

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

No. F.DE.15 (610)/PSB/2022/ 3650- 3654

Dated: 26/05/22

ORDER

WHEREAS, A.G. DAV Public School (School ID-1309234), Model Town, Delhi-110009, (hereinafter referred to as "the School"), run by the Dayanand Anglo Vedic Trust & Management Society (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 this Directorate **A.G. DAV Public School (School ID-1309234), Model Town, Delhi-110009** had submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the school for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 04.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants. And after evaluation of fee proposal of the school the key observations and status of compliance order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for academic session 2017-18 are as under:

A. Financial Observations

1. Clause 2 of Public Notice dated 4.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Accordingly, based on the above-mentioned public notice, order and court's judgement, cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students should not be utilized for the same.

Further, 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 the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

1. *award of the scholarships to students,*
2. *establishment of any other recognised school, or*
3. *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."*

Therefore, the income derived by an unaided private recognised school by way of fee should be first utilized by the school for payment salary and other allowance & benefit payable to the employee of the school. Thereafter, savings, if any, may be by its management committee for meeting capital or other contingent expenditure of the school, or for other purposes such as award and 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. The aforesaid savings shall be arrived at as per the conditions laid down in Rule 177 of DSER, 1973.



On review of the audited financial statements of the school for FY 2018-19 revealed that the school has reported INR 1,69,52,490 as additions to building. This expenditure was incurred out of the school funds which is not in accordance with the above-mentioned provisions. As per the aforesaid provisions, the school fund should not be utilized for meeting the capital expenditure of the society.

Further, the Directorate through its order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued after the evaluation of free increase proposal of the FY 2017-18, directed to the school to recover INR 1,73,77,083 from the society on account of the expenditure incurred on construction of school building during the FY 2015-16 & 2016-17. For the construction of the said building, the school had utilised the development fund of INR 34.01 lacs which was also a non-compliance with clause 14 of the order dated 11.02.2009 and also had taken loan from the society. During the personal hearing, the school represented that no action is required to be taken in this direction because it was related to repair and maintenance of the building. Since, the amount was huge it was capitalised under the head 'Building' but in fact, there was no actual addition to the school building was done. The representation of the school cannot be accepted because the financial statements of the school have already been audited by its statutory auditor wherein the statutory auditor has performed all the audit procedures to an provide opinion on the financial statements of the school. Based on the record and information provided by the school, the statutory auditor would have considered this as a capital expenditure and on which the school has been charging the deprecation. Now, after four years the school if the school is explaining the nature of expenditure incurred is itself raising a question marks on the audited financial statements prepared and submitted by the school.

Accordingly, the representation of the school is untenable and the total expenditure of INR 3,43,29,573 incurred by the school on the construction of the school building is recoverable from the society and has been included while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. In case the school is failed to comply with this direction necessary action under section 24 shall be taken by the department against the school.

2. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets' comprised of:
 - a. assets held by a long-term employee benefit fund; and
 - b. qualifying insurance policies."

Further, para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value 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.*"

As a practice adopted by the schools under the management of DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance, which is transferred to DAV CMC. DAV CMC in turn manages and maintains the common pool of funds for all schools under its management and uses the same for

payment of gratuity and leave encashment liability as and when the same arises in respect of the staff of the respective school at the time of his/her resignation/ retirement. The directorate vide order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued post evaluation of fee increase proposal for the academic session 2017-18, directed to the school to get the actuarial valuation and make the appropriate investment in plan-assets to secure the retirement benefits of the staff.

Further, the Directorate cannot allow any school to make any investment of the school funds with the society i.e. the fees collected from the students are kept in the hands of the society and not in the hands of the school. This is also a non-compliance by the school with the directions issued by the Hon'ble Supreme Court of India in the matter of Modern School, which restricts the school to transfer any funds to the society. In many instances, the societies' use fund available with them for the benefit of other schools and for creation of other assets.

