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

No. F.DE.15(290)/PSB/2021/ 5208 - 5213 Dated: 13/12/21

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, **Modern Era Convent (School ID- 1618188), B-1, Janak Puri, New Delhi - 110058** 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 **Modern Era Convent (School ID- 1618188), B-1, Janak Puri, New Delhi - 110058** 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 16 Dec 2019 at 4:00 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, the school did not submit its compliance report towards order No. F.DE.15(421)/PSB/2018/1020-1023 dated 5 Oct 2018 issued by the Directorate of Education to the school post evaluation of the fee increase proposal for FY 2017-2018. During the personal hearing, the school informed that the compliance report was not submitted to the Directorate since the school had filed a writ petition in the Hon'ble High Court of Delhi (W.P.(C) 9917/2019 against the said order. The Hon'ble High Court in the said petition ordered that the status quo, regarding enhancement of fees would be maintained by the school till the next date of hearing and shall also be maintained by the Directorate regarding taking of any coercive action against the school. 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 and key findings noted are as under:

A. Financial Discrepancies

1. 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.*"

   During review of audited financial statements of the school for FY 2018-2019, it was noted that the school had purchased a bus from school funds amounting to INR 14,24,486. It was also noted that the school has capitalised the bus in the books of accounts net of TCS (Tax Collection at Source) i.e. INR 14,11,174 (INR 14,24,486 minus INR 13,312).

   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 audited 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. Calculation of deficit based on documents and information on record, is enclosed below:

Particulars	**FY 2015-2016**	**FY 2016-2017**	**FY 2017-2018**	**FY 2018-2019**
Income				
Transport Fees (A)	17,55,250	15,47,680	16,52,835	16,42,870
Expenses^				
Bus Oil & Fuel	4,45,907	3,60,798	3,93,980	4,27,846
Salary driver & Conductor	10,42,194	11,59,736	12,43,056	13,02,717
Repair & Maintenance	2,17,583	1,25,533	88,156	1,32,618
Vehicle Insurance & taxes	1,44,556	1,57,742	1,49,656	96,313
Total Expenses (B)	**18,50,240**	**18,03,809**	**18,74,848**	**19,59,494**
Deficit	**94,990**	**2,56,129**	**2,22,013**	**3,16,624**

^ 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 explained that the bus was purchased to meet the transport needs of the students. Thus, it has been observed that the school has purchased bus for provision of transport facility despite there being deficit from operation of transport facility 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 bus from the transport fee collected from students indicating that the school has shifted the burden of capital cost of bus to all students of the school, who are not even availing the transport service.

Accordingly, the amount spent by the school on purchase of bus of INR 14,24,486 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 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.

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 submitted by the school for FY 2015-2016 to FY 2019-2020, it was noticed that the school collected increased development fee during FY 2017-2018 to FY 2019-2020 and increased annual charges 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	**Development Fee (Yearly)**				**Annual Charges (Yearly)**	
	FY 2016-2017	**FY 2017-2018**	**FY 2018-2019**	**FY 2019-2010**	**FY 2018-2019**	**FY 2019-2020**
PS to XII	340	810	1,250	2,000	2,860	3,140

The school did not provide the total amount of increased fees collected from students during FY 2017-2018 to FY 2019-2020. Therefore, exact amount of excess fee collected by school could not be derived on account of non-submission of requisite information by the school. Thus, 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 2017-2018 to FY 2019-2020 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to increase any fee/charge of any class without approval from the Directorate.

3. Para 7.14 of Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Plan assets comprise:*
   (a) assets held by a long-term employee benefit fund; and
   (b) qualifying insurance policies."

   Section 10(1) of Delhi School Education Act, 1973 on 'Salaries of employees' states "*The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority.*"

   Directorate's Order no. F.DE.15(421)/PSB/2018/1020-1023 dated 5 Oct 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school has not obtained actuarial valuation in respect to its liability towards staff gratuity and leave encashment.

