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

No. F.DE.15(792)/PSB/2022/5054-5058 **Dated: 27/06/22**

ORDER

WHEREAS, **Evergreen Public School, Vasundhara Enclave, New Delhi, School ID-1002346** (hereinafter referred to as "**the School**"), run by the Jyotirmay Bal Shiksha Samiti (hereinafter referred to as "**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 DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

AND WHEREAS, in order to examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School 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 19.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. No. F.DE.15(206)/PSB/2019/1140-1144 dated 25 Mar 2019, issued for academic session 2017-18, was also discussed and submissions taken on record.

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

A. Authenticity of Audited Financial Statements

1. 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) are 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 Practising 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.*"

   The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 31 Jul 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Further, it was noticed that while the audit opinion issued on the financial statements of the school for FY 2018-2019 also covered the true and fair view of the receipts and payments included in the Receipt and Payment Account, the cross reference to auditor's report was missing on the Receipt and Payment Account.

   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 2019-2020 assuming the same as unaudited/provisional 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 compliance report. 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 must also ensure that the Receipt and Payment Account includes cross reference to the Auditor's Report of even date. The school is further directed to ensure that the audit opinions 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.

2. On examination of the financial statements for FY 2018-2019, it was noted the financial statements were not appropriately authenticated by the representatives of the school, since only the Manager signed the financial statements (except first page of Income and Expenditure Account, which was not signed both by the auditor and the Manager). It was noted that while of designation of Chairman was printed on some pages, it was not signed by him. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

   The school is directed to ensure that the entire set of financial statements (all pages) must be signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

B. Financial Observations

1. As per the clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure….. capital expenditure/investments have to come from savings.*"

   The Hon'ble Supreme Court of India in the matter of Modern School Vs Union of India and Others mentioned "*Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools. It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.*"

   Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that during FY 2013-2014 the school had purchased buses in FY 2013-2014 on loan from HDFC bank and has paid INR 10,24,454 as repayment of loan and INR 2,47,458 as interest thereon during FY 2014-2015 to FY 2016-2017. Further, the school has purchased a bus amounting to INR 16,55,000 from development fund during FY 2014-2015.

   Therefore, it has been observed that the school purchased vehicles and submitted proposal for increase of fee from students, which translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance of DSEA & R, 1973. Further, the above capital expenditures were incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973, as the same could have been done only from savings derived in accordance with Rule 177.

   During personal hearing the school mentioned that the vehicle is used for staff and students to attend various seminars, competitions, etc. The explanation provided by the school does not cover the aspect of non-compliance of Rule 177 including non-provisioning of gratuity and leave encashment in its financial statements.

Accordingly, the amount spent by the school on purchase of buses (together with interest and loan repaid) of INR 29,26,912 (INR 10,24,454 plus INR 2,47,458 plus INR 16,55,000) from the school funds is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

Further, the school is directed not to make payment towards repayment of loan taken on vehicles along with interest thereon from the school funds. The school is further directed not to incur capital expenditure from school funds unless savings are derived after ensuring compliance of Rule 177.

2. The position of 'Director' is not a prescribed post in the Recruitment Rules. Further, as per the staff statement submitted by the school, he is the staff of the society. Accordingly, director is not entitled to any payment whatsoever from the school funds.

   Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that during FY 2014-2015, FY 2015-2016 and FY 2016-2017 school paid INR 6,86,118, INR 7,27,172 and INR 13,01,124 respectively as remuneration/salary to the director.

   Further, from the documents on record, it was noted that school has paid INR 26,56,584 (amount derived based on salary for the month of March 2018) to the director as remuneration/salary during the FY 2017-2018 and FY 2018-2019. Accordingly, INR 53,70,998 (INR 6,86,118 plus INR 7,27,172 plus INR 13,01,124 plus INR 26,56,584) paid as remuneration/salary to director is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

   Further, as per separate salary calculation provided by the school regarding 7th CPC, the school has budgeted INR 13,42,817 as salary to director during FY 2019-2020, which has not been considered as part of budgeted expenses for FY 2019-2020 in the fund position of the school (enclosed in the later part of this order) on the same rationale as mentioned herein above. Also, the school is directed not to pay any salary to the Director.

