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

No. F.DE.15 (63)/PSB/2020/ 1691-1694 **Dated: 3/3/2020**

ORDER

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

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

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

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

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

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

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

"27....

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **Laxman Public school (School ID- 1923249) Hauz Khas, New Delhi- 110016** had submitted the proposal for fee increase for the academic session 2019-20. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-2020, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on **20th November 2019** to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. F.DE.15(598) PSB/2018/30325-29 dated 10.12.2018 issued by Directorate for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants. And based on evaluation of fee proposal of the school the key findings and status of compliance against order no. F.DE.15(598) PSB/2018/30325-29 dated 10.12.2018 issued by Directorate for academic session 2017-18 are as under:

S. No.	**Observations in the previous Order**	**Submission of the school**	**Remarks**
A.	**Financial Discrepancies**		
1.	As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility*	School has submitted that it	The school has incurred the

S. No.	Observations in the previous Order	Submission of the school	Remarks
	of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*" Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same. The financial statements of the school for FY 2014-2015, FY 2015-2016 and FY 2016-2017 revealed that the school has incurred expenditure on construction of building and site development out of school funds and benevolent funds and has capitalised building and site development totalling to INR 1,66,13,844 in the aforesaid financial years, which is not in accordance with the aforementioned provisions. Further, this capital expenditure was incurred on the building without complying the requirements prescribed in Rule 177 of DSER, 1973. This amount of INR 1,66,13,844 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.	undertake necessary work for the general upkeep of existing facilities, facility components, grounds, utility systems. School also spend on alteration which includes all minor construction, changes in facilities configuration, fabrication, modification, removal, or installation of hardware and equipment, signs, erection, relocation or removal of partitions, doors and windows and changes in type of finishes and flooring materials to suit the current requirements. The expenditure during FY 2014-15 to 2016-17 has been incurred mainly on renovation of activity block in the school. The said renovation has been incurred mainly	capital expenditure for activity block and capitalised the same in the financial statements. The statutory position is clear that the school funds cannot be utilised for building. Even the school has failed to establish that it has complied Rule 177 of DSER, 1973 and incurred the said amount after complying the requirements laid down by Rule 177. Moreover, the plea taken by the school that expenditure is in the nature of capital from accounting perspective and it cannot be said to be the responsibility of parent society cannot be accepted. The amount incurred for building has been duly capitalised by the school in

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		on renovation of activity block in the school and has been capitalised in compliance with general accounting standard. It is also submitted by the school that press note dated 04.05.1997 says that the obligation of creating building to start a school is on the society and after completion of building, student should not be burdened to contribute the cost of that building and Rule 177 of DSER, 1973 provides to incur expenditure for expansion and development of the school while operational. The expenditure is not on creation of any new school building or its extension to accommodate more students. Accordingly,	the financial statements and which are subsequently audited by the auditors of the school. Therefore, total amount recorded as expenditure for building is need to be recovered from the society and will be considered as part of fund available with the school. Moreover, it is also noted that the school has incurred expenditure for building and site development during FY 2017-18 amounting Rs. 53,07,881 Further, this capital expenditure was incurred on the building without complying the requirements prescribed in Rule 177 of DSER, 1973. This amount of Rs. 53,07,881 is hereby added to the fund position

S. No.	Observations in the previous Order	Submission of the school	Remarks
		although the expenditure are in the nature of capital from accounting perspective, it cannot be said to be the responsibility of parent society. Subsequently, school has submitted that it has recovered Rs. 1.02 crores towards capital expenditure on building renovation. Also, the expenses on site development to the extent of Rs. 64,24,294 is basically for providing good facility for sports development like good basketball court, cricket pitch, sand pit for small students, and providing safe grounds by fixing of stones at different places and also on Rain water harvesting, as such these expenses may	of the school considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

