

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

No. F.DE.15 (536)/PSB/2022/3142-3146

Dated: 19/05/22

ORDER

WHEREAS, Vivekanand School (School ID- 1001182), B Block, Anand Vihar, Delhi- 110092 (hereinafter referred to as "the School"), run by the Vivekanand 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, 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 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 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 para's 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/ 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 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, the Vivekanand School (School ID- 1001182), B Block, Anand Vihar, Delhi- 110092, submitted the proposal for fee increase 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, to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-2020, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 08 November 2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants. And after evaluation of fee proposal of the school the key observations and status of compliance against order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued for academic session 2017-18 are as under:

A. Financial Observations

1. As per clause 2 of 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."*

Also, 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.

Accordingly, based on the aforementioned public notice, High Court Judgement and provisions of Rules 177 of DSER, 1973, 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 utilized for the same.

The Financial Statements of School for the FY 2017-18 revealed that the school incurred INR 93,76,112 for ground & garden, furnishing and science lab during FY 2017-18 and was capitalized under the head of 'Building'. This capitalization was not in accordance with the above-mentioned provisions and without complying the Rule 177 of DSER, 1973.

Apart from the above the school vide Directorate's order no. F.DE.15(282)/PSB/ 2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal for academic session 2017-18 wherein the school was directed to recover INR 1,58,80,852 from society on account of expenditure incurred by the school on construction of building during the FY 2014-15 to 2016-17.

The representation made by the school against the observations noted in the previous year's order were taken on record. The school in its reply mentioned that the above said expenditure was incurred in compliance of Rules 177 of DSER, 1973. However, on examination of the records of the school it was noted that the contention of the school is not correct and hence has not been considered while deriving the fund position of the school. It is pertinent to mention here that the school has given preference on incurring the capital expenditure over the investment of required funds in plan assets for the retirement benefit of the employee. Further, the school was very much aware about the implementation of 7th CPC with effect from January 2016 but the school instead of making provisions for payment of salary to the staff in accordance with recommendation of 7th CPC decided to incur capital expenditure on school building which could be deferred for sometimes. This is also worth to mention here that apart from the above capital expenditure incurred by the school, the school also incurred INR 92,52,210 and INR 89,31,825 on repair and maintenance of

the school building during FY 2017-18 and 2018-19 respectively which also appears to be of capital in nature. Since, the school has not provided all the supporting documents for the repair and maintenance activities carried out by it. Therefore, we cannot comment on the authenticity of the expenditure incurred by the school on repair and maintenance, and therefore no financial impact has been given with respect to these expenditure while deriving the fund position of the school.

In view of the above the, it appears that the school is exhausting its funds on capital expenditures with the clear intention to get the fee hike from the Director of Education in the grab of that the school do not have sufficient fund to run its operation.

Therefore, school is directed to recover INR 2,52,56,964 (INR 93,76,112 plus 1,58,80,852) from the society within 30 days from the date of issue of the order. The school is also hereby directed not to incur any expenditure on construction of school building and comply with public notice dated 04.05.1997 and pronouncement of court's 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..... capital expenditure/investments have to come from savings.*"

Further, vide Directorate's order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal of the FY 2017-18, wherein the school was directed to recover INR 11,80,000 from society for the expenditure incurred by the school on purchase of car in FY 2015-16. However, the school has not complied with the aforesaid direction and amount is still pending for recovery from the society.

However, as per in its representation made by the school, the school plead that the above expenditure was incurred within the legal framework. After viewing of the plea made by the school, the department noted that the school again misunderstood the provisions of Rule 177 of DSER 1973 (refer Financial Observations No. 1 above). Accordingly, the school is directed to recover INR 11,80,000 from the society within 30 days from the date of the order. Accordingly, this has been included in the calculation of fund position of the school considering that the same is available with the school. Non-compliance with the above direction will be viewed seriously by the department while evaluating the fee increase proposal of the subsequent year.

3. Recruitment Rules prescribed for various posts for schools does not include any position for Advisors, Director-Academics and Director-Administration, which had been hired by the school as its staff. Accordingly, the appointment of the staff beyond the prescribed position is in contravention of the prescribed rules.