3. Directorate's order no. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 regarding fee increase proposals for FY 2017-2018 states "*Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-2018 and if the fee is already increased and charged for the academic session 2017-2018, the same shall be refunded to the parents or adjusted in the fee of subsequent months*".

   As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school states "*The school shall not increase the rates of tuition fee without the prior sanction of the Directorate of Education Delhi Admin. and shall follow the provisions of Delhi School Education Act/Rules, 1973 and the instructions issued from time to time*".

   Directorate's order no. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 2019 regarding fee increase proposals for FY 2018-2019 and FY 2019-2020 states "*In case, the schools have already charged any increased fee prior to issue of this 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.*"

   Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school had increased tuition fees of class I, XI and XII. Further, on review of fee structure and sample of fee receipts submitted by the school for the FY 2015-2016 to FY 2018-2019, the school had collected increased fee (Tuition fees, Development fees and Annual charges) from the students of class 1st in FY 2016-2017, class 1st & 2nd in FY 2017-2018 and class 1st to 3rd in FY 2018-2019 without prior approval of the Directorate. It was noted that the school had spent school funds on purchase of buses and has been increasing fee from students, which clearly indicates profiteering and commercialisation of education.

The school explained that there is no increase in the fee paid by these students (of class KG in FY 2015-2016 promoted to class 1 in FY 2016-2017 promoted to class 2 in FY 2017-2018 and then promoted to class 3 in FY 2018-2019 and similarly for other new students admitted thereafter) as compared with the fee paid by them in previous classes. The school further explained that it did not decrease the fee collected from students in previous year after they were promoted to next class and has submitted the proposals for fee increase to DOE accordingly.

The contention of the school is incorrect, as it has revised its fee structure for particular classes without prior approval of the Directorate. The school did not provide the exact amount of increased fees collected from students during FY 2016-2017 to FY 2019-2020. Therefore, exact amount of excess fee collected by school could not be derived on account of non-submission of requisite information by the school. Thus, no adjustment is reflected in the fund position of the school (enclosed in the later part of this order).

The school is directed not to increase any fee/charge of any class without prior approval of the Directorate.

4. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/203/99/23033-23980 dated 15 Dec 1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ……*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

Clause 17 of order No. F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 issued by this Directorate states "*No admission Fee of more than two hundred rupees per student, at the time of admission shall be charged. 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.*"

On review of financial statements for FY 2016-2017 to FY 2018-2019, fees structure and sample of fee receipts submitted by the school, it was observed that the school is collecting one-time Activity fees of

INR 20,000 from students at the time of admission. No private recognised school can collect fee other than those prescribed in aforementioned order dated 15 Dec 1999. Further, collecting one-time charge from students at the time of admission of students takes the form of admission fee, which can be collected only upto an amount of INR 200. Thus, collection of one-time fee from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education in contravention of the aforementioned clause.

Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 directed the school not to charge "Activity fees" from students with immediate effect. However, the school is continuing to collect one-time activity fee from students. at the time of admission.

Based on the financial statements of school for FY 2018-2019, the school collected a total sum of the INR 29,40,000 as activity fees from students. Since the school has continued to collect one-time activity fee from students despite directions given the Directorate, for the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fees have been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected during FY 2019-2020 from students in respect of one-time charges under the disguise of activity fees within 30 days from the date of this order.

Further, the school is directed not to collect one-time activity fees from students at the time of admission.

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.

5. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, according to para 7.14 of the Accounting Standard 15, "*Plan assets comprise:*

   - *assets held by a long-term employee benefit fund; and*
   - *qualifying insurance policies.*"

   Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school did not determine and provide for its statutory liabilities towards Gratuity and Leave Encashment as per actuarial valuation in accordance with by AS 15.

