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

No. F.DE.15(281)/PSB/2021/ 4788-4793 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 accounts and other records maintained by the school at least once in each financial year. Section 18(5) and 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

AND WHEREAS, besides, the Hon'ble Supreme Court in the judgment dated 27 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Director of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

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

"27….

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit the their proposals, if any, for prior sanction of DoE for increase in fee for the session 2018-2019 and 2019-2020.

AND WHEREAS in response to this directorate's circular dated 27 Mar 2019 referred to above, **N. K. Bagrodia Public School (School ID- 1413198), Ahinsa Marg, Sector -9, Rohini, Delhi - 110085** submitted its proposal for enhancement of fee for the academic session 2019-2020 in the prescribed format.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by **N. K. Bagrodia Public School (School ID- 1413198), Ahinsa Marg, Sector -9, Rohini, Delhi-110085** 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 17 Dec 2019 at 3:45 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, the school filed a writ petition (W.P.(C) 1464/2019) in the Hon'ble High Court of Delhi against Directorate's order No. F.DE.15 (599)/PSB/2018/ 30007-30012 dated 30 Nov issued by the Directorate of Education to the school post evaluation of the fee increase proposal for FY 2017-2018. The Hon'ble High Court in the said WPC instructed the Directorate not to take any coercive action against the petitioner. Thus, no such action has been initiated by the Directorate.

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

A. Financial Discrepancies

1. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

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

   Para 50 of Accounting Standard (AS) 10 "Property, Plant and Equipment" issued by the Institute of Chartered Accountants of India states "*The depreciation charge for each period should be recognised in the statement of profit and loss unless it is included in the carrying amount of another asset.*"

   Further, para 52 of AS 10 states "*The depreciable amount of an asset should be allocated on a systematic basis over its useful life.*"

   Basis the presentation made in the financial statements for FY 2017-2018 and FY 2018-2019, it was noted that the school had done incorrect accounting and disclosure of depreciation in its financial statements. The school did not charge depreciation on the assets purchased out of development fee to the Income and Expenditure Account, rather it adjusted the amount of depreciation from the value of fixed assets, presenting the written down value of fixed assets on the face of Balance Sheet and adjusted the depreciation amount from the 'Utilised Development Fund' account on the liabilities side of the Balance Sheet. Thus, the school failed to create depreciation reserve in accordance with the directions included in clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 cited above. In addition, the school did not credit the amount equivalent to depreciation on assets purchased out of development fund as income as required by the guidance note citied above.

On account of non-compliances by the school, it was directed to stop collecting of development fee from students through Directorate Order No. F.DE.15 (599)/PSB/2018/ 30007-30012 dated 30 Nov 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. While the school has not yet complied with directions stated in the aforementioned order, it continued collection of development fee from students during FY 2018-2019 and FY 2019-2020. The details of development fee collected and utilized from FY 2014-2015 to FY 2018-2019 are as follows:

Particulars	**2014-2015**	**2015-2016**	**2016-2017**	**2017-2018**	**2018-2019**
Opening Balance	3,16,79,748	3,60,85,183	4,33,34,069	4,32,73,961	4,66,69,111
Add: Development fee received during the year	97,11,515	1,09,10,085	1,11,57,703	1,07,76,050	1,05,38,895
Less: Development fund utilised during the year towards purchase of Fixed Assets	38,64,080	36,61,199	97,21,432	34,23,304	21,78,463
Less: Development fund utilised during the year towards Building Renovation	14,42,000	-	14,96,379	39,57,596	-
Add: Rectification adjustment in respect of incorrect utilisation of development fund towards building renovation during FY 2016-2017 and FY 2017-2018	-	-	-	-	54,53,975
Closing Balance	**3,60,85,183**	**4,33,34,069**	**4,32,73,961**	**4,66,69,111**	**6,04,83,518**

Based on the table above, it has been derived that the school is collecting development fee excessive to its needs towards purchase, upgradation and replacement of furniture, fixture and equipment. This has resulted in accumulation of substantial balance of development fund over the period indicating profiteering and commercialisation of education.

It was further noted that the school had incurred expenditure in the last three years totalling to INR 54,53,975 (INR 14,96,379 during FY 2016-2017 and INR 39,57,596 during FY 2017-2018) towards renovation of school building out of development fund and the same was not routed through the Income and Expenditure Account or capitalised in fixed assets schedule during the FY 2016-2017 and FY 2017-2018 indicating that the school diverted these funds. However, during FY 2018-2019, the school added back amount of INR 54,53,975 in the development fund by adjusting general fund. Accordingly, based on the accounting treatment by the school, the said expenditure has been met out of general fund.

