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

No. F.DE.15(274)/PSB/2021/ 4800 – 4805 Dated: 24/11/21

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, 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 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, **Brilliants' Convent (School ID-1411205), Pitampura, New Delhi** submitted its proposal for enhancement of fee for the academic session 2019-2020 in the prescribed format.

AND WHEREAS, in the process of examination of fee hike proposal filed by **Brilliants' Convent (School ID-1411205), Pitampura, New Delhi** 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 9 Dec 2019 at 10:30 AM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

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

A. Authenticity of Audited Financial Statements

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

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practising Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practising Chartered Accountants from 1 Jul 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 Jun 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated "*With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing.*"

The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 9 Jul 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.

While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2019-2020 assuming the same as unaudited/provisional financial statements.

The school is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the school for FY 2018-2019. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the auditor, the school is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The school is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

B. 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 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.

   As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 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.

   Based on the fact that the school did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 till date and did not make any investment in the form of plan-assets to secure funds towards staff gratuity and leave encashment till date, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school*" before incurring expense on building.

   Directorate's order No. F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the audited financial statements of the school for the FY 2014-2015 revealed that the school has incurred expenditure on construction of school building out of school funds. The amount spent by the school on building by utilising school funds of INR 1,37,46,825 in the aforementioned financial year without complying with the requirements of Rule 177 is liable to be recovered from the Society.

   The school represented that the society has taken loan from Kotak Mahindra Bank and used it for construction of additional floor on the school building and for purchase of furniture and fixture and equipment. Both the loan and the building were transferred to the school by the society. Thus, it implies that school funds were not utilized for construction of the building. The school further represented that repayment of term loan as well as interest on term loan will be funded by the Society by arranging corpus fund or taking unsecured loans from the governing members of the Society.

On review of the audited financial statements of the school for FY 2014-2015 to FY 2018-2019 and considering the representation made by the school, it was noted that the school has taken loans for meeting the cost of construction of the building thereby incurring financial cost on the same. Thus, based the figures (actual outflow and inflow of funds from school funds) reported by the school in its audited Receipt and Payment Account for FY 2014-2015 and FY 2015-2016, the actual amount spent on construction of building after adjusting the loans received and interest paid on the same during the year is as follows:

Particulars	FY 2014-2015	FY 2015-2016	Total (INR)
Additions in building (paid from school funds)	1,37,46,825	-	1,37,46,825
Add: Interest paid on loan	38,37,104	42,94,628	81,31,732
Less: Term loan received by the school	49,59,228	41,21,494	90,80,722
Less: Advances recoverable in cash/kind or value to be received	33,65,157^	-	33,65,157
Net balance recoverable from Society	**92,59,544**	**1,73,134**	**94,32,678**

^ Though the school failed to provide the details of Advances recoverable in cash/kind or value to be received, which were reflected as received in the Receipt and Payment Account for FY 2014-2015, it has been assumed that the same relates to adjustment of advances paid to different parties towards construction of building since the value of building capitalised and amount reported as payment towards building in the Receipt and Payment Account for FY 2014-2015 were the same.

During personal hearing, the school explained that from FY 2016-2017, it started to record the payments against term loan through unsecured loan from the Society and submitted the relevant ledger accounts for FY 2016-2017 to FY 2018-2019. From the ledger accounts submitted by the school, it was noted that during FY 2016-2017 to FY 2018-2019, the school made a total fund transfer of INR 1,87,30,000 to the society towards the repayment of term loan and interest thereon from the school funds, while the school received INR 20,00,000 from the Society. These transfer of funds to the Society indicates that the school has not complied with the directions of the Hon'ble Supreme Court regarding no fund transfer to be made to the Society. Details of the net payment to the society from the school funds of INR 1,67,30,000 during FY 2016-2017 to FY 2018-2019 is as under:

Financial Year	Payments made to society (A)	Receipts from society (B)	Net payments to society (A+B)
2016-2017	41,00,000	-	41,00,000
2017-2018	80,00,000	-	80,00,000
2018-2019	66,30,000	20,00,000	46,30,000
Net Payment made to society towards repayment of Term Loan (INR)			**1,67,30,000**

While the school represented that it did not utilise school funds for construction of building or for payment of term loans, the above tables indicate that the school has made payments towards construction of building and made fund transfers to the society towards repayment of loan and interest.