   From the financial statements of the school for FY 2018-2019, it was noted that the school failed to provide any amount towards provision for retirement benefits (gratuity and leave encashment).

   As per the documents submitted by the school and taken on record, the school submitted an actuarial valuation report dated 12 Feb 2020 indicating determination of its liability towards gratuity of INR 1,58,81,144 as on 31 Mar 2020. However, the school is yet to obtain actuarial valuation towards leave encashment.

   On examination of the actuarial report submitted by the school, it was noted the actuarial valuation was prepared based on data of only 30 employees (details of staff that would have been provided by the school), whereas per the staff statement of April 2019 submitted by the school, it was noted that the school had included details of 57 employees. Thus, it indicates that the school underreported the number of staff to the actuary with a corresponding impact on the actuarial valuation derived by the actuary for gratuity. Thus, resulting in probable lower determination of liability towards gratuity by the actuary.

Further, the school in its financial statements of the school for FY 2018-2019 reported the following significant Accounting Policies:

"(a) Basis of preparation of financial statement

The financial statement of the school have been prepared under the historical cost convention, on accrual basis of accounting, in accordance with Generally Accepted Accounting Principles (GAAP) in India and mandatory accounting standards issued by the Institute of Chartered Accountants of India (ICAI), to the extent applicable.

(b) Use of estimates

The preparation of financial statement in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent liabilities on the date of financial statement and the reported amount of revenues and expenses during the reporting period. Examples of such estimates include future obligations under employee retirement benefit plans and estimated useful life to fixed assets. Actual results could differ from those estimates. Any revision to accounting estimates is recognized prospectively in current and future periods."

While in the accounting policy relating to basis for preparation of financial statements, the school mentioned that the financial statements are prepared in accordance with mandatory Accounting Standard issued by ICAI, it contradicted the requirement of Accounting Standard 15 by mentioning that future obligations under employee retirement benefit plans are based on management estimates. In relation to the school, the Accounting Standard 15 mandates obtaining actuarial valuation once every three year. However, the school had never obtained actuarial valuation in respect of gratuity and leave encashment till the time of signing of the financial statements for FY 2018-2019 (i.e. 31 Jul 2019). Also, the Auditor did not highlight non-compliance with the Accounting Standard, nor did he qualify his audit opinion.

Further, during personal hearing, the school mentioned that it has invested INR 2,00,000 in Plan assets with LIC on 13 Nov 2019 and submitted the deposit slip of the same. While the actuarial valuation reports are liable to be rejected on account of understated liability included in same, an amount of INR 2,00,000 as deposited in investments that qualify as "Plan Assets" in LIC has been considered while deriving the fund position of the school (enclosed in the later part of this order) even though the school has failed to create any provision for retirement benefits in its financial statements.

The school is directed to ensure compliance with Accounting Standard 15 in terms of obtaining actuarial valuation towards gratuity and leave encashment. Also, the school is directed to submit complete and accurate details of staff to the actuary for deriving actuarial liability towards gratuity and leave encashment. Further, the school must record the amount determined by actuary towards gratuity and leave encashment in its books of account and present the same as provision for gratuity and provision for leave encashment separately in its financial statements.

Further, the school should keep on depositing amounts in plan-assets in subsequent years to ensure that the value of the investments matches with the liability towards retirement benefits determined by the actuary.

Also, based on above, the amount budgeted by the school towards retirement benefits for the FY 2019-2020 has not been considered as part of budgeted expenses for FY 2019-2020 in the fund position of the school (enclosed in the later part of this order).

6. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. 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.*"

   Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   - *award of the 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.*

   (2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:-

   a. *pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,*
   b. *the needed expansion of the school or any expenditure of a development nature,*
   c. *the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,*
   d. *co-curricular activities of the students,*
   e. *reasonable reserve fund, not being less than ten percent, of such savings."*

   Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that from FY 2014-2015 the school has merged development fees along with tuition fees to avoid compliances of clause 14. Further, the balance of development fund as on 1 April 2014 was INR 34,51,789 out of which the school spent INR 16,55,000 on purchase of buses and INR 51,158 on purchase of library books. The school was directed to make necessary adjustments in general fund and development fund. However, the school failed to create any adjustment against the same.

   Further, based on the documents submitted by the school and taken on record, it was noted that though the school has stopped collecting development fee from students from FY 2014-2015 and the financial statements of the school for FY 2014-2015 reflected a closing balance of Development Fund of INR 2,62,615. However, this balance was utilised during FY 2015-2016 and development fund was not reported in the financial statements thereafter.

On review of the financial statements for FY 2017-2018 and FY 2018-2019, it was noticed that the school had utilized school funds on procurement of various capital items such as computer & software, camera, xerox machine, furniture & fixtures, etc amounting to INR 19,26,763 (INR 4,99,123 during FY 2017-2018 and INR 14,27,640 during INR 2018-2019) without complying the requirements prescribed in Rule 177 of DSER, 1973 i.e. without deriving savings.

Based on the fact that the school did not implement the recommendations of 7th CPC and did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 until 20 Feb 2020 i.e. the first time actuarial valuation for gratuity obtained by the school (actuarial valuation not obtained towards leave encashment till date) and did not secure the funds equivalent to liability against staff gratuity and leave encashment in investments such as group gratuity scheme and group leave encashment scheme of LIC of other insurer, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized 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*".

Further, it was noted that during FY 2016-2017 to FY 2018-2019, the school reflected purchase of fixed assets by utilizing depreciation reserve fund and an amount equivalent to the purchase cost of fixed assets was transferred to general fund from depreciation reserve fund. It is being highlighted that the presentation by the school of utilization of depreciation reserve towards purchase is not in accordance with accounting guidance included in para 99 of Guidance Note cited above. Depreciation reserve is a notional fund, which indicates accumulated depreciation on fixed assets and is not represented with actual funds. Thus, the school can't utilize depreciation reserve for purchase of assets. Accordingly, the accounting treatment by the school in its financial statements with respect to depreciation reserve is incorrect.

Accordingly, the above-mentioned capital expenditure totalling to INR 19,26,763 pertaining to FY 2017-2018 to FY 2018-2019 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the society within 30 days from the date of this order. The school is further directed not to incur capital expenditure from school funds unless savings are derived after ensuring compliance of Rule 177.

Also, based on above, the amount budgeted by the school towards capital expenditure for the FY 2019-2020 has not been considered as part of budgeted expenses for FY 2019-2020 in the fund position of the school (enclosed in the later part of this order). Further, the school has proposed to collect development fee from students from FY 2019-2020. While the school had not made the rectifications highlighted in Directorate's order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018, levy of development fee again from students would lead to increase in fee from students, while the school has not yet complied with directions in previous order issued to the school post evaluation of the fee increase proposal for FY 2017-2018.

Accordingly, the school is directed to make the rectifications/adjustments as directed to the school in order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019. Also, the school may directed to collect development fee only after making such rectifications to development fund and also ensuring compliance with all the directions given by the Directorate in this order including recovering of amounts from the Society, refunding/adjusting the collection of one-time fee, etc. in addition to the statutory compliances enunciated in clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and accounting & disclosure requirements of para 99 and 102 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India in relation to development fund, deferred income and depreciation reserve.