Further, the expenditure on building renovation, being an expense of developmental nature is covered under Rule 177 of DSER, 1973. However, the school incurred the same without ensuring compliance with the requirements of Rule 177. Based on the fact that the school did not implement the recommendations of 7th CPC until 1 Apr 2019, did not even get its complete liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 until 20 Jul 2018 i.e. the first time actuarial valuation for gratuity and leave encashment obtained by the school and did not secure the funds against staff gratuity and leave encashment in plan assets until 7 Jun 2019 i.e. the date when LIC group gratuity and leave encashment policies was taken by the school, 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*".

Therefore, above mentioned expenditure amounting to INR 54,53,975 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.

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

Since, the school has not complied with the requirements mentioned in clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 i.e. not reported depreciation in the Income and Expenditure Account and did not create depreciation reserve equivalent to the amount of depreciation charge. Also, the said condition was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others. Accordingly, the school is directed to stop collection of development fund from the academic session 2020-2021.

Also, it was noted that the school has reported motor bus as part of the fixed assets purchased out of development fund, which is incorrect since development fund can be utilised only for purchase, upgradation and replacement of furniture, fixture and equipment. Thus, this is incorrect utilisation of development, which the school is directed to rectify.

Further, the development fund balance reflected by the school in its audited financial statements of FY 2018-2019 has not been considered for adjustment while deriving the fund position of the school for FY 2019-2020 (enclosed in later part of this order) as per the rationale given above.

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

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

Based on the fees structure and fee receipts of students submitted by the school for FY 2018-2019 and FY 2019-2020, it was noticed that the school collected increased annual charges during FY 2018-2019 and increased tuition fee during FY 2019-2020 from students of all classes (PS to XII) without prior approval of the Directorate, which is in contravention of aforementioned orders/conditions. Based on the information submitted by the school and taken on record, it increased the fee from students as under:

Class	Annual Fee (Yearly)			Tuition Fee (Monthly)	
	2017-2018	2018-2019	2019-2010	2018-2019	2019-2020
PS & PP	7,500	8,250	8,250	3,035	4,190
I to V	7,500	8,250	8,250	2,485	3,435
VI to X	7,500	8,250	8,250	2,590	3,575
XI to XII	7,500	8,250	8,250	2,790	3,850

Directorate's order no. F.DE.15(599)/PSB/2018/30007-30012 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 indicated that the school has accumulated substantial reserves over a period. Accordingly, the fee increase by the school during FY 2018-2019 and FY 2019-2020 without prior approval of the Directorate indicates school's intentions of profiteering and commercialisation of education.

The school did not provide the total amount of increased fees collected from students during FY 2018-2019 and FY 2019-2020. Therefore, exact amount of excess fee collected by school could not be derived on account of non-submission of requisite information by the school. Thus, the amount of adjustment/refund to students could not be determined and thus, is not reflected in the fund position of the school (enclosed in the later part of this order).

Based on above, the school is hereby directed to calculate the excess fee/charges collected from students during FY 2018-2019 and FY 2019-2020 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to increase any fee/charge of any class without approval from the Directorate.

3. 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*".

   Based on the audited financial statements and supporting documents for FY 2018-2019 submitted by the school, it was noticed that school funds were utilized by the school towards house tax/ property tax amounting to INR 64,11,100 (including arrear from FY 2004-2005 to FY 2018-2019). It is the responsibility of the society to bear the cost related to building of the school because building, being the immovable property is the sole property of the society and any obligation of the society cannot met by utilizing of school funds.

Therefore, above mentioned expenditure amounting to INR 64,11,100 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the society within 30 days from the date of this order. The school is further directed not to utilise school funds to meet the any obligation of the society.

Further, the school has budgeted an amount of INR 25,00,000 towards house tax/property tax for FY 2019-2020, which 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) on the same rationale as mentioned herein above.

4. On review of the supporting documents submitted by the school in relation to expense reported under "Legal & Professional Expenses" during FY 2016-2017 to FY 2018-2019, it was noted that the school had paid professional fee totalling to INR 17,66,700 (INR 47,300 per month from Apr 2016 to Jun 2018 and INR 54,400 per month from July 2018 to Mar 2019) to Mr. S. K. Bhattacharya, member of the school's managing committee.