Accordingly, the net amount utilised by the school from school funds during FY 214-2015 and FY 2015-2016 of INR 94,32,678 from school funds towards construction of building and interest paid on loan taken for construction of building together with the net amount of INR 1,67,30,000 paid to the society from school funds during FY 2016-2017 to FY 2018-2019 towards the repayment of loan taken by the society for the construction of the building 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 this amount from the Society within 30 days from the date of this order.

The school is further directed not to transfer any funds to the Society. Also, the school is instructed to ensure compliance with the provisions of DSEA & R, 1973 before incurring expenditure on construction/development of building from the school funds.

2. Based on above, the amount budgeted by the school towards Interest and bank charges for the FY 2019-2020 has not been considered as part of budgeted expenses for FY 2019-2010 in the fund position of the school (enclosed in the later part of this order).
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.*"

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others mentioned "*Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management.*"

It was pointed out in Directorate's order No. F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 that the school has purchased a luxury car (Toyota) of INR 11,65,222, which is in contravention of the abovementioned provision. The school was directed to recover the amount spent on purchase of vehicle.

The school represented that the vehicle purchased by the school is used for various purposes such as going to meetings, awards, events. These visits are unavoidable as they are related to education purpose including visits related to CBSE and DOE itself and a vehicle is a must requirement to commute.

Based on the fact that the school did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 (an unsigned actuarial valuation report provided by the school for FY 2018-2019) and did not make any investment in plan-assets for securing staff gratuity and leave encashment till date, while the school incurred capital expenditure on purchase of a luxury car. Therefore, the school did not comply with the requirements of Rule 177.

Therefore, the expenditure incurred by the school on purchase of luxury car for INR 11,65,222 is 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. Further, the school is directed to ensure compliance with the requirements of Rule 177 before incurring capital expenditure (other than that covered under development fund), which must be funded through savings derived as per Rule 177.

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

   From the financial statements of FY 2016-2017, It was noted that during FY 2016-2017 the school had purchased a bus of INR 18,41,600 for which loan of INR 15,00,000 was taken from HDFC Bank and balance of INR 3,41,600 (INR 18,41,600 less INR 15,00,000) was paid from school funds. Further, during FY 2016-2017, FY 2017-2018 and FY 2018-2019, the school utilised school funds of INR 10,00,440 for loan (principal) repayment and INR 2,88,500 towards interest thereon.

   Accordingly, the school utilised 16,30,540 (INR 3,41,600 plus INR 10,00,440 plus INR 2,88,500) during FY 2016-2017 to FY 2018-2019 from school funds for purchase of vehicle and repayment of vehicle loans.

   While the school is not following fund based accounting and has not created fund account against transport service provided to students by the school, the income and expense towards transport service from the financial statements of the school for FY 2015-2016 to FY 2018-2019 were evaluated and it was noted that the school was charging transport fee, which was not even adequate to cover revenue (operating) expenses for providing the transport service to students. The school did not provide breakup of expenses incurred in relation of the transport facility, thus, surplus or deficit based on the documents and information on record, is enclosed below:

Financial Years	Income (A)	Expenses^ (B)	Net Surplus/ (Deficit) (A-B)
2015-2016	44,54,805	46,34,490	(1,79,685)
2016-2017	51,98,471	52,85,395	(86,924)
2017-2018	52,76,335	49,14,583	3,61,752
2018-2019	52,76,413	53,26,460	(50,047)
Grand Total	**2,02,06,024**	**2,01,60,928**	**45,096**

^ The above expenses does not include depreciation on vehicles used for transportation of students.

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

Thus, it has been observed that the school has purchased buses for provision of transport facility despite there being deficit from operation of transport facility in the FY 2015-2016, FY 2016-2017 and FY 2018-2019 and has submitted proposal for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance. Earmarked levies in the form of transport fee are to be charged on no-profit no-loss basis and the school was not able to recover the cost of buses from the transport fee collected from students indicating that the school has shifted the burden of capital cost of buses to all the students of the school, who are not even availing the transport service. The principal amount and interest paid on the bus loans, being additional burden met out of school funds (fee collected from students), should not have been paid from school funds.