It was noted that the school has been paying retainership fee (salary) on monthly basis to the following people in contravention of the Recruitment Rules.

Name	Designation	Amount (per month)	Amount (per annum)
V.K. Gupta	Advisor- School Admin and matters related to DoE & CBSE	33,000	3,96,000
Neeraj Malhotra	Director-Academics	55,000	6,60,000

Name	Designation	Amount (per month)	Amount (per annum)
Sanjay Sachdeva	Advisor-School Admin and matters related to science and technology	80,000	9,60,000
Sukhvarsha Diwan	Advisor-School Administration	55,000	6,60,000
Megha Ahuja	Director-Administration	75,000	9,00,000
Total			35,76,000

Similar, observation was also noted in order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal of the FY 2017-18, wherein the school was directed to recover INR 1,07,28,000 from society on account of remuneration paid to the above mentioned personnel in contravention of recruitment rules.

The school has mentioned in its representation filed against the observation noted in order dated 04.04.2019 that *"All the appointments have been done through proper procedures prescribed in the regulations governing the school"* and hence it was done in consonance with the legal framework. The relevant Minutes of Meeting of the School Managing Committee are duly available as a corroboration of the same was also taken on record.

Basis of the above reply, it was noted that contention made by the school is not correct as all the above posts are not in accordance with Recruitment Rules. Therefore, the school is directed to recover INR 1,78,80,000 (INR 35,76,000*2 based on the assumption that the same amount was also paid in FY 2017-18 and 2018-19 plus INR 1,07,28,000) from the society. Accordingly, the amount recoverable has been included while deriving the fund position of the school considering the same as fund available with the school.

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

While the school has obtained actuarial valuation in respect of its liability towards retirement benefits and has reported the same in its financial statement. However, the school has not invested equivalent amount in a fund that qualify as "plan assets" within the meaning of AS-15.

The similar observation was also noted in the order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal of the FY 2017-18, wherein the school was directed to deposit the equivalent amount in plan assets with the meaning of AS-15. But until now the school has invested only INR 11,36,000 in the plan assets.

Since, the school has not invested equivalent amount of its liability in plan asset within the meaning of AS-15 as directed. Therefore, INR 91,17,332 i.e. 10% of the liability towards retirement benefits as per the actuarial valuation as allowed in the previous year's order of FY 2017-18 has been considered while deriving the fund position of the school with the direction to the school that no

further allowance will be given to the school in the subsequent years until they invest the equivalent amount as calculated in the actuarial report in order to protect the statutory liability towards staff.

5. Directorate's order no. F.DE-15/PSB (PMU)/Fee Hike/2017-2018/14073-082 dated 07.04.2017 regarding fee increase proposals for FY 2017-2018 states "Schools are strictly directed not to increase any fee until the sanction is conveyed to their proposal by Director of Education." Further, Directorate's order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16.04.2016 regarding fee increase proposals for FY 2016-2017 stated "In case, the schools have already charged any increased fee prior to issue of the order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal."

As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. 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:

- It is reiterated that annual fee-hike is not mandatory.
- 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
- If any school has collected fee in excess of that determined as per procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

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. 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 fee hike under the DSEAR, 1973 and circulars issued in this regard are equally applicable to all classes including entry level classes.

The documents submitted by the school were taken on record and on review of the same it was noted that the school has increased its fee structure for FY 2017-18 and FY 2018-19 without obtaining prior approval from the Director of Education. Head wise increase of fee done by the school has been tabulated below:

Class	Heads of Fee	FY 2016-17	FY 2017-18	FY 2018-19
Nur	Tuition Fee	3610	3971	4805
	Smart Class Fee	220	240	240
	S.M.S. & Web Service fee	100	110	110
	Development fee	6498	7148	8652
Prep	Tuition Fee	2888	3610	4368

Class	Heads of Fee	FY 2016-17	FY 2017-18	FY 2018-19
	Smart Class Fee	220	240	240
	S.M.S. & Web Service fee	100	110	110
	Development fee	5198	6498	7860
	Annual Charges	7726	15000	15000
Ist	Smart Class Fee	220	240	240
	S.M.S. & Web Service fee	100	110	110
Ist	Annual Charges	7473	8594	15000
II to V	Annual Charges	7473	8594	9883
VI to X	Annual Charges	8216	9448	10865
XI & XII	Annual Charges	9339	10740	12351

The same observation was also noted in the previous year order dated 04.04.2019 issued post evaluation of fee increase proposal of FY 2017-18, and school was directed to refund/adjust the increase the fee. It was also noted in the previous year's order that the school had withdrawn its fee hike proposal for FY 2016-2017 submitted to the Directorate.