During the personal hearing, the school reported that it has taken actuarial valuation report for its gratuity and leave encashment as on 31.03.2019. The actuary has determined the total liability of INR 4,43,58,235 for gratuity and leave encashment as on 31.03.2019 while the school has reported total liability of INR 3,79,53,334 in its audited financial statements for gratuity and leave encashment. However, the school has not separately reported the amount lying with DAV CMC in its audited financial statements on account of gratuity and leave encashment. Thus, the school has not recorded total liability in its financial statements which were as determined by the actuary and that too has not made an equivalent investment in the plan assets.

The school further represented that the society is in the process of making investments in the 'Plan Assets' within the meaning AS-15 '*Employee Benefits*' and it will take at least 3-6 months on the grounds that the society is running approximately 40 private unaided recognised schools in Delhi and currently all these investments are made in govt. securities and FDRs. So, any premature withdrawal or redemption will lead to loss to Society as well as to the school. A similar submission was also made by the members of the DAV CMC to the Director, Education and who after considering practical constraints in making investments in 'Plan Assets' has asked DAV CMC to deposit or make appropriate investments in the 'Plan Assets' at the earliest.

From the audited balance sheet of FY 2018-19, it was noted that the provision for gratuity and leave encashment has a net increase of INR 89,05,996 during FY 2018-19. Whereas the gratuity and leave encashment provision in the audited income and expenditure account of FY 2018-19 amounts to INR 61,89,990. Hence no justification or adjustment entry has been provided by the school for such differential amount transferred to the provision of retirement benefit balance as on 31.03.2019.

Considering the representation of the school, the intentions of the school and the society are clear that the Society is not willing to refund the funds that have been illegally transferred to the Society from the School under the disguise of gratuity and leave encashment which is a complete non-compliance of the ruling of the Hon'ble Supreme Court and is reflective of the fact that the Society has utilised these funds for other purpose and therefore it does not intend to ensure compliance in this regard.



Additionally, the school has proposed INR 58,86,600 towards gratuity and INR 25,22,900 towards leave encashment for FY 2019-20. In this regard is pertinent to mention that the school has not complied with the previous directions of the department i.e. it has not invested equivalent amount of its liability in plan assets within the meaning of AS-15 and has not provided the details of actual payment made towards gratuity and leave encashment during FY 2019-20. In the absence of these details, provision amount of INR 84,09,500 has been disallowed during the calculation of fund availability with the school for FY 2019-20.

Accordingly, the amount balance with DAVCMC of INR 4,15,79,365 as on 31.03.2019 is hereby added to the fund position of the school considering the same as funds available with the school with the direction to recover the amount deposited with DAV CMC within 30 days from the date of the order. The school is directed to report total liability of gratuity and leave encashment in its audited financial statements as determined by the actuary and make equivalent investment in plan assets. Also, not to make any further transfer of funds to the society.

3. Clause 2 of Public Notice dated 4 May 1997 states *"The school shall not charge building fund from the students as it is sole responsibility of the society who has established the school to raise such funds from their own sources of donation from the other associations because the immovable property of the school becomes the sole property of the society."*

The DoE in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/950 dated 4.10.2017 and Order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018, noted that the school was charging 'Building Fund' from the students in contravention of the above-mentioned public notice. And thus, the school was directed to refund/ adjust the amount of collected from the students as a 'Building Fund'.

During the personal hearing of last academic session 2017-18, the school explained that basis of the direction of the DoE order for the academic session 2016-17. The school had already adjusted the building fund from the fee of the students during the FY 2016-17 itself and stopped collecting the building fund from the students from FY 2017-18. And the remaining building fund balance of INR 13,33,000 was transferred to the development fund account because some of the students have left the school.

But the school did not provide the list of the students from whom building fund was collected and who left the school. Accordingly, the school was directed to take necessary steps to communicate to the students to whom building fund is payable and refund the amount to the concerned students. In case the students don't turn up after sending the relevant communication to their last known address, the school should treat the unclaimed building fund as income in FY 2018-19.

During the personal hearing, the school explained that no steps have been taken to identify students from whom building fund was collected. However, the school has agreed to treat this as income during the financial year 2019-20. Thus, the liability amount of INR 13,33,000 must be

written off by the school as there would not be any cash outflow and therefore the same has not been adjusted while deriving the fund position of the school.