<table>
<tr><th>S. No.</th><th>Observations in the previous Order</th><th>Submission of the school</th><th>Remarks</th></tr>
<tr><td></td><td></td><td>be allowed from school funds.</td><td></td></tr>
<tr><td>2.</td><td>Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/ 13/60 dated 23 December 2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that while property tax and ground rent were paid to the authorities by the school, lease income from the school building were shared between the school and the society and a majority part was retained by the society. Indirect transfers were made in contravention of clause 8 of order no. DE.15/Act/Duggal.com/203/99/ 23033-23980 dated 15 Dec 1999 and clause 23 of order no. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009, which stipulates that no amount shall be transferred from the recognised unaided school fund of the school to the society or the trust or any other institution.
It was again noted during FY 2016-2017 that while expenses related to building including repair and maintenance were borne by the school, the income earned from the building was shared in the ratio of 85:15 between the society and the school respectively.
Based on the documents submitted by the school and taken on record, the break-up of incomes shared between the society and the school for FY 2016-2017 has been presented in table below:
<table>
<tr><th>Lessee</th><th>Total Income from Lease (INR)</th><th>Income retained by the Society (85% of total income)</th><th>Income apportioned to School (15% of total income)</th></tr>
<tr><td>L & T</td><td>51,18,000</td><td>43,50,300</td><td>7,67,700</td></tr>
<tr><td>FIITJEE</td><td>1,44,583</td><td>1,22,896</td><td>21,687</td></tr>
<tr><td>Skyline</td><td>30,000</td><td>25,500</td><td>4,500</td></tr>
<tr><td>Talent Invigoration & Sports</td><td>79,200</td><td>67,320</td><td>11,880</td></tr>
<tr><td>Total</td><td>53,71,783</td><td>45,66,016</td><td>8,05,767</td></tr>
</table>
</td><td>The society has repaid to the School Rs. 45,66,016 in compliance of the aforesaid observation.</td><td>The school submission has been taken on record. In the fund position, this amount has, therefore, been considered as fund available with the school.</td></tr>
</table>

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	This amount of INR 45,66,016 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. Additionally, according to the Perpetual Lease with DDA in respect of the land on which the school has been constructed "*(13) The lessee shall not without the written consent of the lessor carry on, or permit to be carried on, on the said land or in any building thereon any trade or business whatsoever or use the same or permit the same to be used for any purpose other than that of Higher Secondary School or do or suffer to be done therein any act, or thing or whatsoever which in the opinion of the lessor may be nuisance, annoyance or disturbance to the lessor and persons living in neighbourhood. Provided that if the lessee is desirous of using the said land or the building thereon for a purpose other than that of Higher Secondary school, the lessor may allow such charge of user on such terms and conditions including payment of additional premium and additional yearly rent as the lessor may in his absolute discretion determine.*" Further, as per Rule 50 - 'Condition for Recognition' of DSER, 1973 states "*(ix) the school buildings or other structures or the grounds are not to be used during the day or night for commercial or residential purposes (except for the purpose of residence of any employee of the school) or for communal, political or non-educational activity of any kind whatsoever.*" Further, order No. DE.15/act/163/98/4940-5939 dated 1 January 2001 states "*It has been observed that a number of managing committees of government aided and unaided schools are using the school premises for commercial purpose in violation of Rule 50(a). The prominent practices of commercial uses are (1) Running of coaching centers / computer classes........ This has been viewed seriously. All the managing*		

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<tr><td></td><td>committees of government aided and unaided schools are hereby directed to discontinue such practices immediately." The school premises have been utilised/ leased out by the society for commercial purposes in non-compliance of the above provisions. Further, major part of the income received has been retained by the society, which has to be recovered by the school from the society.