C. Other Observations

1. 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, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

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

   From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Computer fees, Transport Fees, ID Card Charges, Newspaper Charges and Magazine fees from students. However, the school has not maintained separate fund accounts for any of these earmarked levies separately and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income. The same was also highlighted in the Directorate's Order No. F.DE-15/206/PSB-2019/1140-1144 dated 25 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Transport fees	52,89,673	55,61,547^	(2,71,874)
Computer Fees	5,58,800	-*	-
ID Card Charges	88,275	-*	-
Magazine fees	8,02,500	-*	-
Newspaper Charges	2,78,855	-*	-

^The school did not apportion salary of staff involved in transport service (driver, conductor, etc.) and depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

* The school did not provide details/breakup of expenses incurred against the earmarked levies separately.

As highlighted in the table above, the school has been operating its transport facility at huge deficit as expenses incurred by the school (even excluding the salaries of staff involved in transport facility) are more than the fee collected from students. The school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directly not to transfer the financial impact (i.e. deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e. it must not adjust the deficit from school funds. Thus, the school is instructed to operate transport facility on strict no-profit no-loss basis.

Based on the aforementioned, 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 at 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). The school is charging Magazine fees and ID card Charges from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the Magazine fees and ID card Charges and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students.

Additionally, the school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately 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. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

2. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

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

From the information provided by the school, it was noted that the school had not kept the amount of caution money deposited in a separate bank account. It was also noted that the school was not refunding interest along with caution money to students at the time of them leaving the school.

Accordingly, the school is directed to keep the caution money deposited in a separate bank account or fixed deposit and refund the caution money together with interest earned from bank account or fixed deposits to students at the time of them leaving the school in compliance with directions included in aforementioned orders.

3. On review of financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the expenditure incurred by the school towards security charges had increased rapidly. The expenditure incurred by the school towards security charges during FY 2016-2017 to FY 2018-2019 as per the financial statements of the school are as follows:

Financial Year	**Expense Amount (INR)**	**% increase compared to previous year**
2016-2017	9,08,925	-
2017-2018	14,21,381	56%
2018-2019	31,26,678	120%

The school represented that increased expenses on security to increase designated security guards outside the toilets and entry point of each floor of the school apart from entry and exit gate to avoid any incident.

Though the school provided the invoices of the security service provider for the FY 2018-2019, but the school failed to provide the attendance records and details of security staff deputed by the security contractor during FY 2017-2018 and FY 2018-2019. Though no adjustment in the security charges incurred during FY 2017-2018 and FY 2018-2019 have been made in the fund position of the school (enclosed in the later part of this order) in absence of complete details, the school is directed to provide the attendance records and complete details of security staff deputed by the security contractor during FY 2017-2018 and FY 2018-2019 along with its subsequent fee hike proposal to the Directorate.

4. Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Based on the presentation made in the financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the school is reporting fixed assets at written down value both on the face of the Balance Sheet and in the fixed assets schedule annexed with the financial statements, which is not in accordance with the disclosure requirements included in the guidance note citied above.

Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

5. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. of Students	1,947	1,984	1,942
No. of EWS Students	308	340	366
% of EWS students to total students	15.82%	17.14%	18.85%

While the school in its response mentioned that it takes admission under EWS category on the basis of list of admissions provided by the Directorate, it has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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

i. The total funds available for the year 2019-2020 amounting to INR 10,00,60,674 out of which cash outflow in the year 2019-2020 is estimated to be INR 11,16,61,778. This results in net deficit of INR 1,16,01,104. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	10,18,704
Investments (Fixed Deposits) as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	26,76,234
Total Liquid Funds Available with the School as on 31 Mar 2019	**36,94,938**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in financial statements of FY 2018-2019) [Refer Note 1]	8,94,97,291
Add: Amount recoverable from Society towards purchase of buses [Refer Financial Observation No. 1]	29,26,912
Add: Amount recoverable from Society towards payment of salary to Director [Refer Financial Observation No. 2]	53,70,998
Less: Refund/Adjustment of increased fees collected from students during FY 2016-2017 to FY 2019-2020 [Refer Financial Observation No. 3]	0.00
Add: Amount recoverable from Society towards purchase of Assets without complying Rule 177 [Refer Financial Observation No. 6]	19,26,763
Gross Estimated Available Funds for FY 2019-2020	**10,34,16,902**

