

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

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No. F.DE.15(729) / PSB / 2022 / 4553-4557

Dated: 13/06/22

**ORDER**

WHEREAS, Arwachin Bharti Sr. Sec Public School, Vivek Vihar, Delhi-110095, (School ID-1001180) (hereinafter referred to as "School"), run by the Arwachin Shiksha Samiti (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND 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 DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 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 authorized 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 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177,





the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 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 DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 & 2019-20.

AND WHEREAS, in pursuance to Order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2019-20.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE 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 DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

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 18.10.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues were noted. During the aforesaid hearing, compliances against Order No. F.DE.15(254)/PSB/2019/1060-1064 dated 14.03.2019 issued for academic session 2017-18, was also discussed and submissions taken on record.





AND WHEREAS, the response of the school along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school, were evaluated by the team of Chartered Accountants, the key findings noted are as under:

**A. Financial Observations**

1. Direction no. 2 included in the Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 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 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Moreover, Rule 177 of DSER, 1973 states that *"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. And 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.*

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.

DoE in its Order no. F.DE.15(184)/PSB/2019/1060-1064 dated 14.03.2019 issued post evaluation of proposal for enhancement of fee for FY 2017-18, directed the school to recover amount of INR 2,39,24,937 from the society incurred for construction of building during FY 2015-16 and 2016-17 which is still pending for recovery. This expenditure was incurred without complying with the requirement of above-mentioned provisions.

On review of financial statements, it has been noted that school has further incurred capital expenditure on construction of building amounting to INR 16,47,360 and INR 35,94,770 during the FY 2017-18 and





FY 2018-19 respectively. Also, school incurred capital expenditure on construction of cricket stadium amounting to INR 78,91,513 and INR 12,09,761 during the FY 2017-18 and FY 2018-19 respectively which is also part of the building. These expenditures incurred by the school was not in compliance with above mentioned provisions and Rule 177 of DSER, 1973.

The school was well aware about the implementation of the recommendation of the 7<sup>th</sup> CPC and its statutory liability towards gratuity and leave encashment. The school instead of paying salary to its staff in accordance with the recommendation of 7<sup>th</sup> CPC preferred to incur expenditure of capital nature (which would otherwise will be responsibility of the society).

Accordingly, the capital expenditure incurred on construction of building INR 2,91,67,067 and for construction of cricket stadium INR 91,01,274 has been included while deriving the fund availability with the direction to the school to recover such amount from the society within 30 days from the date of issue of the order.

2. Clause (vii) (c) 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 the financial fee structure.*"

On review of audited financial statements for FY 2016-17 to FY 2018-19 and documents submitted after personal hearing, it has been noted that the school incurred INR 1,27,95,000 and INR 43,12,470 in FY 2016-17 and FY 2018-19 towards capital expenditure on purchase of buses out of the school funds for providing services to the specific users of the transport facilities. The school has incurred this expenditure without complying with the requirement of Rule 177 of DSER, 1973. Therefore, this amount is recoverable from the society.

As the school is not maintaining fund-based accounting for transport facilities. From the details provided by the school, the income generated by the school from transport facilities in the last three financial years has been taken into consideration (Refer other observation no.1). During the last three financial year the school has generated surplus of INR 1,22,39,928 from the transport facilities. This clearly depicts that the school has devised its fee structure of transport facilities so, that the school can have enough funds which can be utilized for meeting other expenditure of the school. It appears the in the earlier years the school instead of increasing its tuition fee has formed the different mechanism to collect the money from the students. However, the surplus generated by the school form the transport facilities have been adjusted from above recovery. Thus, the net amount utilized by the school for purchase of bus of INR 48,67,542 (Expenditure incurred on purchase of buses INR 1,71,07,470 less surplus generated from transport fund for last 3 years INR 1,22,39,928) has been considered while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

3. Rule 177 of DSER, 1973 states that "*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. And the aforesaid savings shall be arrived at after providing for the following, namely:

- f) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- g) The needed expansion of the school or any expenditure of a developmental nature;
- h) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- i) Co-curricular activities of the students;
- j) Reasonable reserve fund, not being less than ten percent, of such savings.

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.