The representation made by the school against the observations noted in the previous year's order were taken on record. The school in its reply mentioned that *"increment in Fees was only a diagonal increase for the New Influx. However, there was no increase of Tuition Fee in the fee structure for existing students. As regards Fees other than Tuition Fee, the said increase was made under the impression that the regulations for Fee Hike were pertinent only to Tuition Fee and not for other heads therein"*.

Thus, from the above table it is clear that the school increased fee without prior approval of the Directorate, which was in contravention of aforementioned orders. Further, the school is increasing tuition fee at the entry level on yearly basis which is also a contravention of the above-mentioned orders.

As the school has already accepted the fee increase in its reply, the school is hereby directed to refund/adjust the excess fee charged from the students in the subsequent month/quarter and submit the compliance of the same within 30 days from the date of receipt of this order and do not increase any fee without prior approval from the Directorate of Education. As directed in the previous year's order, fee collected by the school during FY 2016-17 of INR 28,82,868 has been adjusted in the fund position of the school considering the same as amount refundable/ adjustable from fee with an instruction to the school to immediately refund/adjust increased fee collected by it and submit the evidence of adjustment/ refund within 30 days from the date of this order. Failure to comply with the above direction, the Department shall suo moto determine and implement the fee structure of the school without giving any further opportunity of being heard.

B. Other Observations

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states *"The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."*

Further clause 21 of the aforesaid order states *"No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."*

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states *"Income derived from collections for specific purposes shall be spent only for such purpose."*

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

Sub-rule 3 of Rule 177 of DSER, 1973 states *"Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)."* Further, Sub-rule 4 of the said rule states *"The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."*

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

Till the financial year 2017-18, the school was charging earmarked levies namely magazine charges, activity and expedition fee, think lab fee, transportation charges, IT fee, excursion fund, and almanac & assignment fee. However, the incomes and expenditures with respect to Annual Charges, Transportation Charges, IT Fees, Excursion Fund and Almanac & Assignment fee had not been routed through Income and Expenditure Account. Further, the fund-based accounting was followed only for transportation charges, IT fees, excursion fund and almanac & assignment fee. Therefore, the practice followed by the school is not in conformity with the generally accepted accounting principles and Guidance Note - 21 issued by the Institute of Chartered Accountants of India.

However, with effect from financial year 2018-19, the school has clubbed magazine charges, activity & expedition fee and think lab fee into 'Activities Fee' which is not correct.

Further, the school vide order no.F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal of FY 2017-18, was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.



The school has submitted in its reply post personal hearing mentioned that *'the fee is charged strictly on "No Profit, No Loss" basis by the school. The captioned observation was based only on prima facie examination of the financial statements. The presence of incidental surplus in a fund at year end does not conclusively prove that the fund was utilised for purposes other than for what they were earmarked. This is merely a difference arising due to ex-ante and ex-post computations due to the dynamic functioning of the financials per se'*. Furthermore, as directed by the Directorate, the School shall comply with the injunctions ordered therein and pivot further toward the fee structure in accordance with the provisions of DSEAR, 1973' was taken on record. Since, the school is still in the process with the above compliance. Therefore, the compliance with the direction would be examined while evaluating the fee increase proposal of the subsequent year.

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.

2. Cause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 which states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."* Further, Para 102 of the aforementioned Guidance Note states *"In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

- (a) In respect of each major fund, opening balance, additions during the period, deductions/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 balance;*
- (d) Restrictions, if any, on the utilization of specific assets."*

Further, para 11 of the Guidance Note on 'Accounting by Schools' issued by ICAI states *"whether an asset, such as a photocopying machine, is used by a school or a business entity, the measure of charge by way of depreciation depends primarily upon the use of asset rather than the purpose for which the organization is run i.e. profit or not-for-profit motive. Accordingly, the measurement principles for income, asset and liabilities should be the same for business entities and not-for-profit organizations such as schools."*

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

From the presentation made in the audited financial statement for the FY 2016-17 to 2018-19, it was noted that the school has not been following the accounting treatment prescribed in the

Guidance Note on "Accounting by Schools" issued by The Institute of Chartered Accountants of India. On purchase of assets, the school transfers the equivalent amount to General Fund account from development fund, resulting the overstatement of general fund balance with the notional amount.

