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

No. F.DE.15(311)/PSB/2021 /5286-5289 **Dated:** 16/12/21

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, **Apeejay School, J-Block, Gurudwara Road, Saket, New Delhi-17 (School Id: 1923297)** had submitted the proposal for fee increase for the academic session 2019-20. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 24.02.2020 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(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18 were also discussed and school submission were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants And after evaluation of fee proposal of the school the key findings and status of compliance of order no. F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18 are as under:

A. Financial Discrepancies

I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, "*Development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account".*

However, on review of the audited Financial Statements of FY 2017-18, it has been noted that the school has been utilising development fund/fee for addition to 'Miscellaneous Assets' such as badminton court, basketball court, cricket pitch, playground, etc. On review of the details submitted by the school, it was noted that most of expenditures which were capitalised under 'Miscellaneous Assets' was in the nature of civil works, construction works accordingly it is part of the building not a part of the 'Miscellaneous Assets'. And the construction/purchase of building is the sole responsibility of the society as the school fund should not be utilised for making addition to the school building. Further, as per clause 14 of the order dated 11.02.20019, the development can only be utilised for purchase, upgrade and replacement of furniture and fixture and equipment. Therefore, the amount spent by the school out of the school funds for addition to "Miscellaneous Assets' was not in accordance with clause 14 of the order dated 11.02.2009.

Similar observation was also noted in Directorate's order no. F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18, wherein it was observed that the school had utilized development fee for purchase of Library books, vehicles and miscellaneous assets, etc. which was not in accordance with clause 14 of the order dated 11.02.2009. In the aforesaid order, the school was directed to make necessary adjustment in development fund account and General Fund account which is still pending for compliance by the school. Therefore, the school is again directed to ensure compliance with clause 14 of the order dated 11.02.20009 and submit the compliance report to the Department within 30 days from the date of issue of this order.

Further, from the presentation made by the school in the audited financial statements, it has been noted that the amount of development fund balance appearing on the liability side of the balance sheet is not matching with the balance appearing in bank account and fixed

deposit. During personal hearing the school was asked to provide the reasons for such differences, but the school failed to offer any justification for such differential amount.

The details of development fund balance and bank balance and balance of fixed deposit reported by the school has been tabulated below:

(Figures in INR)

Particulars#	Development fund	Bank balance	FDR with accrued interest
As on 31.03.2016	2,86,36,732	8,55,576	-
As on 31.03.2017	4,29,42,905	17,64,244	30,27,740
As on 31.03.2018	4,34,46,346	42,54,681	1,13,44,988
As on 31.03.2019	4,65,00,606	14,23,489	33,42,088^

#The aforesaid details have been taken from audited Financial Statements of the school.
^Amount deposited with Delhi High Court.

Analysis of development fee collected, and capital expenditure incurred has also been carried out wherein it is noted that the collection of development fee in a financial year is more than the capital expenditure incurred during that year. And the amount of unutilised development fee is not appearing in the bank account of the school. The details of development fee collected, and capital expenditure incurred is as follows:

(Amount in INR)

Particulars	Development fee received	Capital expenditure against Development fee	Difference
FY 2014-15	85,43,931	14,70,214	70,73,717
FY 2015-16	97,70,878	41,56,876	56,14,002
FY 2016-17	1,10,31,120	48,49,169	61,81,951
FY 2017-18	1,10,21,580	1,05,18,139	5,03,441
FY 2018-19	1,09,39,006	78,84,746	30,54,260
Total	**5,13,06,515**	**2,88,79,144**	**2,24,27,371**

In view of the above, the development fund has not been stated correctly in audited financial statements and the possibility of misappropriation of development fund cannot be ruled out. Accordingly, the school is directed to provide complete details of difference between the development fund balance and the bank balance and balance of FDR together with interest accrued thereon. The compliance with the above direction would be verified while evaluating the fee increase proposal of the school for the subsequent year. In case, school fails to provide the enough information and explanation, it shall be presumed that the development funds have been misappropriated by the school and the same will be treated as the available funds with the school and the recovery shall be made from the society.

