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

No. F.DE.15 (731)/PSB/2022/4563-4567 **Dated:** 13/06/22

Order

WHEREAS, **Mayur Public School (School ID-1002284), I.P. Extension, Delhi-110092** (hereinafter referred to as **"the School"**), run by the **Mayur Education Society (Regd.)** (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 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 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/ 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 School 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, in order to examine that 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 for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity to be heard on 17.10.2019, to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. F.DE-15/(235)/PSB/2019/1235-1239 dated 29.03.2019 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 the subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants and the key observations noted are as under:

A. **Financial Observations**

I. As per clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate "*Capital expenditure cannot constitute a component of the financial fee structure.*"

DoE in its Order No. F.DE-15/ (235)/PSB/2019/1235-1239 dated 29.03.2019 issued for the academic session 2017-18, noted based on the review of the audited financial statements of FY 2016-17, that School had incurred capital expenditure of INR 2,21,59,649 during FY 2016-2017 by utilizing Development Fund, Depreciation Reserve Fund and General fund. However, on perusal of the budget estimate for FY 2016-2017 submitted by the school along with the proposal for enhancement of fee for FY 2016-2017 indicated budgeted capital expenditure of INR 1,14,15,000 only. And the same was considered while evaluating the proposal basis the collection of development fee by the school. The school explained that this capital expenditure was required for the development of facilities to the students, but it failed to explain why the expenditure went almost double than the budgeted one.

Basis of the above, it was concluded that the school is incurring huge capital expenditure and submitting proposal for increase of fee from students that translates to constituting capital expenditure as a component of the fee structure of school and hence non-compliance of the above direction. Further, the above capital expenditures were incurred by the school without complying with the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, capital expenditure incurred by the school during FY 2016-2017 over and above those fixed assets reported as purchased against development fund of INR 99,15,471 was found excessive and the school was directed to recover INR 99,15,471 from society which is still pending for recovery.

However, on review of the audited financial statements, it has been noted that the school has incurred capital expenditure of INR 144,01,329 and INR 1,06,43,372 (except ATL Assets) during the FY 2017-18 & 2018-19 respectively out of the development fund, depreciation fund and general fund. While total development funds available to the school were INR 1,08,43,283 for FY 2017-18 and INR 1,05,64,728 for 2018-19 including interest received thereon. This indicates that the school has been incurring more expenditure than it has funds and balance if any is being met out of the general funds. Thus, the school is not complying with Rule 177 of the DSER, 1973.

In this regard it is also important to mention that the school has not yet implemented the recommendation of the 7th CPC. The school instead of utilizing its resources for payment of salary to its staff as per the recommendation of 7th CPC has preferred incurring expenditure of capital nature, which could have been deferred for sometimes and without complying Rule 177 of DSER, 1973. Thus, the excess capital expenditure incurred by the school of INR 36,36,690 (i.e., INR 144,01,329 plus 1,06,43,372 minus INR 1,08,43,283 mins INR 1,05,64,728) is recoverable from the society along with INR 99,15,471 as per the previous year's order.

Further, the audited financial statements of the school of FY 2018-19 are reflected INR 73,86,174 which is payable to the Society as on 31.03.2019. Therefore, this amount payable of INR 73,86,174 has been adjusted from the above recoverable from the society. Accordingly, the net amount of INR 61,65,987 (i.e., INR 1,35,52,161 minus INR 73,86,174) 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 this order. The school is further directed to pass the necessary book entries in its books of account with respect to the amount payable to society and to submit the compliance report to the Department.

II. As per clause 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 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 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 recognized school by way of fees shall be utilized 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 utilized 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 recognized 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 above-mentioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by Society, being the property of the society and school funds i.e., fee collected from students are to be utilized for the same. Moreover, school fees can only be utilized for meeting pay, allowances and other benefits admissible to the employees of the school and not for capital expenditure of building.

DoE in its Order No. F.DE-15/ (235)/PSB/2019/1235-1239 dated 29.03.2019 issued for the academic session 2017-18, noted that the school incurred INR 15,69,482 in addition to building shed out of the school funds in FY 2015-16 and FY 2016-17. This expenditure was incurred by the school without complying Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 15,69,482 from the Society which is still pending for recovery. Accordingly, this 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 this order.

III. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure".*

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*

b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern '*Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]*' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that "*though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,*"

Further, the Hon'ble High Court in LPA 196/2004 in the matter of *'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009'* states "*no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged*".

Further, The Directorate of Education, vide Order No. DE15/ 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, indicated the following types of Fees that a recognised private unaided school can collect from the students/ parents:

a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.

b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states "*admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage*".

c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 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 he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.

d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.

e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.

f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.

g. **Development Fee**: It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture, and equipment.

Based on the provisions mentioned above, charging of 'Activity fee ' from the students of the nursery class at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education. Also, charging fees in the name of examination fee and multimedia fee from the students of all classes losses the character of earmarked levies and is another form of charging capitation fee and involvement in the profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to looking after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently, they are jointly, as well as in their personal capacity, be responsible for the levy and collection of other capitation fees and any other unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and recover this amount from the manager/ principal of the school along with the penalty of 10 times and refund/ adjust the same against the subsequent installment of fee by the students. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Non- compliance with this direction will be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

IV. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

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

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

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

Also, 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).

The information provided by the school was taken on record. It has been noted that the school charges earmarked levies in the form of Activity Fee, Examination Fee, Multimedia Charges, Science Kit, Transport Charges and Computer during FY 2018-2019. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating a surplus from earmarked levies which has been utilized for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Based on the information provided by the school the surplus/ deficit generated by the school is provided below.

Particulars	Activity Fees	Examination Fees*	Multimedia Charges*	Science Kit Receipts	Transportation charges	Computer Fee
For the year 2016-17						
Fee Collected during the year (A)	21,16,400	21,22,575	48,37,800	28,06,943	56,64,840	1,85,100
Expenses during the year (B)	24,84,513	21,29,897	49,21,069	26,59,241	59,76,080	12,32,444
Difference for the year (A-B)	**(3,68,113)**	**(7,322)**	**(83,269)**	**1,47,702**	**(3,11,240)**	**(10,47,344)**
For the year 2017-18						
Fee Collected during the year (A)	23,09,430	20,37,000	46,32,200	28,78,500	50,78,060	8,34,440
Expenses during the year (B)	26,28,700	20,54,792	46,35,818	36,03,909	52,15,136	9,77,793
Difference for the year (A-B)	**(3,19,270)**	**(17,792)**	**(3,618)**	**(7,25,409)**	**(1,37,076)**	**(1,43,353)**
For the year 2018-19						
Fee Collected during the year (A)	23,83,965	18,96,300	43,07,720	26,66,230	54,36,965	7,92,265
Expenses during the year (B)	33,42,717	19,62,998	54,95,071	28,22,379	60,34,314	9,77,040
Difference for the year (A-B)	**(9,58,752)**	**(66,698)**	**(11,87,351)**	**(1,56,149)**	**(5,97,349)**	**(1,84,775)**
Total	**(16,46,135)**	**(91,812)**	**(12,74,238)**	**(7,33,856)**	**(10,45,665)**	**(13,75,472)**

*Being collected from all the students.

Thus, 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). Therefore, the school is directed to look into this regard and charge earmarked levies from user students only.

The act of the school of charging an unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus funds thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other forms. Further, the school is also directed to determine its fee structure in accordance with the above-mentioned provisions.

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.

V. As per Para 57 of Accounting Standard 15- 'Employee Benefits' issued by the Institute of Chartered Accountants of India *"An enterprise should determine the present value of define benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

Further, para 7.13 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India 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.

On review of audited financial statements for FY 2018-19, it has been noted that the school has reported total liability of INR 2,30,83,923 towards gratuity and INR 64,07,012 towards leave encashment as on 31.03.2019 while the school has invested INR 1,25,49,829 in group gratuity scheme of LIC as on 31.03.2009. The investment with LIC qualifies as plan assets within the meaning of AS-15 issued by ICAI. Therefore, this investment of INR 1,25,49,829 has been considered while deriving the fund position of the school. However, the school has not invested any in plan assets towards leave encashment. Therefore, amount of INR 33,00,000 proposed by towards gratuity and leave encashment has not been considered while deriving the fund position of the school.