The school is directed to ensure compliance in this regard and ensure that it complies with the terms and conditions of allotment of land by DDA and recognition by DOE.</td><td></td><td></td></tr>
<tr><td>3.</td><td>Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." It was noted that the school was not reflecting correct liability towards retirement benefits and corresponding investment in the books of accounts as per AS 15. The provision created by the school and liability for retirement benefits determined by actuary are enclosed below:

<table><tr><th>Particulars</th><th>Gratuity</th><th>Leave Encashment</th></tr><tr><td>Liability determined by actuary as on 1 Feb 2017 (as per actuarial valuation report) [A]</td><td>4,99,14,616</td><td>*</td></tr><tr><td>Total Provision as on 31 March 2017 (as per audited financial</td><td>2,66,18,152</td><td>1,84,13,560</td></tr></table></td><td>The School has adopted the leave encashment policy of LIC of India w.e.f. 1st January 2019 in compliance of the order. The actuarial valuation by LIC of India towards our liability on this regard is Rs. 2.88 crores as on 31st December 2018.

The school hereby requests the DOE to reduce the net surplus of Rs. 4,36,12,136 calculated by DOE by considering Rs. 2,88,75,220 as per actuarial valuation report of LIC of India in</td><td>The school has ensured to comply with the directions contained in order dated 10.12.201`8 in the FY 2018-19 for presentation of liability and corresponding investments against that.

On review of the audited financial statements for FY 2018-19 and the copy of actuarial valuation report for gratuity and leave encashment at the year ending on 31.03.2019, it is noted the provisions of gratuity and leave encashment are short of the liability</td></tr>
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<tr><td>statements) [B]</td><td></td><td></td></tr>
<tr><td>Under Provisioning of liability as on 31 March 2017 [A-B]</td><td>2,35,82,748</td><td>*</td></tr>
<tr><td>Fund Value of Group Gratuity Scheme with LIC as on 31 March 2017</td><td>2,66,18,152</td><td>-</td></tr>
<tr><td>Investment in Fixed Deposits with Bank (indicated as earmarked by the school towards retirement benefits) as on 31 March 2017</td><td>-</td><td>1,00,00,000</td></tr>
</table>
* Actuarial valuation not obtained by the school for leave encashment.
While the school did not obtain actuarial valuation of its liability towards staff leave encashment, the school has not matched its liability towards gratuity in its books of account in accordance with the actuarial report.

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

Accordingly, the investment in the form of FDR maintained by the school in respect of the liability of the school towards leave encashment does not qualify as 'Plan Assets' within the meaning of
</td><td>view of the Rule 177 of DSEA & R, 1973. Regarding discrepancies on accounting of gratuity, the school shall take care of disclosure of liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statement of FY 2018-19.</td><td>determined by the actuary. Also, the investments made to the LIC is short of the provisions created. The details are follows:

Gratuity provision as per audited Balance Sheet as at 31.3.19 is Rs. 8,03,79,028

Gratuity liability as per actuary report as on 01.02.2019 is Rs. 8,47,04,140.

Investments kept with LIC against the provisions of Gratuity as at 31.3.2019 is Rs. 3,10,14,381.

Leave encashment provision as per audited Balance Sheet as at 31.3.19 is Rs. 3,19,83,899.

As per audited financial statement for FY 2018-19, School has deposited Rs. 5,00,000 to the LIC for leave</td></tr>
</table>

S. No.	Observations in the previous Order	Submission of the school	Remarks
	Accounting Standard 15 (AS-15). The school is directed to get the actuarial valuation of leave encashment and make the investments that qualify as 'Plan Assets' within 30 days from the date of this order. Further, it was noted that the school recorded the amount paid towards group gratuity scheme as an expense in its books of account instead of recording the same as investment and did not reflect the fund value of the scheme as on 31 Mar 2017 as an asset in its audited financial statements for FY 2016-2017. Thus, the school has understated both the asset and liability towards retirement benefits in its financial statements for FY 2016-2017. The school is directed to accurately disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statements. In absence of actuarial valuation and defined plan-asset for leave encashment, FDR indicated as earmarked by the school towards the same of INR 1,00,00,000 has not been considered while deriving the fund position of the school. However, the expenses towards retirement benefits budgeted by the school for FY 2017-2018 have been considered while deriving the fund position of the school (enclosed in the later part of this order).		encashment liability. Accordingly, amount deposited to LIC for gratuity and leave encashment liability has been considered while deriving the fund position of the school.
4.	Rule 177 of DSER,1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:* 1. *award of the scholarships to students,* 2. *establishment of any other recognised school, or*	The payment has been made to the students, for their benefits and motivation. The award was made under bonafide believe of its allowability. Treating these kind of awards to students as "non-	School is required to comply with the provisions of Rule 177 of DSER, 1973 and accordingly, recover this amount from the society as directed in the order dated 10.12.2018.

