with respect to fee increase proposals for FY 2016-2017, "*.... 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.*" Based on the details submitted by the school, it was noted that the school had increased the fee for FY 2016-17 without approval of Directorate of Education. Similar, observation was also noted while evaluating the fee increase proposal of FY 2017-18. Post evaluation of fee increase proposal of FY 2017-18 the school directed vide order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 to refund/ adjust the increased fee charged from the students and submit the compliance report within 30 days from the date of issue of the order. Based on the information provided by the school, additional fee of Rs. 84,99,865 was collected in FY 2016-17 and Rs.62,15,665 in 2017-18. Thus, the additional amount of Rs. 1,47,15,530 collected by the school without approval from Director of Education is required to be refunded /adjusted against future fee to be collected from the students. But school has not yet complied with the direction of the Director of Education. Since the school has not complied with the directions of the Directorate therefore, the aforesaid amount has not been adjusted in the above table unless the school refund/ adjust the same as per the Directions. Accordingly, school is again directed to adjust/refund this amount immediately and submit the evidence of the same to the Directorate within 30 days from the date of this order.

Note 3: As per order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18, school was directed not to charge more than 2% of basic salary as administrative charges. However, it has been noted that for FY 2019-20 school has budgeted Rs. 1,16,03,767 as administrative charges payable to DAV CMC which comes to 7% of the basic salary. The same has been restricted to Rs. 33,15,362 i.e. 2% of the basic salary based on the direction given in aforesaid order dated 22.01.2019.

Note 4: As per financial observation no. 7, the school has not deposited any amount to LIC or similar agency towards gratuity and leave encashment despite being instructed several times by the department. As per school's submission, during FY 2019-20 school had paid gratuity and leave encashment amounting to Rs. 67,62,074 and Rs. 15,92,481 respectively to the retiring employees of the school and thus, only the actual pay-out of gratuity and leave encashment has been considered while deriving fund position of the school.

Note 5: On review of budget submitted by the school for FY 2019-20 it has been observed that the School has budgeted following expenditures in excess of 110% of the actual expenditure incurred in FY 2018-19. During hearing school was asked to submit proper justification for such substantial increase regarding these expenditures which school failed to provide. Accordingly, these expenditures have been considered to the extent 110% of the actual expenditure incurred in FY 2019-20 while deriving the fund position. The details are as follows:

(Amount in Rs.)

Particulars	FY 2018-19	FY 2019-20 (Budgeted)	Allowed	Disallowed
Building Repair & Maintenance*	-	75,00,000	37,50,000	37,50,000
Other Repair & Maintenance*	-	68,00,000	34,00,000	34,00,000
Diary Expenses#	-	9,00,000	-	9,00,000
Inspection Charges#	-	3,22,000	-	3,22,000

*The Building Repair and Maintenance and Other Repair and Maintenance expenditure have been considered @50% based on submission made by School during hearing.
#No explanation has been provided and thus, has not been considered in full.

It is also pertinent to mention here that school failed to provide reasonable explanation and clarification for most of the expenditure proposed in the budget. However, these expenditures have been considered in this year with the direction to the school to provide proper explanation for all expenditure proposed in the budget in future fee increase proposals. The details of such expenditure are as follows:

Particulars	FY 2018-19	FY 2019-20 (Budgeted)	Increased Amount	Increase in %
Courier Expenses (Telephone & Postage)	2,559	50,000	47,441	1854%
Travelling Expenses (Conveyance)	2,91,007	3,50,000	58,993	20%
Refreshments and Entertainment	67,082	2,00,000	1,32,918	198%
Medical and First Aid Expenses	96,178	2,00,000	1,03,822	108%
In- Service Education	2,10,651	4,00,000	1,89,349	90%
Advertisement and Publicity	68,812	3,00,000	2,31,188	336%
Car/ Vehicle Maintenance	4,41,457	6,00,000	1,58,543	36%
Bus Maintenance	2,27,364	3,00,000	72,636	32%
Computer Expenses	2,39,734	6,00,000	3,60,266	150%
Legal and Professional expenses	1,01,950	2,00,000	98,050	96%
House Keeping Charges	6,47,932	8,00,000	1,52,068	23%
Other Expenses - Sports	10,000	75,000	65,000	650%
Library and Binding Charges	32,344	75,000	42,656	132%
Miscellaneous Expenses	2,22,072	6,00,000	3,77,928	170%
Total	**26,59,142**	**47,50,000**	**20,90,858**	79%

Note 6: As per financial observation no. 4, the scholarships to students should come out of the savings of the school to be computed in accordance with Rule 177 of DSER, 1973 and it should not be form part of the fee structure of the school. However, school has budgeted for Scholarship in FY 2019-20 amounting to Rs. 2,50,000. Accordingly, in view of Rule 177 of DSER, 1973 the same has not considered while deriving the fund position.

Note 7: As per Section 18(4) of DSEA 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed under Rules 176 and 177 of the DSER, 1973. However, school has budgeted for donation amounting to Rs. 5,00,000 in FY 2019-20. This amount has not been considered as educational expenditure in accordance with provisions of section 18(4) of the DSEA, 1973.

Note 8: School has budgeted for capital expenditure amounting Rs. 1,66,75,000 for FY 2019-20. School failed to provide reasonable justification for the proposed capital expenditures for 'Other Assets' amounting Rs. 22,75,000 and the details of fixed assets under this head has also not been provided and therefore, the same has not been considered while deriving the fund position of the school. Also, school has proposed for bus amounting Rs. 20,00,000 and lift amounting Rs. 15,00,000 out of development fund. As per observation 3 above, the school cannot incur expenditure on bus out of development fund and thus, the same has not been considered while deriving the fund position of the school. Moreover, the lift is the part of building and the expenditure on building cannot be

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made out of development fund or school funds and thus, the budgeted expenditure for the same has not been considered in the above table.

ii. The School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16.04.2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

Accordingly, it is hereby conveyed that the proposal of fee increase **Darbari Lal DAV Model School, Shalimar Bagh, Delhi-110088 (School ID- 1309175)** is 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 in pursuance to the proposal submitted by school on any account for the academic session 2019-20 and if the fee is already increased and charged for the academic session 2019-20, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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

3. To rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days to the D.D.E (PSB).

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India.

Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

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

6. 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 to the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

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

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

To
The Manager/ HoS
Darbari Lal DAV Model School, (School ID- 1309175)
Shalimar Bagh, Delhi-110088

No. F.DE.15 (336)/PSB/2020 Dated:

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

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