It was also noted that the school created depreciation reserve fund from development fund which not in accordance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009. Accordingly, the figures of development fund and depreciation reserve included in the financial statements of the school could not be relied upon. Therefore, the school is required to pass necessary rectification entries in development fund account, general fund and depreciation reserve fund in compliance with clause 14 of the order dated 11.02.2009 and follow the accounting treatment indicated in Guidance Note-21 issued by ICAI. In view of the above balance of development fund has not been considered while deriving the fund position of the school. The utilization of development funds has been tabulated below:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Fixed assets purchased out of Development fund	1,95,37,618	1,83,04,192	1,71,22,032
Fixed assets purchased out of Depreciation reserve fund	9,30,059	43,22,540	43,25,356
Total	2,04,67,677	2,26,26,732	2,14,47,388

On review of head wise utilisation of development fund, it was noted that the school has been utilising development fund/ fee for addition to building which is not in accordance with clause 14 of the order dated 11.02.2009 (financial impact has already been taken in financial observation no. 1 above). As per clause 14 of the order dated 11.02.2009, the development can only be utilised for purchase, upgrade and replacement of furniture, fixture and equipment and not for any other purposes. Thus, the school is hereby directed to comply with clause 14 of the order date 11.02.2009.

Post personal hearing, the school's reply that 'from now onward, the School shall comply with the mentioned directions given by the Directorate, as per Para 11, 58, 99 of Guidance Note-21.' Was taken on record. Non-compliance with the above direction after issuance of the order shall be seriously viewed by the department while evaluating the fee increase proposal of the subsequent year.

3. The school has prepared a Fixed Asset Register (FAR) that only captures asset name, date of purchase and amount. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location, depreciation, identification number, etc. to facilitate identification of asset and documenting complete details of fixed assets at one place.

As per Directorate's order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019, the school was directed to update the Fixed Assets Register with relevant details mentioned above mentioned order. During the personal hearing the school was asked to provide Fixed Assets Register for verification but the has not provided the same for verification. Therefore, the school is directed to comply with the above direction. The compliance with this direction would be ensured while evaluating fee increase proposal of the subsequent year. The above being a procedural observation, no financial impact warranted for deriving the fund position of the school

4. It was noted that the school was not following adequate procurement procedures, which involves obtaining minimum no. of quotations, comparative statement approved by purchase committee, issuing purchase order/contract, etc. The school mentioned that it is following adequate

procurement procedure for purchase of high value items. However, the school did not submit document in relation to procurement processes carried out for validation of its claim.

Accordingly, the school is hereby directed to follow proper procurement process and maintain proper documentation to validate the same. Similar observation was also noted in order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 which the school has yet to comply. Therefore, the school is again directed to follow proper procurement process and maintain proper documentation to validate the same.

5. Part IV of Appendix III - 'Instructions for preparing Income and Expenditure Account' of Guidance Note 21 issued by the Institute of Chartered Accountants of India specifies that *"Any item under which income or expense exceeds 1 per cent of the total fee receipts of the School or INR 5,000, whichever is higher, should be shown as a separate and distinct item against an appropriate account head in the Income and Expenditure Account. These items, therefore, should not be shown under the head 'miscellaneous income' or 'miscellaneous expenses'."*

As per Directorate's order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal for FY 2017-18, wherein the school was directed to ensure that all items of income and expense that exceed 1% of the total fee receipts should be segregated and should not club 'Science Fee', 'SUPW Fee' and 'Fine' under the head 'Tuition Fee', which is more than 1% of the total fee receipts. However, the school has yet to comply with the above direction. Accordingly, the school is again directed to follow Guidance Note - 21 issued by the Institute of Chartered Accountants of India.

6. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 68 dated 23.12.016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted certain issues against which the school has not provided any details/documents to validate compliance of the directions given in aforementioned order. The observations included:

- Payment to transporter was not matching with the terms agreed with the transporter. There were instances of higher or lower payment than agreed price duly approved by management.
- The school has 4,400 enrolments of students, which required around 2,500 desks including safety margin stock. In contrast, school had around 2,900 desks already. However, the school was seeking further development fund for additional desk during the year 2016-2017.
- There were procedural lapses on maintaining record of physical inventory and no records of material going out of the school or coming in the school was maintained at the gate. Material used for repairs and maintenance were not recorded and its utilization was also not supported by inventory documents.

With respect to the above the school has not submitted any documentary evidence for review. However, in its reply submitted by the school post personal hearing the school mentioned that going forward *"the School shall comply with the above direction of the Directorate and maintain proper records of the matters mentioned in the captioned order"*. Therefore, the compliance with the above direction would be verified while evaluating the fee increase proposal of the school for the subsequent year

7. Physical verification of fixed assets is normally conducted to confirm certain criteria's like existence, quantity and condition of the fixed assets. However, school does not get its fixed assets

physically verified. Accordingly, the school does not have adequate control over the existence and safeguarding of fixed assets. Therefore, the school is directed to get the physical verification done by the head of the school every year for its fixed assets and strengthen the control over fixed assets.

8. As per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, on review of Audited Financial Statements of FY 2018-19 submitted by the school, it has been noted that the school has not considered the un-refunded caution money as income of FY 2018-19. In the absence of available information, the amount of un-refundable caution money belonging to ex-students which could have been treated as income and the correct balance of caution money cannot be determined. Therefore, the school is directed to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the 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 FY 2019-20 amounting to INR 37,09,37,965 out of which cash outflow in the FY 2019-20 is estimated to be INR 38,72,28,894. This results in estimated deficit amounting to INR 1,62,90,929 for FY 2019-20 after all payments. 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	57,99,570
Investments as on 31.03.19 as per audited Financial Statements of FY 2018-19	44,31,531
Liquid Funds as on 31.03.2019	1,02,31,101
<u>Add:</u> Recovery from the society for additions made to building [Refer Financial Observations No. 1]	2,52,56,964
<u>Add:</u> Amount recoverable from the Society for Purchase of Car [Refer Financial Observations No. 2]	11,80,000
<u>Add:</u> Recovery from the Society for payment made in contravention of recruitment rules [Refer Financial Observations No. 3]	1,78,80,000
<u>Add:</u> Estimated Fees and other incomes for FY 2019-20 as per audited financial statements of FY 2018-19 on the assumption that income accrued during FY 2018-19 will at least accrue in FY 2019-20]	30,77,63,557
<u>Add:</u> Impact of Fee increase allowed to the school as per previous year's Order	1,56,54,295
Total Available Funds for FY 2019-20	37,79,65,917
<u>Less:</u> Retirement benefit [Refer Financial Observations No.4]	91,17,332
<u>Less:</u> FDR with CBSE [as submitted by the school]	18,50,108
<u>Less:</u> Adjustment/Refund of increased fee collected from nursery students during FY 2016-17 (Refer Financial Observations No. 5)	28,82,868
<u>Less:</u> Development fund as on 31-03-2019 [Refer Other Observations No. 2]	-
<u>Less:</u> Caution money as on 31.03.2019 [Refer Other Observations No. 8]	22,94,976
Net Available Funds for FY 2019-20	37,09,37,965
<u>Less:</u> Budgeted expenses for FY 2019-20 (Refer Note 1 below)	33,45,55,982

Particulars	Amount (in INR)
Less: Salary Arrears of 7th CPC from January 2016 to March 2019 as provided by the school [Refer Note 2 below]	5,26,72,912
Estimated Deficit	1,62,90,929

Note- 1: All expenditure proposed by the school has been considered while deriving the fund position of the school except the following.