   The school submitted copy of the actuarial valuation report of its liability towards gratuity and leave encashment for FY 2017-2018 (first year for which actuarial valuation obtained) wherein the actuarial valuation of its liability towards gratuity of INR 1,52,34,640 and leave encashment of INR 40,32,995 were mentioned. However, the school had under recorded the provision of gratuity by INR 50,98,651 (INR 1,52,34,640 minus INR 1,01,36,289 recorded in books) and over recorded the provision of leave encashment by INR 12,38,378 (INR 52,71,373 recorded in books minus INR 40,32,995) in its books of the account as on 31 Mar 2018. Further, the school has made certain adjustments in the provision of gratuity and leave encashment during FY 2018-2019 and recorded the provision of gratuity of INR 1,13,65,853 and leave encashment of INR 40,32,995 in its books of the account as on 31 March 2019.

   Also, it was noticed that the school did not submit the complete actuarial valuation report of its liability towards gratuity and leave encashment, only first page of report submitted by the school. Thus, the assumptions made by the actuary and no. of staff considered for determining the obligation of the school towards staff retirement benefits could not be assessed.

   Further, it was noted that the school has not made any investment in group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits.

   Since the school has not implemented the recommendations of 7th CPC till date and the school has not yet created investments equivalent to its liability towards staff retirement benefits in previous years, 25% of the amounts determined by the actuary as on 31 Mar 2018 towards gratuity and leave encashment of INR 38,08,660 (25% of INR 1,52,34,640) and INR 10,08,240 (25% of INR 40,32,995) respectively have been considered while deriving the fund position of the school (enclosed in the later part of this order) for FY 2019-2020 with the direction to the school to deposit these amounts in investments such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers within 30 days from the date of this order to protect statutory liabilities towards staff. Further, the school should keep on depositing amounts in group gratuity scheme and group leave encashment scheme of LIC/ other insurers in subsequent years to ensure that the value of the investments matches with the liability towards retirement benefits determined by the actuary.

The school is also directed that it must record the amount determined by actuary towards gratuity and leave encashment in its books of account and present the same as provision for gratuity and provision for leave encashment separately in its financial statements.

Accordingly, since the 25% of the liability determined by the actuary towards staff gratuity and leave encashment has been adjusted, the additional amounts budgeted by the school towards gratuity and leave encashment have not been considered as part of the Budgeted Expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order).

4. 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.*" Further, Para 102 of the aforementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

   (a) In respect of each major fund, opening balance, additions during the period, deductions/utilisation during the period and balance at the end;
   (b) Assets, such as investments, and liabilities belonging to each fund separately;
   (c) Restrictions, if any, on the utilisation of each fund balance;
   (d) Restrictions, if any, on the utilisation of specific assets."

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.*"

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 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.*"

During the personal hearing, the school represented that the fixed assets purchased from development funds were not disclosed in the audited financial statements till FY 2017-2018. The same was also highlighted in the Directorate's Order No. F.DE.15(421)/PSB/2018/1020-1023 dated 5 Oct 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018. However, from FY 2018-2019 the school started disclosing fixed assets purchased from development funds in the audited financial statements and disclosed the fixed assets purchased during FY 2014-2015 to FY 2017-2018 as opening balance in fixed assets schedule annexed with the audited financial statements for FY 2018-2019. Also, the school prepared a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement till FY 2017-2018, however, from FY 2018-2019 the school has started preparation of separate fixed assets schedules for assets purchased against development fund and those purchased against school funds with its audited financial statements.

Basis the presentation made in the audited financial statements for FY 2018-2019 and details regarding utilisation of development fund submitted by the school, it was noted that the school was not presenting development fund appropriately in its audited financial statement, as it did not bifurcate between development fund account and deferred income to be recorded after utilisation of the development fund account. Thus, the presentation and disclosure of development fund was inaccurate and not in accordance with Guidance Note cited above.