Accordingly, the net amount spent by the school on purchase of buses of INR 15,85,444 (INR 16,30,540 less net surplus from the transport fund of INR 45,096) from the school fund 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. Also, the school is directed not pay loan instalments and interest thereon out of school funds. In case, the school has already paid the said instalments from school funds in subsequent period, the same should also be recovered from the Society within 30 days from the date of this order.

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

Based on above, the amount budgeted by the school towards Interest and bank charges for the FY 2019-2020 has not been considered as part of budgeted expenses for FY 2019-2020 in the fund position of the school (enclosed in the later part of this order).

4. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, according to para 7.14 of the Accounting Standard 15, "*Plan assets comprise:*
    - *assets held by a long-term employee benefit fund; and*
    - *qualifying insurance policies.*"

   It was pointed out in Directorate's order No. F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 that the school provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation.

   The school represented that it is making provision for gratuity on adhoc basis. However, the school mentioned that it will start making the provision for gratuity as per the actuarial valuation from the next financial year.

The school submitted an unsigned actuarial valuation report in respect of gratuity and leave encashment for FY 2018-2019. Further, the school failed to deposit any amount in investments that qualify as plan assets to earmark funds towards gratuity and leave encashment.

Since the school has not obtained proper actuarial valuation report and has not made any investments in plan assets (such as group gratuity and group leave encashment policies of LIC of other insurers), no amount against retirement benefits has been considered while deriving the fund position of the school (enclosed in the later part of this order). Accordingly, the school is directed to get a valid and authentic actuarial valuation report measuring its liability towards gratuity and leave encashment and deposit the amount determined by the actuary in investments that qualify as 'Plan Assets' as per Accounting Standard 15 within 30 days from the date of this order.

Also, based on above, the amount budgeted by the school towards retirement benefits for the FY 2019-2020 has not been considered as part of budgeted expenses for FY 2019-2020 in the fund position of the school (enclosed in the later part of this order).

5. 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."*

Further, Directorate's order no F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school's fee structure include 'Pupil fund', which is collected from the all the students of the school without any defined usage. Thus, the school was directed not to collect 'Pupil fund' from students. It was also highlighted that the school was collecting one-time fee at the time of admission under the guise of activity fee and miscellaneous fee. The school was directed not to collect one-time activity fee and miscellaneous fee. However, the school has continued to collect pupil fund, activity fee and miscellaneous fee from all the students 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 3,000 and activity fee of INR 1,500 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. Similarly, collection of pupil fee by the school is improper as there is no separate usage of the fee, as the school is already collecting annual charges from the students for the same purpose. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Thus, collection of one-time fee from students at the time of admission and collection of pupil fee indicates that the school is engaging in profiteering and commercialisation of education in contravention of the aforementioned clauses.

The school represented that the pupil welfare fee collected from students is used for benefit of all the students and is therefore collected from all the students. Further, in case of activity fees and misc. charges, the school represented that instead of collecting the fees at the time of admission the same will be collected on monthly basis only in future.

Collection of one-time charges is in contravention of the provision of DSEA&R, 1973, therefore, the school is directed not to collect any one-time charges from students at the time admission other than admission fee. Since there is no defined usage of pupil fee collected by the school, which is treated alike Annual Charges and is used for meeting expenses that are to be met out of Annual Charges, therefore, the school is directed not to collect 'Pupil fee' from students with immediate effect.

Based on the audited financial statements of school for FY 2018-2019, the school collected a total sum of the INR 41,53,800 as pupil fees, INR 21,90,000 as activity fees and INR 4,38,000 as misc fees from students. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fees have 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 pupil fees and one-time charges under the disguise of activity fees and misc. charges within 30 days from the date of this order.

Further, the school is directed not to collect pupil fee, one-time activity fees and misc. fees directly or under the disguise of Annual Charges from students at the time of admission or otherwise.

C. Other Discrepancies

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including*

provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."