DoE in its Order no. F.DE.15(184)/PSB/2019/1060-1064 dated 14.03.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, noted that the adjustment in general fund and development fund of the school was made in lieu of funds utilised for construction of another school's building situated at Pilkhua run under the management of same society. Accordingly, the school was directed to recover INR 12,09,83,670 (INR 10,97,05,699 related to building infrastructure and INR 1,12,77,971 related to furniture and fixtures) which is still appearing under capital work in progress as on 31.03.2019 from the society which is still pending for recovery. However, the school has not incurred any further amount on this construction during FY 2017-18 and 2018-19.

Accordingly, the total capital expenditures of INR 12,09,83,670 incurred by the school for construction of other school's building has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order.

4. 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.*"

Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

- (a) Assets held by a long-term employee benefit fund; and
- (b) Qualifying insurance policies.

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service.*"

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than twenty, it may calculate the





accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in "plan assets" as per AS-15 issued by ICAI.

On review of documents submitted by the school post personal hearing, it has been noted that school has not got the actuarial valuation report for its liability towards gratuity and leave encashment and has recorded liability in the books of the accounts on management estimate basis. As per the financial statements for FY 2018-19, the total liability towards Gratuity was INR 4,02,61,625 and towards leave encashment was INR 88,75,273 as on 31.03.2019 against which the school has invested INR 1,61,55,418 for gratuity and INR 26,38,344 for leave encashment with LIC which qualify as plan asset within the meaning of AS-15.

Therefore, the actual amount invested by the school in plan assets of INR 1,87,93,762 has been considered while deriving the fund position of the school with the direction to the school to get actuarial valuation for retirement benefits from an actuary and make provisions accordingly and invest equivalent amount that qualify as plan assets as per AS-15 within 30 days from the date of issue of the order.

5. 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 Supreme Court in **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.

Also, Clause no. 17 of Letter of Allotment of Land issued by DDA states that "*The school shall not increase the rates of tuition fee without prior sanction of the Directorate of Education, Delhi Admn. and shall follow provisions of Delhi School Education Act/ Rules, 1973 and other instructions issued from time to time.*"

Further, as per order no. F.DE.15(184)/PSB/2019/1060-1064 dated 14.03.2019 issued to the School of FY 2017-18 mentioned that school increased its fees during FY 2016-2017 without obtaining prior approval from Director (Education). Whereas post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the fee increase proposal was rejected by DoE with the direction that in case increased fee has already been charged from the parents, the same shall be refunded/adjusted vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/883 dated 4 September 2017.

In the aforesaid order, it was noted that the school did not refund/adjust the increased fee (Tuition fee, Development fee, Annual charges and Transport fee) collected from students during FY 2016-2017. Further, during discussion with the school in personal hearing, the school mentioned that it has continued to collect increased fee during FY 2017-2018 and FY 2018-2019. The school mentioned that the fund position of the school does not allow refund/adjustment of increased fee collected from the students. Hence, the school is again directed to refund/ adjust the increased fee to the students as charged in FY



2016-17, 2017-18 and 2018-19 and submit evidence of the same to the Directorate within 30 days from the date of this order.

## B. Other Observations

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.*"

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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 was noted that the school charges earmarked levies in the form of Transport fee, Activity fee and Science & smart class fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school, or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

Particulars	Science & Smart Class Fee	Transport Charges	Activities Fee
For the year 2016-17			



Particulars	Science & Smart Class Fee	Transport Charges	Activities Fee
Fee Collected during the year (A)	0*	3,02,94,700	0*
Expenses during the year (B)	0*	2,65,70,678	0*
<b>Difference for the year (A-B)</b>	<b>0*</b>	<b>37,24,022</b>	<b>0*</b>
<b>For the year 2017-18</b>			
Fee Collected during the year (A)	1,08,50,150	3,24,41,300	33,34,336
Expenses during the year (B)	96,68,682	3,00,05,582	28,67,400
<b>Difference for the year (A-B)</b>	<b>11,81,468</b>	<b>24,35,718</b>	<b>4,66,936</b>
<b>For the year 2018-19</b>			
Fee Collected during the year (A)	1,06,92,680	3,10,87,100	32,63,535
Expenses during the year (B)	1,05,89,634	2,50,06,912	46,74,306
<b>Difference for the year (A-B)</b>	<b>1,03,046</b>	<b>60,80,188</b>	<b>-14,10,771</b>
<b>Surplus/(Deficit)= 1+2+3</b>	<b>12,84,514</b>	<b>1,22,39,928</b>	<b>-9,43,835</b>

\* School commenced charging of science & smart class fee and Activities fee from FY 2017-18 onwards.