Further, on review of the audited financial statements of the school for FY 2016-2017 to FY 2018-2019, it was noted that the school did not charge depreciation on fixed assets purchased from development funds in its Income and Expenditure Account, which is not in accordance with the requirements of Accounting Standard 10 – Property Plant and Equipment issued by the Institute of Chartered Accountants of India that makes it mandatory for the entity to recognize depreciation in the statement of profit and loss. It was further noted that the school has started creation of depreciation reserve fund on fixed assets purchased from development funds from FY 2018-2019 and made deduction of depreciation amount from the development fund account and credited the same in the "DRF on Development Funds Assets" which again was inaccurate as this deduction should be made from deferred income instead of development fund as per the requirement of para 99 of Guidance Note referred above.

Also, the financial statements of the school were not prepared in accordance with the requirements of Accounting Standard 10. However, the auditor did not qualify its opinion issued on the financial statements to highlight the deviation from the requirements of a mandatory accounting standard prescribed by the Institute of Chartered Accountants of India.

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 in Directorate's order dated 11 Feb 2009.

Therefore, since the school has not recognised depreciation on fixed assets purchased from development fund as an expense in its Income and Expenditure Account, it has not complied with the statutory condition required for collecting development fee. Accordingly, based on the above non-compliance, the school is directed to immediately stop collecting development fee from students.

Thus, the accounting treatment and presentation of the development fund in audited financial statements of the school were not in accordance with the accounting treatment and disclosure requirement prescribed in the guidance note cited above. Therefore, incorrect balance of development fund presented by the school in its audited financial statements for FY 2018-2019 has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

Further, the school is directed to follow DOE instruction regarding development fund and depreciation reserve and ensure that development fund is maintained in a separate bank account, utilised only towards purchase of furniture, fixture and equipment and depreciation reserve is maintained equivalent to the amount of depreciation charged in the revenue accounts. Also, the school is directed to adhere to accounting and disclosure requirements of Accounting Standards, Guidance Note 21 and ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009.

B. 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 transport fees and smart class fees from students. However, the school does not maintain separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income. The same was also highlighted in the Directorate's Order No. F.DE.15(421)/PSB/2018/1020-1023 dated 5 Oct 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018. Also, the school did not include transport fee in it's the proposal for fee increase for FY 2019-2020 submitted to the Directorate. Details of calculation of deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Levy	**Income (INR)**	**Expenses (INR)**	**Deficit (INR)**
	A	**B**	**C=B-A**
Transport Fees^	16,42,870	19,59,494	3,16,624
Smart Class Fees	10,59,300	12,63,621	2,04,321

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

Based on aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). 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 Class fees 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. Based on the nature of the Smart Class fees and details provided by the school in relation to expenses incurred against the same, the school should not charge Smart Class fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable collected from the students.

The school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis. Further, the school is directed to stop collecting smart class fee, which is mandatorily collected from all the students. The school is further directed to submit details of all earmarked levies collected from students in the proposal/fee structure submitted to the Directorate.

2. 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.*"

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

From the submissions of the school, it was noted that the school is not paying interest along with caution money refund to students. Also, the school has not refunded caution money to its ex-students and nor has it communicated with them to collect the same. During the personal hearing, the school mentioned that it has stopped collecting caution money from the students for FY 2011-2012 and the school also mentioned that the un-refunded caution money will be recorded as income in FY 2019-2020 after sending communication to the ex-students.

Therefore, the school is directed to ensure compliance with the aforementioned directions including refund of caution money along with interest to exiting students and treat un-claimed caution money as income after the expiry of 30 days from the date of communication with ex-students to collect the same.

Accordingly, based on the explanation of the school, the amount reported in the 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).

3. 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.

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 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.*"

On review of the audited final accounts for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that though the receipt and payment accounts were duly signed by the auditor, no reference thereon was drawn to the audit report of the auditor. Also, in its audit report, the auditor only gave his opinion on the true and fair view on:

- In the case of balance sheet, of the state of affairs as at 31 Mar and
- In the case of Income and Expenditure account, Surplus or Deficit for the year ended on that date.