4. The submissions of the school regarding payment of administrative charges @ 4% of basic pay of staff were taken on record and included in Directorate's order issued post evaluation of fee increase proposal for academic session 2016-17. Further, the school was directed vide order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 post- implementation of the recommendations of 7th CPC, the school should not incur administrative charges beyond 2% of the basic salary. However, the audited financial statements of the school indicated that the school has paid administrative charges to DAV CMC @ 7% of basic salary from 2017-18 onward.

Thus, the school instead of reducing the administrative charges payable to DAV CMC @ 2% of basic salary, has increased to the 7% of the basic salary payable the staff. The school has paid administrative charges in excess of the allowable rate to DAV CMC totalling to INR 60,81,386 is liable to be received from the society. Thus, the amount of INR 60,81,386 has been included while deriving the fund position of the school considering the same fund is available with the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. The computation of administrative charges paid to DAV CMC has been provided below.

Particulars	FY 2017-18	FY 2018-19
Basic Pay	6,09,76,212	6,46,19,728
Total	6,09,76,212	6,46,19,728
Applied Rate	7%	7%
Administrative charges (as per applied rate) (A)	40,69,432	45,23,873
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	12,19,524	12,92,395
Difference (A-B)	28,49,908	32,31,478
Balance recoverable from Society	28,49,908	32,31,478

Further, it has also been noted that the school has budgeted administrative charges @7% of basic pay amounting to INR 52,51,300 in FY 2019-20. However, while deriving the fund position of the school the same has been restricted to 2% of the basic pay and thus, administrative charges for INR 37,51,046 have not been considered while deriving the available fund of the school. Further, the school is also directed to recover the excess amount paid to the DAV CMC within 30 days from the date of issue of this order.

5. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."*

Further, as per Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 *"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."

However, as per order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for academic session 2017-18, the school was directed to maintain a separate bank account for deposit of caution money collected and interest earned thereon. The school has explained that it has been refunding only the principal amount of caution money to the students at the time leaving from the school.

However, during the personal hearing, the school submitted that it has stopped collecting caution money from students and has started adjusting the caution money already collected from old students against the dues from them. And the balance caution money if any left the school shall be treated as income of the ensuing year. Thus, the outstanding balance of caution money INR 13,11,000 as on 31.03.2019 has been adjusted while deriving the fund position of the school.

B. Other Observations

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*" Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

Rule 176 provides "*Income derived from collections for specific purposes shall be spent only for such purpose.*" Further, as per Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*" And as per Sub-rule 3 of Rule 177 of DSER, 1973 "*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.*"

However, as per audited financial statements of the school, it has been noted that the school charges earmarked levies in the form of Transport Fees, Science fee, Computer Science fee and activity/misc. charges, etc. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

Also, as per Guidance Note 21 Accounting by Schools issued by the ICAI, earmarked levies collected from students are a form of restricted funds, and which are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet. The above-mentioned Guidance Note-21 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). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Similar observation was also noted in order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for the academic session 2017-18 wherein the school was directed to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, 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 the 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. It was also submitted by the school that at times, they have been used to meet shortfall in Tuition Fee vis-à-vis Establishment cost as Tuition Fee is not sufficient and thus, utilised the earmarked levies for meeting the shortfall. Details of income and expenditure of earmarked levies based on the details of expenditure provided by the school for FY 2016-17, 2017-18 and 2018-19 are provided below.

Particulars	Transport Fee	Computer & Science Fee	Other Fees (Activity / Misc. Charges)*
For the year 2016-17			
Fee Collected during the year (A)	2,18,02,390	36,95,444	45,99,741
Expenses during the year (B)	1,97,98,051	10,03,302	-
Difference for the year (A-B)	20,04,339	26,92,142	45,99,741
For the year 2017-18			
Fee Collected during the year (A)	2,36,57,247	38,08,449	49,87,700
Expenses during the year (B)	1,98,30,682	15,16,004	-
Difference for the year (A-B)	38,26,565	22,92,445	49,87,700
For the year 2018-19			
Fee Collected during the year (A)	2,51,36,294	38,95,393	51,83,825
Expenses during the year (B)	2,13,18,144	15,89,627	-
Difference for the year (A-B)	38,18,150	23,05,766	51,83,825
Total	96,49,054	72,90,353	1,47,71,266

*The school has not submitted details/breakup of expenses incurred against the earmarked levy collected from students.