Under the following heads the School has proposed higher expenditures as compared to the actual expenditure incurred in the previous financial year. And based on the explanation and details provided by the school during personal hearing including the documents submitted by the school post personal hearing these expenses heads were restricted to 110% of the expenditure incurred during the FY 2018-19 considering the rise in rate of inflation. Further, the new heads proposed by the school has also been not considered while deriving the fund position of the school. All these head were discussed with the school during personal hearing. The summary of expenditure disallowed is as under:

Particulars	Expenses as per audited FS of the FY 2018-19	Expenses as per Budget for the FY 2019-20	% Increase	Amount Disallowed	Remarks
Establishment Expenses					
Housekeeping Expenses	-	1,95,00,000	100%	1,95,00,000	New heads proposed by school
Security Expenses	-	38,00,000	100%	38,00,000	
Gratuity Expenses	1,63,62,429	85,00,000	52%	85,00,000	Full provision has been disallowed refer financial observations no. 5
Leave Encashment Expenses	18,20,327	35,00,000	192%	35,00,000	
Total	1,81,82,756	3,53,00,000		3,53,00,000	
Other Revenue Expenses					
Examination and Art & Craft Material	21,74,493	28,00,000	29%	4,08,058	Restricted to 110% of the actual expenses
Science lab Expenses	37,66,638	53,00,000	41%	11,56,698	
Ground & Garden Expenses	2,77,290	10,00,000	261%	6,94,981	
Sports Activity Expenses	33,68,306	45,00,000	34%	7,94,863	
Other Activity Expenses	22,38,153	35,00,000	56%	10,38,032	
Computer & IT Expenses	28,71,616	35,00,000	22%	3,41,222	
E- Learning & Web Expenses	64,78,347	75,00,000	16%	3,73,818	

Particulars	Expenses as per audited FS of the FY 2018-19	Expenses as per Budget for the FY 2019-20	% Increase	Amount Disallowed	Remarks
Office Maintenance	1,99,315	6,00,000	201%	3,80,754	incurred during the previous
Vehicle Repair and Maintenance	6,17,644	10,00,000	62%	3,20,592	
Miscellaneous Expenses	-	16,00,000	100%	16,00,000	
Total	2,19,91,802	3,13,00,000		71,09,018	
Capital Expenditures					
Furnishing	-	40,00,000	100%	40,00,000	Not considered being part of Building
Lift		25,00,000	100%	25,00,000	
Total	15,86,177	1,00,00,000		65,00,000	
Total Disallowance				4,89,09,018	

Note- 2: Vide 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 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, Section 10 of DSEA 1973 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 6th September 2018 for implementation of sixth pay commission recommendations.

As per the minutes of meeting of the School Management Committee dated 28 March 2018, it was noted that School Management did not consider the impact of 7th CPC in the aforesaid meeting on the ground of insufficient funds with the school. Further, the school vide its letter dated 11.06.2020 provided the computation of salary arrears which is payable to staff on account of implementation of 7th CPC and submitted that the school would pay all the salary arrears to the it’s staff.

While the department vide order no. F.DE.15(282)/PSB/2019/1525-1529 dated 04.04.2019 issued post evaluation of fee increase proposal of the school for the FY 2017-18, allowed the school to increase its fee after considering the impact of 7th CPC of INR 2,79,60,000 (i.e. from 01.01.2016 to 31.03.2018). But the school has not complied or partially complied with the direction mentioned in the previous year’s order. Accordingly, the impact of salary arrears amounting to INR 5,26,72,912 (INR 2,79,60,000 as allowed to the school as per the above mentioned order of financial year 2017-18 plus INR 2,47,12,912 for FY 2018-19 as provided by the school) which is still pending for payment has been considered while

deriving the fund position of the school with the direction to the school to implement the recommendations of 7th 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 does not have sufficient funds to carry on the operation of the school for the academic session 2019-20 at the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other observations, that the 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 may be accepted.

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

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 5% to be effective from 01 July 2022.

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 increase for the academic session 2019-20 of Vivekanand School (School ID- 1001182), B Block, Anand Vihar, Delhi- 110092 has been accepted by the Director (Education) and the school is allowed to increase the fee by 5% to be effective from 01 July 2022

1. To increase the fee only by the prescribed percentage from the specified date.
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 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
Vivekanand School (School ID- 1001182),
B Block, Anand Vihar, Delhi- 110092
No. F.DE.15 (536)/PSB/2022/

Dated:

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 (East) 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