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

Further, on review of the financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noticed that the school did not mention previous year's figures in Receipt & Payment account and schedules annexed to the financial statements.

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

It was noted that the audit report issued by the Auditor was as per the format prescribed by the Income Tax Act, 1961 and not as per the format prescribed under SA 700. The audit report under the Income Tax Act does not fulfil the requirement of Rule 180(1) being prepared for submission to the Income Tax Department.

Accordingly, the school is directed to ensure the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted to the Directorate. The school is also directed to ensure that the audit opinion is issued by the auditor on the entire set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account and the opinion on the financial statements is issued by the auditor in accordance with the requirements of SA 700.

4. 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."*

   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."*

   Further, para 58(i) of the Guidance Note states "*A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*

   The school was directed vide Order No. F.DE.15(421)/PSB/2018/1020-1023 dated 5 Oct 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 to follow the depreciation rates as prescribed by the Guidance Note -21 "Accounting by Schools".

   The school prepared and submitted a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement till FY 2017-2018. However, the school prepared and enclosed separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve/school funds with its audited financial statements for FY 2018-2019.

Further, basis the presentation made in the financial statements for FY 2018-2019 submitted by the school, it was noted that on the face of the Balance Sheet, the school reported Fixed Assets (other than assets purchased from development fund) at written down value, which is not in accordance with the disclosure requirements included in the guidance note citied above.

From the financial statements of the school, it was also noted that the school did not charge depreciation at the rates specified in Appendix I to the Guidance Note, which was a contravention of the directions issued by this Directorate.

Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. Further, the fixed assets schedule should include complete details regarding opening gross block of fixed assets, additions, deletions, closing gross block of fixed assets, opening depreciation reserve, depreciation during the year, adjustment (if any), closing balance of depreciation reserve and net (WDV) opening and closing block of fixed assets. The school is further directed to follow rates of depreciation specified in the Guidance Note.

5. 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."*

   Para 10(C) of Accounting Standard (AS) 1 "Disclosure of Accounting Policies" issued by the Institute of Chartered Accountants of India states *" Revenues and costs are accrued, that is, recognised as they are earned or incurred (and not as money is received or paid) and recorded in the financial statements of the periods to which they relate".*

   Para 18 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"The recognition and measurement principles for elements of financial statements are sector-neutral. Thus, schools should follow recognition and measurement principles, within the framework of accrual basis of accounting, for the purpose of preparation of their financial statements".*

   Further, clause 1 of Part 1 (General Instructions and Accounting Principles) of Appendix III (Format of Financial Statements of Schools) states "The financial statements of Schools (viz., Balance Sheet and Income and Expenditure Account) should be prepared on accrual basis".

   Para 25 of the Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states " Accounting Standard 9 - 'Revenue Recognition' *"Revenue from sales or service transactions should be recognised when the requirements as to performance set out in paragraphs (iii) below are satisfied, provided that at the time of performance it is not unreasonable to expect ultimate collection. If at the time of raising* *of any claim it is unreasonable to expect ultimate collection, revenue recognition should be postponed".*

Paragraph III of Guidance Note on Accounting by Schools (2005) states that *"In a transaction involving the rendering of services, performance should be measured either under the completed service contract method or under the proportionate completion method, whichever relates the revenue to the work accomplished. Such performance should be regarded as being achieved when no significant uncertainty exists regarding the amount of the consideration that will be derived from rendering the service".*

The school, in its significant accounting policies annexed to its financial statements for FY 2016-2017 to FY 2018-2019 mentioned "***Revenue Recognition***: Revenue (Fees) recognition on cash basis and ***"Accounting Basis":*** Accounts have been adopted on Mixed Basis.