II. Rule 177 of DSER, 1973 states *"Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the*

fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Further, the aforesaid savings shall be arrived at after providing for the following, namely:

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

Further, as per Clause 2 of the Public Notice dated 04.05.1997 state that "*It is the responsibility of the society who has established the school to raise 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". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and not by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure".*

Further, as per Clause no. 9 of Letter of Allotment of Land issued by Delhi development Authority to the Society running the school states, *"The **Society** shall complete the construction of School building on the land within a period of two years from the date of handing over possession of land."*

Clause no. 12 of the aforesaid letter states, *"The **Apeejay Education Society** shall provide fencing and boundary wall immediately to prevent the encroachment."*

Thus, based on the above-mentioned provisions and as per the condition mentioned in the allotment letter it is clear that cost relating to construction of school building and other infrastructure thereto is to be borne by the society running the school and cannot be charged out of the school fee received from the students.

The Directorate's in its Order No. F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued to the school for academic session 2017-18, observed that the school had utilized school funds for addition to school building by INR 12,71,080 in FY 2016-17, which were

not in accordance with the abovementioned public notice, Judgement of the Hon'ble High Court and Rule 177 of the DSER, 1973. Accordingly, the school was directed to recover the said amount from the society.

The school instead of complying with the above direction of the Directorate, spent further amount of INR 51,60,683 for construction of Badminton court, Basketball court, Golf ground, Mini Tennis Ground etc. in FY 2017-18. As the playground facilities is also part of the school building and thus, it should be borne by the by society only and cannot be charged out of school funds. The details of the expenditure incurred by the school are as follows:

S. No.	Particulars	Party name	FY	Amount in INR
1	Badminton Court	Ultratech Cement Ltd	2017-18	3,59,100
2	Badminton Court	Sony Creations Pvt Ltd	2017-18	2,54,172
3	Basketball Court	Ultratech Cement Ltd	2017-18	4,76,205
4	Basketball Court	Guru Construction	2017-18	2,13,001
5	Basketball Court	Sony Creations Pvt Ltd	2017-18	4,50,524
6	Children Playground	Sony Creations Pvt Ltd	2017-18	2,02,901
7	Cricket Pitch	Sony Creations Pvt Ltd	2017-18	3,89,294
8	Football Ground	Sony Creations Pvt Ltd	2017-18	3,67,464
9	Golf Ground	Sony Creations Pvt Ltd	2017-18	3,09,390
10	Mini Tennis Ground	Sony Creations Pvt Ltd	2017-18	5,99,186
11	Playground	Sony Creations Pvt Ltd	2017-18	15,39,446
	Total			**51,60,683**

In view of the above, the total amount spent by the school on construction of school building and play grounds amounting to INR 64,31,763 (INR 12,71,080 + INR 5160,683) is recoverable from the society. Accordingly, it has been included in the calculation of fund availability of the school with direction to the school to recover this amount from society within 30 days from the date of issue of this order.

III. On review of audited Financial Statements of the School, it has been noted that the cost of land amounting to INR 1,10,22,372 and of building amounting INR 2,47,18,027 appearing in the assets side of the financial statements of the school as on 31.03.2019. However, the corresponding capital contribution from the society is not reflecting on the liability side of the financial statements. The land allotment letter and the clause 2 of public notice dated 04.05.1997 specifically mentioned that cost relating to land and building should be borne by the society only. The school has failed to explain the reasons for not showing the 'Capital Contribution of the Society' in the liability side of the financial statements equivalent to the cost of land and building which is appearing on the assets side of the audited financial statements.

Accordingly, the school is directed to submit detailed clarification with the supporting documents that cost of land and building was borne by the society only and no school funds have been utilised for this purpose. The compliance with the above direction would be

verified while evaluating the fee increase proposal of the school for the subsequent year. In case, school fails to provide the sufficient information, it shall be presumed that the school funds have been used for purchase of land and building and the total cost of land and building amounting INR 3,57,40,399 (INR 1,10,22,372 + INR 2,47,10,027) will be treated as the available funds with the school.

IV. 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).

Also, in respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited Financial Statements of the school for FY 2017-18 and 2018-19, it has been noted that the school has charged earmarked levies namely Transportation charges, Science fees, Computer Fees, Home Science Fees and Activity fee but these levies are not charged on 'no profit no loss' basis as the school. Moreover, it has also been noted that the school has not followed fund basis of accounting as specified by Hon'ble Supreme Court of India in the matter of Modern School vs Union of India and Others and as stated in GN – 21 Accounting by schools issued by the Institute of Chartered Accountants of India (ICAI).

Similar observation was also noted in order no. F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18, that during FY 2014-15, 2015-16 and 2016-17, the school had not charged earmarked levies namely Transportation charges, Science fees, Computer Fees, Home Science Fees and Activity fee on 'no profit no loss' basis and was not following the fund-based accounting in respect of these earmarked levies. And School was directed to make necessary adjustment in the General Fund.

