

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

No. F.DE.15 (677)/PSB/2022/ 4130-4134

Dated: 03/06/22

ORDER

WHEREAS, **DAV Public School, Sector-7, Rohini, New Delhi – 110085 (School Id: 1413257)** (hereinafter referred to as “**the School**”), run by the **Dayanand Model School 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, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *‘the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed’*

Section 24(1): *‘every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed’*

Rule 180 (3): *‘the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.’*

AND WHEREAS, besides the above, the Hon’ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon’ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in para’s 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

“27....

(c) *It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...*

28. *We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....*

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, the **DAV Public School, Sector-7, Rohini, New Delhi – 110085 (School Id: 1413257)**, submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-2020, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 07.11.2019 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 (23) PSB/2019/1205-1209 dated 29.03.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with 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 findings and status of compliance against order no. FDE15 (23) PSB/2019/1205-1209 dated 29.03.2019 issued for academic session 2017-18 are as under:

A. Financial Observations

1. Clause No. 2 of Public Notice dated 04 May 1997 states *"Not to charge building fund and development charges when the building is complete or otherwise, as 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, the Hon'ble High Court of Delhi the matter of Abibhavak Mahasangh dated 30 October 1998 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.*"

Further, Rule 177 of DSER, 1973 state "*Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school*". Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at as per the conditions laid down in Rule 177 of DSER, 1973.

Accordingly, based on the aforementioned public notice, pronouncement of the High Court judgement and provision the provision of Rule 177 of DSER, 1973, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students should not be utilised for the same.

The Directorate through order no. FDE15(23) PSB/2019/1205-1209 dated 29.03.2019 for academic session 2017-18 noted that during the FY 2014-15, 2015-16 and 2016-17, the school has incurred expenditure on construction building out of school funds (development fund) for INR 27,91,932 without complying the requirements above mentioned public notice, High court judgement and Rule 177 of DSER, 1973. Accordingly, the school was directed to recover this amount of INR 27,91,932 from the society which is still pending for recovery.

Now, the school has submitted different explanation for this addition. The school submitted although this has been capitalized under the head building, but this is not an addition to the school building. The records submitted by the school were taken on record and noted that INR 11,20,521 incurred on firefighting system and INR 16,71,411 for construction of toilets and water proofing of the ceiling. Since, the financial statements of the school have already been certified by its statutory auditor and we assume that the statutory auditor must have vouched the nature of these transactions before certifying the financial statements of the school. Therefore, the claim of the school not to treat this expenditure as an addition to school building is incorrect.

Accordingly, this amount of INR 27,91,932 has been included in the fund position of the school considering the same funds available with the school. Thus, the school is hereby instructed to the recover this amount form the society within 30 days from the date of issue of this order and submit the compliance report. Non-compliance with this direction would be viewed seriously by the department against the school in terms of the provisions of the DSEAR, 1973.

2. The Directorate through order no. FDE15(23) PSB/2019/1205-1209 dated 29.03.2019 for academic session 2017-18 noted that during FY 2016-17, the school has written off of INR 4,83,102 as non-recoverable balance of DAV Public Institute. Considering that the DAV Public Institute was under same management of DAV CMC, the amount written off as bad debts could



have been recovered from the society, who would have accounted for all assets and liabilities on closure of its units. Accordingly, the school was given direction to recover the same.

During personal hearing, the school explained that this amount was wrongly booked as recoverable in 1991-92 and therefore, the school has written it off as bad debts. While during the last year's hearing the school has submitted that this amount has been written off because due to closure of DAV Publication Institute which is also part of the DAV CMC. The school in its last two discussions had presented different facts for this amounts in order to avoid recovery from the society. Based on the facts submitted by the school in last year's discussion the school was directed to recover this amount from the society as the DAV Publication Institute is also part of the DAV CMC.

In view of the above, the explanation provided by the school cannot be relied upon because if there had been any wrong accounting entry passed in 1991-92, the auditor of the school could have highlighted and corrected the same. It is quite illogical to say and accept that this amount was first accounted for in 1991-91 and written off in 2016-17. Therefore, unlike the previous direction this amount has been included in the fund position of the school considering that the same is funds is available with the school. And the school is hereby directed to recover this amount from the Society within 30 days from the date of this order.

3. As per practice adopted by the schools under the management of the DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance and then this is transferred to the DAV CMC. The DAV CMC in turn manages and maintains common pool of funds for all the schools under its management and uses the same for payment of gratuity and leave encashment liability as and when arises on account of his/her resignation or retirement. The department had directed to the school through its order no. F.DE-15/Act/-I/WPC-4109/Part/13/932-936 dated 26.09.2017 to obtain an actuarial valuation of its gratuity and leave encashment liabilities and disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in its financial statements.

Further, during personal hearing of last academic session 2017-18, the school had agreed to report its liability as per the actuarial valuation along with investment in plan assets as per the requirements of AS-15 from financial year 2018-19. The school also agreed to invest the amount of funds available with DAV CMC in plan assets.

The school for the first time has obtained Actuary report for gratuity and leave encashment as at 31.03.2019 which has been taken on record. As per the Actuary report, the school has liability towards gratuity and leave encashment as on 31.03.2019, INR 8,31,58,461 and INR 1,63,66,397 respectively. But the school has not recorded total liability towards gratuity and leave encashment in its audited financial statements. The details are as under.