Less: FDR jointly held with DOE (as per financial statements of FY 2018-2019)	26,76,234
Less: Retirement Benefits - Gratuity [Refer Financial Observation No. 5]	2,00,000
Less: Caution money balance as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	4,79,994
Net Estimated Available Funds for FY 2019-2020	**10,00,60,674**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	10,06,05,350
Less: 7th CPC Salary Arrears for FY 2018-2019 (as per separate computation of 7th CPC arrears submitted by the school)	1,10,56,428
Estimated Deficit	**1,16,01,104**

Notes:

1. Fees and incomes as per financial statements of FY 2018-2019 have been considered with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020 with an adjustment INR 29,40,000 towards activity fees from students (Financial Discrepancy No. 4) to be adjusted/ refunded to students and INR 12,00,000 towards ATAL Tinkering Lab grant, being non-recurring income/specific purpose grant (included as income in the audited financial statements of FY 2018-2019), which would not accrue during FY 2019-2020.

2. Per the Budget Estimate for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2019-2020 of INR 13,58,09,888 (including 7th CPC salary arrears of INR 1,10,56,428, which has been considered separately in table above), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expenses heads as budgeted were considered. Further, during review of budgeted expenses, certain discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2019-2020:

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Salary Expenses	4,86,64,668	5,86,99,572	5,73,56,755	13,42,817	Refer Financial observation no. 2
Gratuity Provision	-	25,00,000	-	25,00,000	Expense to the extent of additional provision proposed by the school has not been considered (Also, refer Financial observation No. 5)
Leave Encashment Provision	-	1,00,000	-	1,00,000	
Salary Provision 1 Month	-	58,13,000	-	58,13,000	The school has failed to create Fixed Deposit in the joint name of the school and Deputy Director of Education toward salary reserve.

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
					Thus, the same has not be considered.
Staff Welfare	12,01,865	14,08,000	13,22,052	85,949	Reasonable explanation/ justification not provided by the school for such increase in expenses as compared with expenses incurred during FY 2018-2019. Thus, budgeted expenditure restricted to 110% of that incurred during FY 2018-2019.
Smart Class	38,53,140	77,39,960	42,38,454	35,01,506	
Newspapers, Books & Periodicals	10,47,312	12,14,000	11,52,043	61,957	
Education Workshop	7,87,197	10,51,000	8,65,917	1,85,083	
Educational Trip Expenses	14,83,383	25,49,000	16,31,721	9,17,279	
Telephone & Internet Expenses	2,52,074	4,10,000	2,77,281	1,32,719	
Repair & Maintenance Buildings	45,28,377	57,10,000	49,81,215	7,28,785	
Misc. Expenses	4,21,738	5,46,000	4,63,912	82,088	
Computer Education Expenses	-	6,18,000	-	6,18,000	New expense head budgeted during FY 2019-2020 for which no justification or rationale was provided by the school. Thus, the same has not been considered.
Capital Expenditure	14,27,640	80,78,928	-	80,78,928	Refer Financial observations no. 6
Total	**6,36,67,394**	**9,64,37,460**	**7,22,89,350**	**2,41,48,110**	

ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the budgeted expenses for the financial year 2019-2020. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants 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, it has been noted that the School has paid INR 1,02,24,673 towards purchase of Assets, Buses and payment to director, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 1,02,24,673 from the society. The receipt of the above amount along with the copy of the bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty 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 13% 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 for enhancement of fee for session 2019-2020 of **Evergreen Public School (School ID-1002346), Vasundhara Enclave, New Delhi** has been accepted by the Director of Education and the school is hereby allowed to increase fee by 13% with effect 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 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
Evergreen Public School
School ID-1002346,
Vasundhara Enclave,
New Delhi-110096

sNo. F.DE.15(792)/PSB/2022/5054-5058 Dated: 27/06/22

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