Accordingly, school is once again directed to charge earmarked levies on 'no profit no loss' basis only and to follow fund basis of accounting as mentioned in Guidance Note-21 issued by ICAI.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. 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. However, on review of fee proposal documents it has been noted that the Activity fee has been charged from each student of the school from Nursery onwards (upto Class V). Computer fee and Science fee have also been charged from each student of Class I to Class X. Therefore, school is directed to stop separate collection in the name of Activity fee, Science Fee in accordance with aforesaid recommendations.

V. 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.*"

Also, para 67 of the aforementioned Guidance Note states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

However, on review of audited Financial Statements of the school it has been noted that the school has not followed the accounting treatment prescribed in GN – 21 "Accounting by Schools" issued by the ICAI. From the presentation made in the financial statements, it has been noted that upon utilisation of development fund the School has not treated deferred income equivalent to the fixed assets purchased out of development fund which is not in accordance with guidance noted cited above.

Similar observation was also noted in order no. F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18, wherein the school was directed to prepare and present its financial statement as per the Guidance Note.

Therefore, the school is again directed to follow the accounting treatment as indicated in GN – 21 "Accounting by schools" issued by the Institute of Chartered Accountants of India (ICAI). The school should create a deferred income account equivalent to the cost of fixed assets purchased out of development and transfer an amount equivalent to depreciation charged to the credit of Income and Expenditure Account.

VI. There are no posts of Education Advisor cum HRD Officer, Sr Education Research – Fellow, Assistant Manager – Computer, Administrative Manager, Graphic Designer, Site Engineer, etc. in the Recruitment Rules prescribed for the Private Unaided Recognized Schools. However, on review of staff statements submitted by the school, it has been noted that the various personnel has been appointed by the school on the above-mentioned posts and has paid them remuneration and allowances. The above point of the above-mentioned personnel is not in accordance with the Recruitment Rules. Based on details submitted by the school, the details of personnel and remuneration paid to them is as under:

(Amount in INR)

S. No.	Staff Name	Designation	Date of Joining	Gross salary (as per Feb 2019 salary statement)	2017-18 & 2018-19^	Conveyance and other allowances
1	Mr. V S Garg#	Education Advisor cum HRD Officer	01.07.1997	2,72,518	65,40,432	8,12,800
2	Mr.Mithilesh Kumar Singh	Sr Education Research - Fellow	20.04.2005	2,44,629	58,71,096	-

S. No.	Staff Name	Designation	Date of Joining	Gross salary (as per Feb 2019 salary statement)	2017-18 & 2018-19^	Conveyance and other allowances
3	Mr. Anindya Dutta Choudhary	Assistant Manager – Computer	01.01.2008	95,722	22,97,328	1,32,000
4	Mr. Bharat Bhushan Sharma@	Administrative Manager	01.12.2009	1,10,250	26,46,000	-
5	Mr. Kumar Vaibhav	Graphic Designer	01.09.2011	59,500	14,28,000	1,84,000
6	Mr. Ramesh Chandra	Site Engineer	06.04.2016	48,500	11,64,000	-
7	Mr. Sunil Kumar	Senior Executive	17.10.2016	50,000	12,00,000	-
8	Mr. Binod Kumar Singh	Assistant Manager	11.04.2016		-	-
9	Mr. Rohit Kumar Saxena	Executive Events	NA	25,000	6,00,000	-
10	Mr. Himanshu Soni	Deputy Manager	NA	78,000	18,72,000	-
	Total				**2,36,18,856**	**11,28,800**

^ School has not furnished the month-wise details of actual payments made to aforesaid personnel and therefore, taking gross salary for February 2019, as basis, salaries for FY 2017-18 and 2018-19 have been computed.

Further as per Rule 104 of DSER, 1973, *"the minimum and maximum of age of the limit for recruitment to a recognised private school, whether aided or not, shall be the limits specified by the Administrator for appointment to corresponding posts in Government schools"* and as per Rule 110 (1) of DSER, 1973, *"Except where an existing employee is entitled to have a higher age of retirement, every employee of recognised private school, whether aided or not, shall hold office until he attains age of 60 years. However, from review of the statement of salary provided by the school it was noted* Mr. V S Garg and *Mr.* Bharat Bhushan Sharma had attained the age of 60 years.

Thus, the appointment these personnel were not in accordance with the Recruitment Rules and the provisions of DSER, 1973.

Accordingly, the remuneration paid by the school is not allowable and thus, has been included while deriving the fund position of the school considering the same fund is available to the school with the direction to school this amount from the Society within 30 days from the date of issue of this order.