From the above, comparison it can be seen that the school is not complying with provisions regarding the collection of earmarked levies and has been generating a surplus out of it. Therefore, the school is directed to comply with the direction of the Department and submit the compliance report within 30 days from the date of issue of this order, in case the school is failed to comply with the above direction necessary action against the school shall be taken under section 24 of the DSEA, 1973.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

2. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, 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.

The details provided by the school were taken on record. Based on the details provided by the school, it was noted that the school has utilised for function and cocurricular expenditure for the students. However, the school has collected INR 43,78,805 and INR 45,34,862 toward pupil funds from the students.

However, during the personal hearing the school submitted that the Pupil Fund is maintained as per rule 171 framed under DSEA & R, 1973 and these funds are specifically used for the purpose for which these are collected and are regulated as per the provision of the said rule.

Similar observation was also reported by the DOE in its order no. FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for academic session 2017-18. Based on the details provided by the school during last year, the pupil fund was utilised for co-curricular activities, repair and maintenance, activity/NCC/topper award, picnic, subscription, function, and examination.

Based on the above facts it can be seen that has submitted two different statements for utilisation of the pupil fund collected by it and trying to twist the well settled pronouncement of the Hon'ble Supreme Court mentioned above. The head of the fee which a recognised unaided school can collect from the students is well settled now and no fee head such as 'pupil fund' is defined for the recognised unaided private school. And the purpose for which the school has been collecting the same may automatically get covered either from 'Tuition fee' or 'Annual fee'. Thus, the school is once again directed to stop the collection of pupil funds from the students with immediate effect.

3. 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.”*

From the review of the audited financial statements of 2018-19, it was noted that on purchase of assets out of the development fund, school transfers an amount equivalent to the cost of the assets to general reserve instead of transferring it to a separate account e.g. “Development Fund Utilisation Account” or any other account whatever name it may be called. This separate account shall be treated as deferred revenue income and need to be written off in proportion of depreciation charged on the assets. As the school has not been following correct accounting treatment with respect to Development fund Utilisation resulting incorrect reporting of General reserve balance in the audited financial statements. Thus, the accounting treatment adopted by the school is not in accordance with the above guidance note.

During the personal hearing, the school accepted this fact and agreed to rectify its accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of the next academic session.

4. In accordance with Clause 14 of DoE’s Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states *“Development fee, not exceeding 15% and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.”* and DoE’s order No. F. DE-15/ACT-I/WPC-4109/PART/13/950 dated 4 October 2017, the school was directed to maintain the development fund in a separate bank account. The school is yet to open a separate bank account for development fund.

The above being a procedural observation, no financial impact is warranted for deriving 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 year 2019-20 amounting to INR **29,47,81,674** out of which cash outflow in the year 2019-20 is estimated to be INR **18,12,62,055**. This results in net surplus of INR **11,35,19,619**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements	1,48,50,933
Investments (Fixed Deposits) as on 31.03.19 as per audited Financial Statements	4,98,55,588
Current Account balance with DAV CMC as on 31.03.19 as per audited Financial Statements	4,15,79,365

Particulars	Amount in INR
Total Liquid funds available with the school as on 31.03.2019	10,62,85,886
Add: Fees for 2018-19 as per audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 as well.	15,05,10,086
Add: Other income for 2018-19 as per audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 as well.	62,60,455
Add: Recovery of amount spent on construction of building from the society [Refer Financial Observation No. 1]	3,43,29,573
Add: Recovery of excess administration charges paid to DAV CMC [Refer Financial Observation No. 4]	60,81,386
Less: Retirement benefits [Refer Financial Observation No. 2]	-
Less: Building Fund [Refer Financial Observation No. 3]	-
Less: Development Fund (Refer Note 1 below)	63,27,169
Less: Fixed Deposits in the joint name of Secretary, CBSE and Manger, School as on 31.03.2019 (as per the School's submission)	10,24,883
Less: Fixed Deposits in the joint name of DDE and Manger, School as on 31.03.2019 (as per the School's submission)	22,660
Less: Caution Money as on 31.03.2019 as per audited financial statements of FY 2018-19 [Refer financial observation no. 5]	13,11,000
Estimated availability of funds for FY 2019-20	29,47,81,674
Total Cash Outflow (Refer Note 2 to 6 below)	18,12,62,055
Cash Surplus/(Deficit)	11,35,19,619