B. Other Observations

I. 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.*"

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

However, on review of audited financial statements for FY 2016-17 and 2017-18 is noted that the school has not reported depreciation reserve fund as at 31.03.2017 and 31.03.2018, equivalent to the amount of accumulated depreciation reported in the fixed assets schedule annexed to the audited financial statements for FY 2016-17 to FY 2017-18. The fixed assets have been shown on net basis (Gross Value of Fixed assets – accumulated depreciation) in the balance sheet and thus, not following accounting presentation indicated in the guidance note cited above. Similar observation was also noted in order no. F.DE-15/(235)/PSB/2019/1235-1239 dated 29.03.2019 issued for academic session 2017-18 wherein it was mentioned that in FY 2016-17 school had not reported depreciation reserve fund as at 31.03.2017, equivalent to the amount of accumulated depreciation reported in fixed assets schedule.

It is also noted that the school has created another Depreciation reserve fund - unutilized and the balance of the same as on 01.04.2016 was INR 18,90,801. The school has not explained the source of creation of this depreciation reserve, but it appears that same has either been created out of general reserve or out of development fund or development fund utilization. Further, as per audited financial statements for FY 2018-19, the depreciation reserve fund has already been created equivalent to the amount of accumulated depreciation indicated in fixed assets schedule and that Depreciation reserve fund - unutilized also been presented on the face of balance sheet amounting INR 18,75,455. Each year school follows different accounting treatment and presentation for Depreciation reserve fund – unutilized and these transactions are not as per para 99 of GN 21. Therefore, school is directed to identify the source of creation of depreciation reserve fund and make necessary entries in accordance with GN 21 Accounting by schools and present development fund account, development fund account and depreciation reserve fund correctly.

II. Clause 18 of Order no. F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states *"No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund."*

The school vide DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/813 dated 3 July 2017 was directed to refund interest on caution money along with refund of caution money to exiting students and was instructed to include interest earned on caution money in the refund amount. During the personal hearing, school mentioned that it has stopped collecting caution money from students from FY 2005-2006 onwards. Also, the school has started adjusting the caution money already collected from existing students against the fee due from FY 2017-2018. The school further mentioned that the same would be completely adjusted in FY 2018-2019. On review of the audited financial statements of FY 2018-19, it has been noted that the school has adjusted the same. Accordingly, the balance of INR 58.500 pending for recovery as on 31.3.2018 has been adjusted while deriving the fund position of the school.

III. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the school has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

IV. On review of submission of documents made by the school post personal hearing, it has been noted that, School has not submitted any process in relation to calling of quotations from vendor, approval process, gate inward control and payment and no documentation is produced for the same. The school was not preparing any comparative statement for evaluating the quotations received from major vendors etc. and no approval of purchase committee has been provided.

Accordingly, the school is again directed to follow proper procurement process and submit documentation in relation to procurements and purchases done by the school. Compliance of the same shall be validated at the time of evaluation of subsequent fee increase proposal. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

V. As per Appendix II to Rule 180(1) of DSER, 1973, the School is required to submit final accounts i.e., receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practising Chartered Accountants from 1 Jul 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators. Further, ICAI issued an announcement on 4 June 2019 for the attention of its members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated "*With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement* *will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing.*"

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states "*The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

i. *All the statements that comprise the financial statements, including the related notes, have been prepared; and*

ii. *Those with the recognized authority have asserted that they have taken responsibility for those financial statements.*"

The financial statements for FY 2018-2019 submitted by the School along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were signed on 12.09.2019. Further, the audit report issued by the auditor is not in accordance the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the School, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the School could not be verified.

While the School has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the School for the academic session 2019-20 assuming the same as unauthentic financial statements.

The School is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the School for FY 2018-2019. If it was generated, the same should be mentioned by the School in its status of compliance. In case, UDIN was not generated by the auditor, the School is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The School is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

VI. Para 58(i) of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states "*A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note.*"

As per notes to Appendix I- 'Rates of depreciation' of Guidance note, "*The rates contained in this Appendix should be viewed as the minimum rates and, therefore, a school should not charge depreciation at rates lower than those specified in this Appendix in relation to assets purchased after the date of the applicability of the Guidance Note. However, if on the basis of a bona fide technological evaluation, higher rates of depreciation are justified, the same may be provided with proper disclosures by way of a note forming part of accounts*"

On review of the audited financial statements for FY 2017-18 and FY 2018-19, it has been noted that school has been charging rates of depreciation as per Income tax Act, 1961 and not as per Appendix I of guidance note issued by Institute of Chartered Accountants of India. As per guidance note, rate higher than what is mentioned in Appendix-I of guidance note can be charged by the school subject to bona fide technological evaluation and the same shall be separately shown under Noted to Accounts of the financial statements. However, rates of depreciation charged are less than mentioned in guidance note.