VII. As Section 18(4) DSEA,1973 states. "*(a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and (b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received".* Further, the fees/ funds collected from the parents / students shall be utilised strictly in accordance with Rules 176 and 177 of the DSER-1973.

However, the audited Financial Statements for FY 2017-18 and 2018-19 indicates that the school has continuously incurred expenditure for premium mobile phones, laptops, I-Pads, TV etc. for the user of the staff which appears to be of personal expenditure. During personal hearing school was asked to provide justification of such purchase. But the school failed to provide justification for these purchases and utility for the students. During the last two years, school has purchased 12 Redmi Mobile Phones, 2 Apple IPAD, 8 Laptops, 2 Apple Phones and 1 LED TV ranging from INR 11,000 to INR 1,68,150. Even these costly items cannot be gifted to the employees of the school as it is not allowed in terms of Recruitment Rules and the provisions of DSEA & R, 1973. During the period the school has spent INR 17,35,223 towards this expenditure of personal nature.

In view of the above, amount so utilised by the school is unreasonable and indicates as diversion of school funds being a personal nature of expenditure. The total expenditure of INR 17,35,223 cannot be considered as expenditure for educational purposes in terms of Section 18(4) of DSEA, 1973 and accordingly it has been considered in the calculation of fund availability of the school with the direction to the school to recover the aforesaid amount from the society within 30 days from the date of issue of this order.

VIII. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"An enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the Financial Statements do not differ materially from the amounts that would be determined at the balance sheet date."*

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."

The school was directed by Directorate through its Order F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18, to obtain an actuarial

valuation for gratuity and leave encashment and report the same in its audited Financial Statements equivalent to the liability determined by the actuary and to make equivalent investments in the plan assets in terms of AS-15 issued by the ICAI.

From the record submitted by the school, it has been noted that the School has obtained the actuarial valuation report for retirement liabilities for FY 2018-19 after the end of financial year on 22.11.2019. It appears that the school has not considered this report while making the Financial Statements of the school as these are already signed on 31.07.2019. It has also been noted that the provisions towards retirement benefits reported by the school in its financial statements for FY 2018-19 were not in agreement with the actuarial valuation report.

Moreover, actuarial valuation report submitted by the school for gratuity and leave encashment as at 31.03.2019 shows that school has invested in fund assets amounting INR 1,09,70,828 for gratuity and no amount has been invested for leave encashment. Further, the amount invested in the plan assets with LIC has not been reported in any of the audited financial statements by the school.

Further, the LIC statement showing amount deposited of INR1,09,70,828 as on 31.03.2019 for gratuity. The LIC statement further revealed that this investment was made in the name of The Trustees of Apeejay Education Society and not in the name of school. Therefore, the school may be directed to get the name change on the LIC statement i.e. it should be in the name of the school.

Further, it has been noted that school has presented payment of INR 2,62,00,000 towards 'LIC MF Liquid Fund' in the Receipts and Payments Account for FY 2018-19 but has not reported the same in the Balance Sheet. In view of aforesaid, no financial impact has been given for this payment while delivering the fund position of the school. The school is hereby directed to make provision for gratuity and leave encashment in accordance with the actuarial report and to make equivalent investments against that in plan assets in terms of AS-15 Employee Benefits issued by the ICAI. Also, school is required to present its financial statements in proper manner showing both liabilities and investments related to gratuity and leave encashment.

IX. As per Clause no. 6 of Letter of Allotment of Land issued by Delhi development Authority to the Society running the school states that *"The **society** shall not increase the rates of tuition fee without the prior sanction/ approval of the Department of Education"*

As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Director, Education. Further, as per the directions of Hon'ble Supreme Court in the matter of ***Modern School vs. Union of India & Ors.*** (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

a) It is reiterated that annual fee-hike is not mandatory.
b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
c) If any school has collected fee in excess of that determined as per procedure prescribed, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

In continuation of order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, the Directorate of Education has issued order No. F. DE-15/ACT-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 with the direction that, *"Now, therefore, all the HoS/ Managers of Private Unaided Recognized Schools, allotted land by the land owning agencies on the condition of seeking prior sanction of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction of the Director of Education for increase in fee/tuition fee for the academic session, online through website of the Directorate and upload returns and documents mentioned therein…"*

"…In case no proposal is submitted by the School in terms of this order, the School shall not increase the tuition fee/ fee and any increased fee already charged shall be refunded/ adjusted by such schools".