   During personal hearing, the school mentioned that Mr. S.K. Bhattacharya is getting the professional fee being a renowned educationist with vast experience and his professional fees is based on his experience, knowledge and for working with school at the designation of "Director cum Educational Consultant".

   The position of 'Director cum Educational Consultant' is not a prescribed post in the Recruitment Rules. Accordingly, Mr. S.K. Bhattacharya, member of the school's managing committee is not entitled to any payment whatsoever from the school funds whether as remuneration or under the guise of professional fee. Accordingly, the amount of INR 17,66,700 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 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 pay any remuneration/professional charges to the Director cum Educational Consultant from the school funds subsequently. Therefore, amount of INR 6,52,800 (derived annual amount based on professional fee of INR 54,400 paid in the month of Mar 2019) has been adjusted from the budgeted expenses for FY 2019-2020 while deriving 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.*"

On review of audited financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was observed that the school is collecting one-time orientation charges of INR 5,000 from students at the time of admission. 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. No private recognised school can collect fee other than those prescribed in aforementioned order dated 15 Dec 1999. Further, collecting one-time charge from students at the time of admission of students takes the form of admission fee, which can be collected only upto an amount of INR 200. Thus, collection of one-time fees from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education in contravention of the aforementioned clause.

The school is hereby directed to adjust/refund the orientation charges collected from students during FY 2019-2020 within 30 days from the date of this order and thereafter submit evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to collect one-time orientation charge from students at the time of admission.

6. 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, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

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).

Rule 175 of DSER,1973 clearly states that "*The accounts with regard to the recognised school shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income accruing to the school by way of fees, fine, income from building rent, interest, development fees, collection for specific purpose, endowments, gifts, donations, contributions to pupil fund and other miscellaneous receipts, and also, in the case of aided schools, the aid received from the administrator.*"

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transportation fee, Smart Class fee, Orientation fee, Computer fee, ERP charges, Science fee, information practical fee, Psychology practical fee and Geography practical fee from students. However, the school has not maintained separate fund accounts for any of these earmarked levies separately till FY 2017-2018. From FY 2018-2019, the school created separate funds only for orientation fee and smart class fee. Further, it was noted that 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. 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**
Transportation fees^	57,38,750	60,39,329	(3,00,579)

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Smart Class fees	31,79,150	29,72,778	2,06,372
Orientation fees$	8,35,000	7,09,850	1,25,150
Computer fees	19,20,850	3,85,752#	15,35,098
ERP Charges@	7,93,140	7,60,643	32,497
Science fees	3,68,000	-*	3,68,000
Information Practical fees	37,350	-*	37,350
Psychology Practical fees	1,14,750	-*	1,14,750
Geography Practical fees	22,050	-*	22,050

^ The expense figure in table includes depreciation on vehicles used for transportation of students.

$ The school collected this fee one-time at the time of admission from students.

The school indicated repair & maintenance expenditure of computers against this earmarked levy and further submitted that salary expense against this earmarked levy were not segregated, which are included in salary cost of the staff.

@ The school has not presented the income and expense separately in its Income and Expenditure Account, rather reported the net surplus as Miscellaneous Income.

* Details of expenses incurred against these earmarked levies were not provided by the school. The school submitted that expenses against these earmarked levies were not segregated as these are included in salary cost of the staff.

During the personal hearing, the school was asked to provide the details of expenses incurred against earmarked levies collected from students as computer fee, Science fee, information practical fee, psychology practical fee and geography practical fee. The school explained that the salary of staff engaged in providing above-mentioned levies is included in the total salary cost and could not be segregated. Based on the fact the school charges tuition fee for meeting the establishment cost, collection of the aforementioned earmarked levies in absence of specific expenses towards the same indicate that the school is engaging in profiteering and commercialisation of education. Thus, the school should stop collecting, with immediate effect, such earmarked levies against which no specific expense is incurred by the school (other than salary cost of teachers, which is to be met from tuition fee).

It was noticed that the school started collected a new earmarked levy from all the students in the name 'ERP Charges' from FY 2017-2018 onwards, which was collected @ INR 25 per month from April 2017 to Sep 2017 and INR 30 per month from Oct 2017 onwards. Also, from the presentation made in the financial statements, it was noted with respect of ERP Charges that the school was not reporting the income and expenses in the Income and Expenditure Account, rather was reporting only the surplus as 'Miscellaneous Income'. Thus, the school tried to disguise the 'ERP Charges' by not reporting the same in the Income and Expenditure Account.