S. No.	Observations in the previous Order	Submission of the school	Remarks
	3. *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.* *(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely :-* *(a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,* *(b) the needed expansion of the school or any expenditure of a development nature,* *(c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,* *(d) co-curricular activities of the students,* *(e) reasonable reserve fund, not being less than ten percent, of such savings."* It was observed that the school had paid INR 2.66 lakhs as scholarships to students during FY 2016-2017, which as per above mentioned rule is inappropriate considering that the school has not complied with the requirements of sub-rule 2 of Rule 177. The school explained that the scholarships were given to meritorious students. The school has paid the scholarship in nonconformity of legal provisions. Accordingly, this amount of INR 2.66 lakhs is hereby added to the fund position of the school (enclosed in 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 and ensure compliance with prescribed rules.	compliance" will demotivate the school to carry on these practices, which are motivational and beneficial to the students. School has subsequently submitted that it has discontinued giving monetary Scholarships to the students from 2018 onwards.	
B.	**Other Discrepancies**		
1.	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.*"	The school hereby ensures to make fund base accounting for earmarked levies and	The school is required to comply with the directions given in relation to earmarked levies

S. No.	Observations in the previous Order	Submission of the school	Remarks
	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, 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). 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 Transport Fee and NIE Fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the	consider the surplus/ deficit in particular earmarked levy before proposing hiked fee for subsequent year. The Income and Expenditure a/c is accounted for separately. However, in the financial from 2018-19 onwards, a separate column will be inserted for transport A/c. The NIE fee shall be reduced considering the actual expenses.	charged from the students. Also, school need to follow fund based accounting for earmarked levies charged and collected from the students.

S. No.	Observations in the previous Order	Submission of the school	Remarks
	school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school. Details of calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-2017 is given below: <table><tr><th>Earmarked Fee</th><th>Income (INR)</th><th>Expenses (INR)</th><th>Surplus (INR)</th></tr><tr><td></td><td>A</td><td>B</td><td>C=A-B</td></tr><tr><td>Transport Fees^</td><td>2,09,65,550</td><td>1,71,11,068</td><td>38,54,482</td></tr><tr><td>NIE Fee</td><td>9,54,433</td><td>6,75,000</td><td>2,79,433</td></tr></table>^ 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 tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure on account of which fund balance of earmarked levies could not be separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (including those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order). The school is 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, 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 is directed to evaluate costs against each earmarked		

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<tr><td></td><td>levy and propose the fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies have been calculated on no-profit no-loss basis.</td><td></td><td></td></tr>
<tr><td>2.</td><td>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.