Moreover, for determination of fee for entry level classes including nursery, the Directorate vide order dated 11.02.2009 and 16.04.2010 has issued detailed guidelines to be followed for determination of fee under various heads and it has been emphasized that the rate of tuition fee shall be determined so as to cover the standard cost of establishment including provisions for DA, bonus etc. and all terminal benefits, and also the expenditure of revenue nature concerning curricular activities. The school is being run by the society on "no profit no loss" basis, and in the guise of autonomy, the school cannot adopt unfair practice while determining the fee structure. The fee should be commensurate with the expenditure incurred by a school for providing educational facilities in a particular class or earmarked levies should commensurate with the specific facilities or services provided to a particular student. The provision regarding determination of fee and increase in fee under the provisions of DSEA & R, 1973 and circulars, notifications, circulars issued thereunder in this regard are equally applicable to all classes including entry level classes.

On review of Fee Receipts and Fee Structure submitted by the school, it has been noted that the school had increased the fee in FY 2016-17 without taking prior approval of the Directorate of Education which is not in accordance with the aforesaid orders of Hon'ble Courts and orders issued by this Directorate. The summary of increased fee is as under

(Amount in INR)

Class	Tuition Fee (2015-16)	Tuition Fee (2016-17)	Development Fee (2015-16)	Development Fee (2016-17)	Annual Charges (2015-16)	Annual Charges (2016-17)
Nursery	6,105	6,720	916	1,008	7,140	7,860
KG.	6,105	6,720	916	1,008	4,300	4,730
I	6,110	6,720	917	1,008	4,300	4,730
II	5,645	6,725	847	1,009	4,300	4,730
III	4,605	6,210	691	932	4,300	4,730
IV	4,605	5,070	691	761	4,300	4,730
V	4,605	5,070	691	761	4,300	4,730
VI	4,605	5,070	691	761	4,300	4,730
VII	4,190	5,070	629	761	4,300	4,730
VIII	4,185	4,610	628	692	4,300	4,730
IX	3,875	4,605	581	691	4,300	4,730
X	3,875	4,265	581	640	4,300	4,730
XI	3,875	4,265	581	640	4,300	4,730
XII	3,955	4,265	593	640	4,300	4,730

Directorate vide its Order F.DE. 15(203)/PSB/2019/1125-1129 dated 25.03.2019 issued for academic session 2017-18, has directed the school not to increase the fee without prior approval and to refund/ adjust the excess fee collected from the students.

In view of the above, the school is again directed either refund or adjust the excess fee collected from the students against the subsequent dues of the students and roll back the fee already increased.

B. Other Discrepancies

I. Clause 3 of the public notice dated 04.05.1997 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 11.02.2009 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 4 of Order no. DE/15/150/Act/2010/4854-69 dated 09.09.2010 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, this income shall also be considered while projecting fee structure for ensuing Academic year."*

On review of audited Financial Statements of the school, it has been noted that the school is refunding the caution money to the student at the time of his/ her leaving without interest thereon. Also, the school has not reflected un-refunded caution money belonging to ex-students as income in the next financial year after the expiry of thirty days from the date of communication with the students to collect their caution money and not taken this into account while projecting fee structure for ensuring academic year. The school is instructed to follow DOE's directions in this regard.

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 2019-20 amounting to INR **13,74,24,883** out of which cash outflow in the year 2019-20 is estimated to be INR **13,24,38,953**. This results in net surplus of INR **49,85,930**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	14,23,141
Investments (Fixed Deposits) as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	35,56,727
Add: Investments with LIC against Gratuity **(refer Observation No. VIII of Financial Discrepancies)**	1,09,70,828
Liquid funds	**1,59,50,696**
Fees for 2018-19 as per audited Financial Statements (we have assumed that the income received in 2018-19 shall also accrue in 2019-20)	9,99,18,540
Other income for 2018-19 as per audited Financial Statements (we have assumed that the income received in 2018-19 shall also accrue in 2019-20)	8,07,669
Add: Recovery of additions made in building reflected in FY 2016-17 and expenditure incurred for Civil work related to Playground **(refer Observation No. II of Financial Discrepancies)**	64,31,763
Add: Amount paid to persons appointed in contravention of Recruitment Rules **(refer Observation No. VI of Financial Discrepancies)**	2,47,47,656
Add: Amount paid for premium phones, laptops and TV sets **(refer Observation No. VII of Financial Discrepancies)**	17,35,223