Also, 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 computer fee, smart class fee and ERP charges 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 fact that computer fee, smart class fee and ERP charges are being charged from all students, these levies loses their character of earmarked levies and thus, 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/or annual charges, as applicable, collected from the students.

Further, on review of sample of fee receipts and fee structure for the FY 2019-2020, it was noted that the school has engaged in profiteering and commercialisation of education by way of introducing an additional fee in the name of 'RFID charges', charged compulsorily from the students of all classes (PS to XII) from FY 2019-2020. Thus, levy of an additional fee in the guise of 'RFID Charges', which is compulsorily charged from students is an indirect mean of inflating the fee collection from students and indicates towards profiteering motive of school and commercial of education.

Accordingly, the school is directed to immediately refund/adjust 'RFID Charges' collected from students during FY 2019-2020 and thereafter and submit evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to levy any new fee/charge without approval from the Directorate.

Additionally, the school is instructed to ensure compliance to the laid-out provisions in relation to earmarked levies specifically relating to the inherent nature of earmarked levies of being optional services/facilities to students.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately 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 also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

B. Other Discrepancies

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

   Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged.*

The caution money thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund."

Directorate's order no. F.DE.15(599)/PSB/2018/30007-30012 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school had not refunded interest on caution money along with refund of caution money to exiting students and was directed to include interest earned on caution money in the refund amount.

From the submissions of the school, it was noted that the school is not refunding interest along with caution money to students. During the personal hearing, the school mentioned that it has stopped collecting caution money from the students and unclaimed caution money already booked as income in FY 2018-2019. Also, the school is refunding the caution money to the students who have left the school; however, interest is not refunded to the students.

Thus, based on the explanation provided by the school, the school is directed to ensure that caution money is refunded to the students together with interest.

Accordingly, based on the explanation of the school, the amount reported in the audited financial statements for FY 2018-2019 in respect of outstanding caution money has been considered while deriving the fund position of the school (enclosed in the later part of this order).

2. Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

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

   Basis the presentation made in financial statements for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school has reflected fixed assets purchased from development fund and from school funds at written down value on the face of balance sheet. While, the fixed assets schedule for assets purchased from general fund annexed to the audited financial statements contained the details of gross block at the beginning, addition and deletion made during the year, closing balance of gross block, opening balance of accumulate depreciation, depreciation charged during the year, closing balance of accumulated depreciation and written down value of fixed at the end of year, the fixed assets schedule for assets purchased from development fund did not include details regarding historic cost of assets and accumulated depreciation. Accordingly, the fixed assets and depreciation were not appropriately disclosed in the financial statements by the school.

It was further noticed that during the FY 2018-2019, the school has created depreciation reserve fund on fixed assets purchased out of general fund by adjusting general fund. This is incorrect, since depreciation reserve represent accumulated/cumulative depreciation charged on fixed assets, which is presented along with historic cost of fixed assets on the face of the Balance Sheet. Accordingly, the school has understated general funds to the extent of depreciation reserve in its financial statements for FY 2018-2019.

Further, the school did not present depreciation reserve in respect of assets purchased from development and did not comply with the statutory requirements in this regard.

Accordingly, the school is directed to disclose asset at gross/historic value on the face of balance sheet on the assets side and the accumulated depreciation on the liability side of the Balance Sheet. The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

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. of Students	2,749	2,729	2,719
No. of EWS students	453	492	526
% of EWS students to total students	16%	18%	19%

While the school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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 27,75,54,967 out of which cash outflow in the year 2019-2020 is estimated to be INR 21,07,15,676. This results in net surplus of INR 6,68,39,291. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2019 (as per audited financial statements of FY 2018-2019)	9,72,819
Investments (Fixed Deposits) as on 31 March 2019 (as per audited financial statements of FY 2018-2019)	20,82,65,861
Bank overdraft as on 31 March 2019 (as per audited financial statements of FY 2018-2019)	(5,27,138)
Total Liquid Funds Available with the School as on 31 Mar 2019	**20,87,11,542**