Based on the above, the earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee).

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. As per 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 abovementioned 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/utilization 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 utilization of each fund balanced)*
  - d) *Restrictions, if any, on the utilization of specific assets."*



Based on the presentation made in the audited financial statements of FY 2018-19, it has been noted that the school has although maintained development fund utilization fund however instead of crediting deferred income in income & Expenditure account to the extent of the cost of the asset in proportion to the depreciation charged every year as required under para 99 of guidance note mentioned above, school transferred amount to the cost of assets purchased out of development fund to Asset purchase fund which results in overstatement of Asset purchase fund.

Hence, the school is directed to make necessary rectification entries relating to development fund, fixed assets, deferred income and depreciation reserve to comply with the accounting treatment indicated in the Guidance Note-21. Compliance of the above shall be verified at the time of evaluation of proposal submitted for subsequent financial year.

3. On review of submissions made against proposal for fee enhancement submitted by school for FY 2019-20, Following anomalies were noted in Fixed asset register (FAR) maintained by the school:

- No tagging of the assets was done in Fixed Assets Register (FAR) and physically on fixed assets to identify their location because of which the assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Invoice number, manufacturer's serial number and location of asset not mentioned

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.

Hence, the school is directed to comply with the directions by preparing the FAR with relevant details mentioned above according to the process for periodic physical verification of assets and document the results of physical verification of assets as the same shall be verified at the time of evaluation of fee hike proposal for subsequent year. This being a procedural finding, no financial impact is warranted in the fund position of the school.

4. On review of submission of documents made post personal hearing, it has been noted that the school had no process in relation to calling of quotations from vendor, approval process, gate inward control and payment, only oral communication is done with the prospective suppliers and no documentation was done for the same. The school was not preparing any comparative statement for evaluating the quotations received from vendors and was not getting the same approved from the purchase committee. Also, the school does not have a process of maintaining gate inward and outward register and stamping the invoice at entry gate.

Accordingly, the school is directed to follow proper procurement process and maintain proper documentation in relation to procurements and purchases done by the school. Compliance of the above shall be verified at the time of evaluation of proposal for fee enhancement for subsequent year.





5. Direction no. 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 Rs. 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."*

On review of the financial statements, it has been noted that school has not been complying Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 which specifies that no caution money of more than INR 500 per student shall be charged. As per the details submitted by the school, there are total 3539 students as on the date of submission of proposal for FY 2019-20. Thus, the total caution money outstanding should be with the school comes to INR 17,69,500 (INR 500 \*3539 students) which means the school has not been refunding the caution to the students at the time of her/his leaving from the school. Therefore, the only INR 17,69,500 out of total outstanding INR 34,28,120 as on 31.03.2019 has been considered while deriving the fund position of the school.

And the school is directed to ensure compliance with the aforementioned directions including refund of interest along with caution money to the students and to open separate bank account/create fixed deposit with bank for depositing caution money collected from students and interest earned on this account has to be refunded to the students along with refund of caution money at the time of leaving from the school.

6. As per Order No. F.DE.15(184)/PSB/2019/1060-1064 dated 14.03.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, it was noted that school was not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 and condition mentioned in the land allotment letter which provides for 25% reservation to children belonging to EWS category.

As per school, the details of EWS students and total students from FY 2014-15 to FY 2018-19 are as follows:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Total Students	3,244	3,224	3,324	3,517	3,652
EWS Students	223	258	258	362	431
% of EWS students	7%	8%	16%	10%	12%

As per table above, it is ascertained that school still has not complied with the directions of the Directorate to comply with the land allotment condition of minimum 25% reservation to EWS category students. The DDE (District) may look into this matter and school is directed to comply with the directions as the same shall be verified at the time of evaluation of proposal for fee enhancement for subsequent year