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

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

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

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Bus Fees, Smart Interactive Solution fees and Science fees from students. However, the school has not maintained separate fund accounts for any of these earmarked levies separately and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income, which was also mentioned in Directorate's order no. F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of the fee increase proposal for

FY 2017-2018. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Bus fee^	52,76,413	53,26,460	(50,047)
Smart Interactive Solution fee	17,80,200	17,70,623	9,577
Science fee	3,04,500	3,99,280	(94,780)

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

The school represented that all the necessary adjustment in its reserve balance shall be made and the school will follow fund-based accounting in future.

Based on the aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. The school is charging Smart Interactive Solution fee from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user based fees. Thus, based on the nature of the Smart Interactive Solution fees and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies 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. The school is directed to stop collecting Smart Interactive Solution fee with immediate effect, which is mandatorily collected from all the students. The school must also ensure that earmarked levies are optional in nature and not mandatory.

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, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as*

capital receipt and shall be collected only if the school is maintaining 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."

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

Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

Directorate's order no F.DE.15 (591)/PSB/2018/30036-41 dated 30 Nov 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that in FY 2014-2015 the school has utilised development fees for the purchase of vehicles. Further, during FY 2015-2016 and FY 2016-2017 school has utilised development fees for the repair and maintenance of computer, furniture, office equipment and others. Therefore, the school was directed to ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment.

The school represented that the school has upgraded the old furniture by changing the board, plywood and sunmica and now it has become just like new one having life of 5-7 years. Therefore, the school adjusted this expenditure in development fund.

The school has given contradictory comment against the presentation made in the financial statements. The expenses incurred by the school were treated as repair and maintenance, while the school has represented that the old furniture has become new with an extended life of 5-7 years. In accordance with para 12.1 of Accounting Standard 10 (issued 1985) titled 'Accounting for Fixed Assets' issued by the Institute of Chartered Accountants of India (applicable till FY 2016-2017), "*Frequently, it is difficult to determine whether subsequent expenditure related to fixed asset represents improvements that ought to be added to the gross book value or repairs that ought to be charged to the profit and loss statement. Only expenditure that increases the future benefits from the existing asset beyond its previously assessed standard of performance is included in the gross book value, e.g., an increase in capacity.*"

Thus, based on the representation by the school, the useful life of the furniture has extended by 5-7 years and thus, it qualifies as expenditure that increases the future benefits from the existing asset beyond its previously assessed standard of performance as per para 12.1 of AS 10. However, the same was not recorded as capital expenditure, but was charged off as repair and maintenance expense. Accordingly, the school did not comply with the requirements of Accountant Standard 10.

It was further noted that the school has continued to utilize development fund for repair and maintenance of computer, furniture, office equipment and others and purchase assets like water tank, water pipes, etc. during FY 2017-2018, which is in contravention of the above-mentioned provisions since development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment. For any expenditure incurred on upgradation of an asset, which increases the useful life of the asset, it must be capitalised in accordance with para 7 of Accounting Standard 10 (Revised 2016) titled 'Property, Plant and Equipment' issued by the Institute of Chartered Accountants of India (applicable from FY 2017-2018 onwards), which states "*The cost of an item of property, plant and equipment should be recognised as an asset if, and only if:*

(a) *it is probable that future economic benefits associated with the item will flow to the enterprise; and*
(b) *the cost of the item can be measured reliably.*"

Further, based on the presentation made in the financial statements of the school for FY 2018-2019, it was noted that the school has started creating 'development fund utilized' account equal to amount of development fund utilized during the year. However, the school did not transfer an amount equivalent to the depreciation on assets from the development fund utilized to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Also, the school has not made adjustment in respect of previous years' utilization of development fund. Thus, the school has not done the accounting and reporting of development fund, depreciation and depreciation reserve in accordance with the requirements of Para 99 of Guidance Note 21.

It was further noted from the financial statement for FY 2018-2019 that the school has reported a closing balance of development fund of INR 36,55,233. Against this, the school has a total cash and bank balance amounting to INR 24,89,260 only as on 31 Mar 2019 indicating that the school has utilized substantial part of development fund collected from students on expenses/ payments other than purchase, upgradation and replacement of furniture, fixture and equipment. While the school is required to maintain the balance of development fund in a separate bank account, the entire bank balance available with the school as on 31 Mar 2019 is inadequate to cover the balance of development fund. Thus, the school has not complied with the requirements of clause 14 cited above. Accordingly, on account of mis-utilization of development fund towards other expenses, the development fund balance to the extent of available cash and bank balance with the school as on 31 Mar 2019, has been considered in the fund position of the school (enclosed in the later part of this order).