Particulars	Amount (INR)
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2017-2018) [Refer Note 1]	12,23,30,195
Add: Amount recoverable from society on account of school funds utilized for renovation of school building during FY 2016-2017 to FY 2017-2018 [Refer Financial Discrepancy No. 1]	54,53,975
Add: Amount recoverable from society on account of school funds utilized for payment of house/property tax arrears during FY 2018-2019 [Refer Financial Discrepancy No. 3]	64,11,100
Add: Amount recoverable from Society/member of the managing committee towards remuneration paid as 'Director cum Educational Consultant' [Refer Financial Discrepancy No. 4]	17,66,700
Gross Estimated Available Funds for FY 2019-2020	**34,46,73,512**
Less: FDR against specific liabilities (with DOE) (as per audited financial statements of FY 2018-2019)	41,61,454
Less: Staff retirement benefits [Refer Note 2]	6,27,36,591
Less: Caution money fund balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019) [Refer Other Discrepancy No. 1]	2,20,500
Less: Refund/Adjustment of increased annual charged collected from students during FY 2018-2019 and FY 2019-2020 [Refer Financial Discrepancy No. 2]	Amount not quantified
Less: Development fund [Refer Financial Discrepancy No. 1]	-
Less: Depreciation Reserve [Refer Note 3]	-
Less: Salary Reserve [Refer Note 4]	-
Net Estimated Available Funds for FY 2019-2020	**27,75,54,967**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 5]	16,86,07,493
Less: Arrears of salary as per 7th CPC for the period Jan 2016 to Mar 2019 as per the computation of 7th CPC submitted by the school (as per audited financial statements of FY 2018-2019)	4,21,08,183
Estimated Surplus as on 31 Mar 2020	**6,68,39,291**

Notes:

1. Since the school has collected increased fee during FY 2018-2019, the fees and incomes as per audited financial statements of FY 2017-2018 have been considered with the assumption that the amount of income during FY 2017-2018 will at least accrue during FY 2019-2020.
2. Based on the receipts submitted by the school, it deposited INR 4,86,53,100 with LIC towards group gratuity and INR 1,40,83,491 towards group leave encashment during FY 2019-2020, which has been considered in table above.
3. On evaluation of depreciation reserve presented in the financial statements for FY 2018-2019 by the school, it was noted that the school had created depreciation reserve on fixed assets purchased from general funds by adjusting general reserve (Refer Financial Discrepancy No. 1) and presented the same as depreciation reserve on liabilities side of the Balance Sheet of the school. Further, the school has not created depreciation reserve on fixed assets purchased from development fund. Also, the school is charging development fund from students for purchase, up-gradation and replacement of furniture, fixture and equipment. Since the school has not complied with the requirements of clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009, development fund balance has been adjusted for deriving the fund position

of the school (Refer Financial Discrepancy No. 1), depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009) is more of an accounting head for appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

4. The school submitted copies of fixed deposits (FDRs) with bank totalling to INR 4,27,17,953 as on 31 March 2019, which were described by the school as created towards four-month salary reserve fund. However, the FDRs submitted by the school were made in the name of the school and not in the joint name of the school and Deputy Director of Education. Accordingly, the same were not considered in table above.

5. 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 17,22,60,293, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expenses heads as budgeted were considered. Further, during review of budgeted expenses, certain discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2019-2020;

Expense Heads	FY 2018-2019	FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
House Tax	64,11,100	25,00,000	-	25,00,000	Refer Financial Discrepancy No. 3
Legal & Professional Expenses	13,08,394	13,00,000	6,47,200	6,52,800	Refer Financial Discrepancy No. 4
Depreciation	4,71,234	5,00,000	-	5,00,000	Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered.
Total	**81,90,728**	**43,00,000**	**6,47,200**	**36,52,800**	

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

ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states "*All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.*" The school has sufficient funds to carry on the operation of the school for the academic session 2019-2020 on the basis of existing fees structure and after considering existing funds/reserves.

WHERE AS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial irregularities were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2019-2020 and payment of salaries as per the recommendations of 7th CPC are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

And whereas, 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 **N. K. Bagrodia Public (School ID- 1413198), Ahinsa Marg, Sector-9, Rohini, Delhi - 110085** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2019-2020. Since 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
N. K. Bagrodia Public School
School ID-1413198
Ahinsa Marg, Sector-9, Rohini
Delhi - 110085

No. F.DE.15(281)/PSB/2021/ 4788-4793 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