It was noted that the school's fee structure include 'Terminal Benefit Fund', which is collected from the all students and based on the details submitted by the school, utilised for payment of leave encashment to teachers. Details of collection and utilization of Terminal Benefit Fund provided by the school for FY 2016-2017 is included hereunder:
<table>
<tr><th>Particulars</th><th>Nature</th><th>Amount</th></tr>
<tr><td>Terminal Benefit</td><td>Income</td><td>62,40,000</td></tr>
<tr><td>Leave encashment</td><td>Expense</td><td>-</td></tr>
<tr><td colspan="2">Net surplus reflected by school</td><td>62,40,000</td></tr>
</table>
</td><td>It is submitted that the Terminal Benefit Fund is charged only from the new students, one time and not from all the students, which is part of fee structure approved in adherence to section 17(3) of DSER, 1973 and the same was accepted in our fee hike proposal for the year 2016-17. This fund is transferred to LIC of India towards our past liability on a/c of gratuity and some amount is invested with Nationalised bank. Since no fund available to meet the past gratuity liability, permission is required to continue collecting this fee.</td><td>As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 Dec 1999 school cannot charge fee in the name of 'Terminal benefit fund'.

Thus, the school is once again directed not to collect terminal benefits fund from students with immediate effect.</td></tr>
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S. No.	Observations in the previous Order	Submission of the school	Remarks
	Based on the fact that the fee head of 'Terminal Benefit Fund' has not been defined for recognised private unaided school and the purpose for which the school has indicated it would be utilised is not appropriate, being leave encashment part of establishment expenses should be borne out of tuition fee. Thus, the school is directed not to collect terminal benefits fund from students with immediate effect. For the purpose of evaluation of the fee hike proposal for FY 2017-2018, the above-mentioned fee has been included in budgeted income while deriving the fund position of the school (enclosed in the later part of this order).		
3.	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.*" Incorrect utilisation of development fund was indicated in this directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/944 dated 4 October 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 submitted by the school. Further, it was observed that the school had incurred expenditure on purchase of books of INR 42,186 during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the direction included in above order. The school is directed to follow DOE instruction in this regard and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment.	From 2018-19, books shall not be purchased out of development fees. The development fees shall be utilised and accounted for in the financial statements for FY 2018-19 as per directions contained in the order.	School submission is taken on record.
4.	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*	The development fees shall be utilised and accounted for in the financial statements for	School submission is taken on record.

S. No.	Observations in the previous Order	Submission of the school	Remarks
	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." Basis the presentation made in the audited financial statements for FY 2016-2017 submitted by the school it was noted that the school transferred an amount equivalent to the purchase cost of the assets from development fund to general reserve instead of accounting treatment as indicated in the guidance note cited above. Also, the school has enclosed a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement for FY 2016-2017 and has not prepared separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve. This being a procedural finding, the school is instructed to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.	FY 2018-19 as per directions contained in the order.	
5.	The school has not prepared Fixed Assets Register (FAR) for keeping track of fixed assets purchased by it. The school should prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. During the personal hearing, school mentioned that it will start preparing FAR from FY 2018-2019 onwards. The school is directed to prepare the FAR with relevant details mentioned above.	It is under preparation.	School submission is taken on record and the FAR shall be examined at the time of evaluation of fee proposal for FY 2020-21.

S. No.	Observations in the previous Order	Submission of the school	Remarks
6.	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.*" Further 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.*" However, the school had not maintained separate bank account for deposit of caution money collected. Also, the school had not treated the un-refunded money as income after the expiry of 30 days from the date of communication to the student to collect the same. During the personal hearing, the school mentioned that it has taken all necessary steps in FY 2018-2019 to refund caution money collected from students who have already left the school in the past. Thus, based on the explanation provided by the school, the school is directed to ensure that caution money is refunded or booked as income during FY 2018-2019 and no amount is carried forward on account of caution money pertaining to students who have already left the school. Accordingly, compliance will be evaluated at the time of next fee hike proposal submitted by school.	The school charges caution money @Rs. 500 and kept it in separate bank account and being refunded to the students with Saving interest. School has transferred Rs. 18,98,343 to Income A/c under miscellaneous receipts.	School submission is taken on record.