Particulars	Amount in INR
Total Available funds	**14,95,91,547**
Less: Fixed deposits in joint name of Dy Director (Education) and Manager, School as on 31.03.2019 **(as per school's submission)**	3,77,336
Less: Retirement benefits **(refer Observation No. VIII of Financial Discrepancies)**	1,09,70,828
Less: Development Fund **(refer Observation No. I of Financial Discrepancies)**	-
Less: Caution money as on 31.03.19 **(as per audited Financial Statements for the year)**	8,18,500
Estimated availability of funds for 2019-20	**13,74,24,883**
Total cash outflow (Revenue Expenditure + Capital Expenditure - Depreciation) (Refer Note 1 to 4 below)	11,31,03,786
Less: Salary arrears as per 7th CPC (01.01.2016 to 31.03.2019)	1,93,35,167
Estimated Cash Surplus	**49,85,930**

Note 1: The amount proposed by the school of INR 2,50,75,000 for building in its budget has not been considered. Because as per clause 2 of public notice dated 04.05.1997, and the conditions of land allotment letter and Rule 177 of DSER, 1973, the society is responsible to meet the cost relating to land and building. Moreover, as per Hon'ble SC in the matter of Modern School Vs Union of India and Others, *capital expenditure cannot form part of financial fee structure of the school*. Accordingly, the aforesaid expenditure of INR 2,50,75,000 proposed by the school towards addition to building has not been considered while deriving the fund position of the school.

Note 2: School has also proposed for payment of loan and interest thereon amounting INR 16,51,050. As per Hon'ble SC in the matter of Modern School vs Union of India and Others, *capital expenditure cannot form part of financial fee structure of the school*. School submitted that the aforesaid loan was taken for capital expenditure and proposing for repayment of the loan and interest in the budget would tantamount to making capital expenditure as part of financial fee structure in violation of directions of Hon'ble SC and thus, the aforesaid payment has not been considered.

Note 3: As per observation VI of financial discrepancies, school has appointed various persons on the posts of Education Advisor cum HRD Officer, Sr Education Research – Fellow, Assistant Manager – Computer, Administrative Manager, Graphic Designer, Site Engineer, etc. which is not in the accordance of Recruitment Rules prescribed for the Private Unaided Recognized Schools. The school has also proposed remuneration for these persons in its budget for FY 2019-20. Accordingly, the proposed pay and allowances expenditure has been adjusted by INR 1,18,09,428 taking salary for February 2019 as basis.

Note 4: Under the following heads of expenditure, the School has proposed excessive expenditures as compared to the actual expenditure incurred by the school in the previous

financial year. The School has not provided any justification/ clarifications regarding such unusual increase under these heads. Therefore, increase in these expenditures have been restricted to 110% of the actual expenditure incurred by the school in the FY 2018-19. The details of expenditure disallowed are as under:

(Amount in INR)

Particulars	FY 2018-19	FY 2019-20	Increase	% Increase	Disallowed
Promotional expense	3,53,674	19,37,600	15,83,926	448%	15,48,559
Magazine and Newsletter	2,15,152	23,90,000	21,74,848	1011%	21,53,333
Security service	98,39,925	1,21,85,484	23,45,559	24%	13,61,567
Total	**1,04,08,751**	**1,65,13,084**	**61,04,333**		**50,63,459**

ii. In view of the above examination, it is evident that the school have sufficient funds to meet its expenses from the existing fee structure for the Academic Session 2019-20. 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, that sufficient funds are available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, 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 school has incurred capital expenditure for building and playground amounting INR 64,31,763 in contravention of clause 2 of public notice dated 04.05.1997, conditions of land allotment letter and Rule 177 of DSER, 1973. Also, payments have been made to person employed on various designation in contravention of recruitment rules amounting INR 2,47,47,656 and school funds have misutilised for purchase of premium gadgets, mobile phones and laptops etc, for INR 17,35,223 in contravention of Section 18 of DSEA, 1973. Accordingly, school is directed to recover aforesaid amounts within 30 days from the date of issue of this order

from the society and shall submit the copy of receipt along bank statement showing receipt of the amount at the time of evaluation of next fee proposal of the school.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2019-20 of **Apeejay School, J-Block, Gurudwara Road, Saket, New Delhi-17 (School Id: 1923297)** 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 the provision of section 24(4) of DSEA, 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
Apeejay School, (School Id: 1923297)
J-Block, Gurudwara Road, Saket,
New Delhi-17

No. F.DE.15(311)/PSB/2021/ 5286-5289 Dated: 16/12/2021

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 (South) 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