The accounting policy adopted by the school of recording fee on receipt basis and is contradictory to Generally Accepted Accounting Principles (GAAP) and Accounting Standard 9. GAAP does not allow entities to use the cash basis of accounting because it violates the matching principle, time period principle, and doesn't reflect the actual performance or financial status of the entity.

As per the principles contained in the Accounting Standard 9 - 'Revenue Recognition' in respect of recognition of income, the school should recognise gross income in its Income and Expenditure account and corresponding Income (Fees) receivable should be reflected on the assets side of the Balance Sheet. Therefore, accounting treatment done by the school was not in accordance with the Accounting Standard 9 - 'Revenue Recognition'.

The partial application of cash basis of accounting for recording fee and deviation from the requirements of Accounting Standard 9 were not highlighted by the Auditor in its audit report and the same was not qualified. Thus, the audit opinion of the Auditor cannot be relied upon in relation to income from fee.

The school is directed to rectify its accounting policies and ensure adherence to GAAP and Accounting Standards while preparation of the financial statements. In absence of requisite details, no adjustments could be made to the income reported by the school while considering the same in the fund position of the school (enclosed in the later part of this order).

6. 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	1,054	1,102	1,074

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
No. of EWS students	173	177	175
% of EWS students to total students	16.41%	16.06%	16.29%

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 5,47,10,671 out of which cash outflow in the year 2019-2020 is estimated to be INR 3,27,92,000. This results in net surplus of INR 2,19,18,671. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	1,54,87,276
Investments (Fixed Deposits) as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	1,29,33,307
Total Liquid Funds Available with the School as on 31 Mar 2019	**2,84,20,583**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2018-2019) [Refer Note 1]	3,16,41,821
Add: Amount recoverable from Society on account of school funds utilised for purchased of school bus during FY 2018-2019 [Refer Financial Discrepancy No. 1]	14,24,486
Gross Estimated Available Funds for FY 2019-2020	**6,14,86,890**
Less: Caution Money Fund balance (as per audited financial statements of FY 2018-2019)	7,50,645
Less: Refund/Adjustment of increased development fee and annual charges collected from students during FY 2017-2018 to FY 2019-2020 [Refer Financial Discrepancy No. 2]	Amount not quantified
Less: Staff retirement benefits – Gratuity [Refer Financial Discrepancy No. 3]	38,08,660
Less: Staff retirement benefits – Leave Encashment [Refer Financial Discrepancy No. 3]	10,08,249
Less: Development Fund balance [Refer Financial Discrepancy No. 4]	-
Less: Investment against salary reserve fund in the joint name of Modern Era Convent School and Director of Education (as per audited financial statements of FY 2018-2019)	12,08,665
Net Estimated Available Funds for FY 2019-2020	**5,47,10,671**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	3,27,92,000
Estimated Surplus as on 31 Mar 2020	**2,19,18,671**

Notes:

1. Fees and incomes as per 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.
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 3,40,94,000 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	10,55,466	8,00,000	-	8,00,000	Depreciation, being a non-cash expense, does not result in cash outflow. Hence, it has not been considered.
Capital Expenditure (Out of Development Fund)	1,96,010	17,00,000	11,98,000	5,02,000	Capital expenditure restricted to the extent of development fees receipts (as per audited financial statements of FY 2018-2019), which has already been collected by the school during FY 2019-2020.
Total	**12,51,476**	**25,00,000**	**11,98,000**	**13,02,000**	

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

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

Whereas, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, 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 **Modern Era Convent (School ID- 1618188), B-1, Janak Puri, New Delhi - 110058** 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 in pursuance to the proposal submitted by school on any account for the academic session 2019-20 and if the fee is already increased and charged for the academic session 2019-20, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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

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

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of 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. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

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
Modern Era Convent
School ID- 1618188
B-1, Janak Puri
New Delhi - 110058

No. F.DE.15(290)/PSB/2021/ 5208 - 5213 Dated: 13/12/21

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 (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