Note 1: The development fund balance as on 31.03.2019 of INR 76,60,169 as per audited financial statements includes Building Fund balance of INR 13,33,000 transferred by the school in FY 2016-17. This amount of INR 13,33,000, which has to be written off by the school as per Financial Observation No.3 has been adjusted from the development fund balance and the remaining fund balance amounting to INR 63,27,169 (INR 76,60,169 – INR 13,33,000) has been considered while deriving the fund available with the school.

Note 2: As per financial observation no. 2, the school has not invested any amount in plan assets (i.e. LIC or similar agency) within the meaning of AS-15 for gratuity and leave encashment despite of giving many directions in the past. Further, the school was asked to provide the details of actual payment made by it towards gratuity and leave encashment during the FY 2019-20 which the school has not provided. In the absence the relevant information, the amount proposed by the school INR 84,09,500 has been disallowed while deriving the fund available with the school.

Note 3: As per order no FDE15(675) PSB/2018/30858-30862 dated 24.12.2018 issued for academic session 2017-18, school was directed not to charge more than 2% of basic salary as administrative charges. However, it has been noted that for FY 2019-20 school has budgeted INR 52,51,300 as administrative charges payable to DAV CMC which comes to 7% of the basic salary. Therefore, in line with the previous direction, the amount proposed by the school is restricted to INR 15,00,254 i.e. 2% of the basic salary payable to the staff.

Note 4: On review of budget submitted by the school for FY 2019-20 it has been observed that the School has budgeted following expenditures in excess of 110% of the actual expenditure incurred in FY 2018-19. During the personal hearing the school was asked to submit proper

justification for such substantial increase under these expenditures. However, the school has not provided the basis and rational which warrants for such unusual increase. Therefore, considering the rise in inflation these expenditures have been considered to 110% of the actual expenditure incurred during the FY 2018-2019 0 while deriving the fund position. The details of these expenditure are as under.

Particulars	FY 2018-19	FY 2019-20	Net Increase/ (Decrease)	% Change	Amount Disallowed
Building Repair & Maintenance	13,98,836	50,00,000	36,01,164	257%	34,61,280
House Keeping / Security	75,90,014	1,00,00,000	24,09,986	32%	16,50,985
Function Expenses	1,56,242	40,00,000	38,43,758	2460%	38,28,134
Total	91,45,092	1,90,00,000	98,54,908		89,40,399

Note 5: The school has proposed INR 30,00,000 for vehicle and INR 10,00,000 for building out of the development fund. As clause 14 of the order 11.02.2009, the development can only be utilised for purchase, upgrade and replacement of furniture, fixture, and equipment. Thus, the development fund cannot be utilised for purchase of car and constriction building. Additionally, as per public notice no. 2 dated 4.5.1997, the school cannot not incur any expenditure on contraction of school building being property of the society. In view of this, the amount proposed by the school toward purchase of car and construction of building has been excluded from the total expenditure of the school.

Note 6: During the personal hearing, it was confirmed by the school that they have implemented 7th CPC from 01.04.2017 and the effect of the salary arrears have already been considered in the accounts. Therefore, no other adjustments related to salary arrears have been done while calculating the fund position of FY 2019-20.

- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

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

out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has utilised INR 4,04,10,959 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover INR 4,04,10,959 from the society. The amount of above receipt along with copy of bank statements showing 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, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2019-20 of **A.G. DAV Public School (School ID-1309234), Model Town, Delhi-110009** is rejected by the Director (Education).

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

1. Not to increase any fee/charges during FY 2019-20. In case, the school has already charged increased fee during FY 2019-20, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of 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
A.G.DAV Public School
School ID 1309234
Model Town, Delhi-110009

No. F.DE.15(610) / PSB / 2022 / 3650-3654

Dated: 26/05/22

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 (North West A) 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