The school is directed to follow DOE instruction regarding development fund and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment. Also, the school should transfer amount equivalent to the depreciation from development fund utilised account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note.

3. 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	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. Students	1,153	1,241	1,295
No. of EWS Students	247	279	307
% of EWS students to Total Students	21.42%	22.48%	23.71%

   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.

4. Review of the proposal for enhancement of fee for the academic session 2019-2020 submitted by the school, it was noted that the school did not include/disclose transport fee collected by it from students in its proposal for fee hike submitted for FY 2019-2020.

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

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

i. The total funds available for the year 2019-2020 amounting to INR 8,08,70,394 out of which cash outflow in the year 2019-2020 is estimated to be INR 6,49,58,897. This results in net surplus of INR 1,59,11,497. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	24,89,260
Investments (Fixed Deposits) as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	6,62,275
Total Liquid Funds Available with the School as on 31 Mar 2019	**31,51,535**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in financial statements of FY 2018-2019) [Refer Note 1]	5,19,57,050

Particulars	Amount (INR)
Add: Amount recoverable from Society towards construction of building during FY 2014-2015 and FY 2015-2016 (net transfer from school funds) [Refer Financial Discrepancy No. 1]	94,32,678
Add: Amount recoverable from Society towards fund transfers to the Society from school funds during FY 2016-2017 to FY 2018-2019 towards repayment of term loan and interest thereon taken for construction of building [Refer Financial Discrepancy No. 1]	1,67,30,000
Add: Amount recoverable from Society towards purchase of luxury car [Refer Financial Discrepancy No. 2]	11,65,222
Add: Amount recoverable from Society towards purchase of Bus out of school funds [Refer Financial Discrepancy No. 3]	15,85,444
Gross Estimated Available Funds for FY 2019-2020	**8,40,21,929**
Less: Staff retirement benefits [Refer Financial Discrepancy No. 4]	-
Less: FDR held jointly with CBSE/DOE (as per financial statements of FY 2018-2019)	6,62,275
Less: Development Fund [Refer Other Discrepancy No. 2]	24,89,260
Net Estimated Available Funds for FY 2019-2020	**8,08,70,394**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	6,49,58,897
Estimated Surplus as on 31 Mar 2020	**1,59,11,497**

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 INR 41,53,800 towards pupil fees, INR 21,90,000 towards activity fees and INR 4,38,000 towards misc fees from students (Financial Discrepancy No. 5) 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 8,76,09,544, 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	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Depreciation	47,03,565	42,00,000	-	42,00,000	Depreciation, being a non-cash expense, does not result in outflow of funds. Thus, the

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
					same has not been considered.
Intt. & Bank Charges	15,54,278	15,00,000	-	15,00,000	Refer Financial Discrepancy No. 1 and 3.
Employee Welfare including Retirement Benefits	52,31,073	1,72,79,302	8,68,580	1,64,10,722	Expense to the extent of additional provision proposed by the school has not been considered (Also, refer Financial Discrepancy No. 4)
Capital Expenditure (Out of Development Fund)	29,70,824	54,50,000	49,10,075	5,39,925	Capital expenditure to the extent development fee collected has been considered as the development fund balance has been separately adjusted in table above.
Total	**1,44,59,740**	**2,84,29,302**	**57,78,655**	**2,26,50,647**	

In view of the above examination, it is evident that the school has sufficient funds for meeting all the budgeted expenditures for the financial year 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, certain financial irregularities that 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, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

And whereas, the relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for payment of salaries as per the recommendations of 7th CPC and meeting the expenses for the financial year 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 **Brilliants' Convent (School ID-1411205), Pitampura, New Delhi** 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.
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. 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.
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 India 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. 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).
7. 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
Brilliants' Convent (School ID-1411205),
Pitampura, New Delhi
No. F.DE.15(274)/PSB/2021/ 4800 - 4805 Dated: 24/11/21

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 (North West-B) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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