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

i. The total funds available for the FY 2019-20 amounting to Rs. **25,74,33,973** out of which cash outflow in the FY 2019-20 is estimated to be Rs. **27,77,39,723.** This results in **deficit** amounting to Rs. 2,**03,05,750** for FY 2019-20 after all payments. The details are as follows:

Particulars	**Amount (in Rs.)**
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	3,04,75,830
Investments (Fixed Deposits) as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	4,62,66,149
Add: Amount deposited with LIC as Fund value - Group Gratuity as on 31.03.2019 (as per audited financial statements for FY 2018-19)	3,10,14,381
Add: Amount deposited with LIC as Fund value - Leave Encashment as on 31.03.2019 (as per audited Financial Statements of FY 2018-19)	5,00,000
Add: 1880 units of UTI @100 each (as per audited Financial Statements of FY 2018-19)	2,29,360
Add: Recovery from society towards additions to Building & Site Development during FY 2017-18 (as per audited Financial Statements of FY 2017-18)	53,07,881
Add: Recovery from society towards additions to Building & Site Development during from FY 2014-2015 to 2016-2017 (as per order no. F.DE.15(598) PSB/2018/30325-29 dated 10.12.2018 for session 2017-18)	64,24,294
Less: Amount deposited with LIC as Fund Value - Group Gratuity as on 31.03.2019	3,10,14,381
Less: Amount deposited with LIC as Fund Value - Leave Encashment (amount paid during FY 2019-20 as per LIC receipts by the school)	5,00,000
Less: FDR against CBSE Fund as on 31.03.2019 (as per audited financial statements for FY 2017-18)	8,50,000
Less: FDR against Scholarship Fund (for Mahindra Scholarship Fund) as on 31.03.2019	2,29,360
Less: Development Fee receipts in FY 2018-19 (as per audited financial statements of FY 2018-19) **(Refer Note 1 given below)**	1,75,80,773
Less: Caution Money balance as on 31.03.2019 (as per audited financial statements of FY 2018-19) **(Refer Note 2 given below)**	17,41,762
Available funds	**6,83,01,619**
Fees for 2018-19 as per audited Financial Statements (assuming that the fees for 2018-19 will also be received in FY 2019-20)	18,66,96,355
Other income for 2018-19 as per audited Financial Statements (assuming that the income for 2018-19 will be received in FY 2019-20) **(Refer Note 2 given below)**	46,82,599
Estimated availability of funds for 2019-20	**25,74,33,973**
Total cash outflow except 7th CPC impact on salaries (Revenue Expenditure + Capital Expenditure - Depreciation)	22,60,83,557
Less: Provision for arrears of salary as per 7th CPC (Upto FY 2018-19 as per school submission)	5,16,56,166
Estimated Deficit	**2,03,05,750**

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 April, 2010 states "All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 7,57,60,101 in its audited financial statements of FY 2017-2018. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacement of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in one year (FY 2018-2019) from students has been considered for deriving the fund position of the school, which is considered sufficient basis the spending pattern of the school in past.

Note 2: In the other income for the FY 2018-19, adjustments have been made for caution money amount considered as income, amount of depreciation written back, and amount transferred from development fund to the credit of Income and expenditure account. The total adjustments were made for Rs. 3,01,17,201 during the year 2018-19. Since, these items are of non-cash nature and therefore these have not been considered in the other income.

ii. The School do not have sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other discrepancies and also, funds are not available with the school to carry out its operations for the academic session 2019-20 and the fee increase proposal of the school may be accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has accepted the proposal submitted by the school to increase the tuition fee by 15% from April 1, 2020

Accordingly, it is hereby conveyed that the proposal of fee increase of **Laxman Public School (School ID- 1923249) Hauz Khas, New Delhi- 110016** is accepted by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.

2. To rectify all the financial and other discrepancies as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

3. To ensure payment of salary as per recommendation of 7th CPC.

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

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

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

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

To
The Manager/ HoS
Laxman Public school (School ID- 1923249)
Hauz Khas, New Delhi- 110016

No. F.DE.15 (63)/PSB/2020/1691 - 1694 Dated: 03/03/2020

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.

3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

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