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 39,04,61,818 out of which cash outflow in the year 2019-20 is estimated to be INR 27,83,75,493. This results in net surplus of INR 11,20,86,325. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement	1,84,14,312
Investments in FDR as on 31.03.19 as per Audited Financial Statements	7,04,543
Investments with LIC for retirement benefits as on 31.03.19 as per Audited Financial Statements	1,87,93,762
<b>Liquid funds as on 31.03.19</b>	<b>3,79,12,617</b>
Add: Recovery from the society for utilization of funds by the school for construction of building and Cricket Stadium ( <b>Refer Financial observation No. 1</b> )	3,82,68,341
Add: Recovery from the society towards amount spent on purchase of buses out of school funds ( <b>Refer Financial observation No. 2</b> )	48,67,542
Add: Recovery from the society for utilization of funds by the school for construction of another school's building ( <b>Refer Financial observation No. 3</b> )	12,09,83,670
Add: Fees for FY 2018-19 as per Audited Financial Statements ( <b>Refer Note 1</b> )	20,73,57,090
Add: Other income for FY 2018-19 as per audited Financial Statements ( <b>Refer Note 1</b> )	29,98,691
<b>Total available funds for FY 2019-20</b>	<b>41,23,87,951</b>
Less: FDR on joint name with DOE	7,04,543
Less: Caution money as on 31.03.2019 (as per audited financial statements for FY 2018-19) ( <b>Refer Other observation no. 5</b> )	17,69,500
Less: Depreciation reserve fund as on 31.03.2019 ( <b>Refer note 2 below</b> )	-
Less: Development Fund Balance as on 31.03.2019 ( <b>Refer Financial observation No. 5</b> )	6,58,328
Less: Investment made with LIC against provision made for retirement benefits ( <b>Refer Financial observation No. 4</b> )	1,87,93,762
<b>Estimated Available Funds for FY 2019-20</b>	<b>39,04,61,818</b>
Less: Budgeted expenses for the session 2019-20 ( <b>Refer Note 3 below</b> )	21,29,40,000
Less: Arrears of salary on implementation of 7th CPC ( <b>Refer Note 4 below</b> )	6,54,35,493
<b>Net Surplus</b>	<b>11,20,86,325</b>

**Note 1:** Fee and income as per audited Financial Statements of FY 2018-19 has been considered with the assumption that the amount received in FY 2018-19 will at least accrue during FY 2019-20 except profit on sale of assets.

**Note 2:** As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the 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



fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*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, 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & OINR: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' 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."

Accordingly, it is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund of INR 4,95,20,330 as reported by the school in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the school.

**Note 3:** All expenditure as per budget estimates for FY 2019-20 provided by the School has been considered in the above table.





**Note 4:** As per order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/(318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7<sup>th</sup> CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states “ *the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*”. Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon’ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

On review of audited financial statements and as per explanation provided by the School, the impact of salary arrears of INR 6,54,35,493 (provided by the school) which is still pending for payment has also been considered while deriving the fund position of the school with the direction to the school to implement the recommendations of 7<sup>th</sup> CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school has adequate funds for meeting all the operational expense for the financial year 2019-20. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states.

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

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 findings that sufficient funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school is rejected.

AND WHEREAS, it has been noted that the school is required to recover INR 3,82,68,341 from the Society for expense incurred towards construction to the building. The school further incurred INR 48,67,542 towards purchase of buses and INR 12,09,83,670 towards construction of building and purchase of other assets for the different school under same society without complying with the provision of DSEAR 1973 and other order/ circular issued by Director of Education from time to time



in this regard. Thus, the school is directed to recover INR 16,41,19,553 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order.

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 school has sufficient funds for meeting financial implication for the 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.

AND WHEREAS, the School is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increases for the academic session 2019-20 of **Arwachin Bharti Bhawan Sr. Sec Public School, Vivel Vihar (School ID-1001180), Delhi-110095**, has been rejected by the Director (Education).

Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.
3. To utilize 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.

Non-compliance of this Order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Delhi School Education Act, 1973, and Delhi School Education Rules, 1973.





This 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

Arwachin Bharti Sr. Sec Public School,

VivekVihar, Delhi-110095,

School ID-1001180

No. F.DE.15 ( 729 )/PSB/2022 / 4553-4557

Dated: 13/06/22

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. DDE (East) to 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