Hence, school is directed to follow rates of depreciation as mentioned in Appendix-I of Guidance note as the same shall be examined at the time of evaluation of proposal for enhancement of fee for subsequent year. This being a procedural finding, no financial impact is warranted in the fund position of the school.

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 **12,39,78,847** out of which cash outflow for the FY 2019-20 is estimated to be INR **14,12,03,000.** This results in net balance of deficit amounting to INR **1,72,24,153** 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	28,773
Investments as on 31.03.19 as per audited financial statements of FY 2018-19	1,40,52,898
Liquid Fund as on 31.03.2019	**1,40,81,671**
Add: Recovery from the Society of capital expenditure incurred in excess of development fee collected (**Refer financial observation no. I**)	61,65,987
Add: Recovery from the Society for addition made to Building (**Refer financial observation no. II**)	15,69,482
Add: Fees for FY 2018-19 as per audited financial statements (assuming that the fee and income accrued in FY 2018-19 will be at least accrue in FY 2019-20)	10,52,41,611
Add: Impact of fee increase as per order No. F.DE-15/(235)/PSB/2019/1235-1239 dated 29.03.2019 issued for academic session 2017-18	1,00,98,080
Add: Other income for FY 2018-19 as per audited financial statements (assuming that the fee and income accrued in FY 2018-19 will be at least accrue in FY 2019-20)	15,61,513
Total Available funds for FY 2019-20	**13,87,18,343**
Less: FDR in the Joint Name of Dy. Director as on 31.03.2019	14,10,796

Particulars	Amount in INR
Less: Retirement benefits - Gratuity and leave encashment (**Refer financial observation no. V)**	1,25,49,829
Less: Development Fund as on 31.03.2019	8,307
Less: ATL Fund as on 31.03.2019	7,70,564
Less: Depreciation reserve fund (**Refer note 1 below)**	
Less: Caution money as on 31.03.2019	-
Net Available funds for FY 2019-20	**12,39,78,847**
Less: All budgeted Expenditure of FY 2019-20 has been considered after certain adjustment (**Refer note 2 below)**	14,12,03,000
Less: Salary Arrears of 7th CPC (**Refer note 3 below)**	-
Estimated deficit	**1,72,24,153**

Note 1: 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 & Ors.: 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, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) 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 18,75,455 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 2: All budgeted expenditure of FY 2019-20 has been considered in the above table except the following:

Particulars	Amount Disallowed (INR)	Remarks
Salary reserve	50,00,000	Clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank. The school has proposed this amount without investing in accordance with the above-mentioned provisions. Therefore, the same has not been considered.
Provision for Gratuity and leave encashment	33,00,000	Refer financial observation no. V

Note 3: 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 7th 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.

The School has proposed salary expenditure of INR 7,98,30,000 in its budgeted expenditure for the FY 2019-20 inclusive of the impact of arrears of 7th CPC of the previous year which has been considered in the calculation of above table. the School is hereby directed 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 has adequate funds for meeting all the operational expense for the financial year 2019-20. In this regard, the Directorate of Education vide circular no. 1978 dated 16.04.10 states 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, the school has incurred capital expenditure for building amounting INR 15,69,482 in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Also, school has incurred capital expenditure of INR 61,65,987 in excess of collection of development fee collected and thus, utilised school funds for capital expenditure in contravention of provision of Rule 177 of DSER, 1973 and clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate that "*Capital expenditure cannot constitute a component of the financial fee structure*" and therefore, required to be recovered from the Society. Thus, the school is directed to recover INR 77,35,469 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. Non-compliance of this shall be taken up as per DSEA & R, 1973.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread 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 is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) 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 15% to be effective from 01 July 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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, 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 status 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 academic session 2019-20 of **Mayur Public School (School ID-1002284), I.P. Extension, Delhi-110092** has been accepted by the Director (Education) and the school is allowed to increase its fee by 15% to be effective from 01 July 2022.

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

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 section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

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

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

To
The Manager/ HoS
Mayur Public School
School ID-1002284
I.P. Extension, Delhi-110092

No. F.DE.15 (731)/PSB/2022/4563-4567 Dated: 13/06/22

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) 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