(Amount in INR)

Head	As per Actuary Report as on 31.03.2019 (A)	As per Audited FS as on 31.03.2019 (B)	Difference C=(A-B)
Gratuity	8,31,58,461	3,28,60,085	5,02,98,376
Leave Encashment	1,63,66,397	2,07,65,032	(43,98,635)

Further, according to Para 7.14 of the Accounting Standard 15 – ‘Employee Benefits’ issued by the Institute of Chartered Accountants of India, “Plan assets comprise:

- (a) assets held by a long-term employee benefit fund; and
- (b) qualifying insurance policies.”

Based on the discussion with the school during the personal hearing, the school has not invested any amount in the plan assets in accordance with the requirement of AS-15. During the discussion the school also provided details of fund balance with DAV CMC in respect of payment made to DAV CMC towards maintenance of gratuity and leave encashment including the interest accrued. However, this investment in the form of fund balance maintained by DAV CMC. The balance disclosed by the school based on records maintained by the DAV CMC as on 31.03.2019 have been indicated below.

(Amount in INR)	
Head	Balance as on 31.03.2019
Gratuity & Leave Encashment balance with DAV CMC	5,14,68,768

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as ‘Plan Assets’ within the meaning of Accounting Standard 15 (AS-15). Further, the school has provisioned INR 78,82,868 towards gratuity and INR 33,78,307 towards leave encashment for the FY 2019-20. However, the school has paid gratuity and leave encashment during financial year 2019-20 amounting to INR 37,18,277 and INR 7,77,966.

Since the school has not deposited any amount in the plan assets in accordance with AS-15 and not complied with the directions given in order no. FDE15 (23) PSB/2019/1205 -1209 dated 29.03.2019 issued for academic session 2017-18 and Order no. F.DE-15/Act-I/WPC-4109/Part/13/932-936 dated 26.09.2017. Therefore, above mentioned provisions towards gratuity and leave encashment have been considered to the extent of actually paid gratuity and leave encashment and the balance amount of gratuity amounting to INR. 41,64,591 and leave encashment amounting to INR. 26,00,341 have been disallowed while deriving the fund position of the school.

4. As explained by the school an administrative charge payable to DAV CMC are accounted for @ 4% of the basic salary paid by the school to its staff up to financial year 2016-17. However, DAV CMC has increased this administrative charge to 7% of the basic salary paid by the school to its staff from the financial year 2017-18. While evaluating the fee increase proposal for the financial year 2017-18, the school was directed to reduce percentage of administrative charges to 2% instead of 7% of the basic salary paid to its staff. Thus, the school instead of following the direction of the department, has increased the rate of administrative charge payable to DAV CMC.

Accordingly, the excess amount of INR 30,16,760 (INR. 9,22,265 + INR. 20,94,495) paid by the school to DAV CMC by way of administrative charge 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 the society within 30 days from the date of issue of this order. The Administrative charges paid by the school to DAV CMC has been provided below.



Particulars	2017-18	2018-19
Basic Pay	3,18,81,247	3,11,08,726
Total	3,18,81,247	3,11,08,726
Applied Rate	5%	9%
Administrative charges (as per applied rate) (A)	15,59,890	27,16,670
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	6,37,625	6,22,175
Difference (A-B)	9,22,265	20,94,495
Balance recoverable from Society	9,22,265	20,94,495

Further, it has also been noted that the school has budgeted administrative charges @7% of basic pay amounting to INR 70,59,436 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 50,40,474 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. As per Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

On review of audited financial statements for FY 2015-16 it has been noted that the school has treated development fee as revenue receipts in contravention of aforesaid order. From FY 2016-17 school has started treating development fee as capital receipts and has created development fund in the balance sheet. But while creating development fund in FY 2016-17, School has not considered the impact of wrong treatment of development fee as revenue receipt. Thus, the year-end balance of development fund cannot be considered as correct at the end of FY 2016-17, 2017-18 and 2018-19 and thus, same cannot be considered while deriving the fund position of the school.

Further, analysis of the development fee collected and utilised by the school in last three financial year revealed that the school has been collecting development fee more than its requirement. During the last three years the school has generated surplus of INR 3,85,52,488 out of the development fee. This is also not in accordance with the direction of clause 14 of the order dated 11.02.2009. The below analysis indicates that the school has been generating more funds than its requirements for purchase, up gradation and replacement of furniture fixtures and equipment and thereby the school has been accumulating surplus under this head. Therefore, the school is required to determine actual requirement of development fee to be collected from the students for the next financial year onward.

The summary of development fee collected and utilised by the school as per audited financial statement has been provided below:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Development Fee Received	1,60,15,330	1,64,56,941	1,46,20,493
Expenditure out the Development Fee	44,12,240	36,68,618	4,59,418
Surplus in each year	1,16,03,090	1,27,88,323	1,41,61,075
Total Surplus			3,85,52,488

In view of above, while calculating the fund position of the school, the amount of development fund balance has been restricted accumulation to actual amount collected by the school in financial year 2018-19 i.e. INR 1,46,20,493.

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, Home Science fee, Group Insurance charges and IT Login 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, school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note.

The similar observation was also noted in order no. FDE15(23) PSB/2019/1205-1209 dated 29.03.2019 issued for academic session 2017-18 and it was directed to the school to maintain 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 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 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 as per audited financial statements for FY 2016-17, 2017-18 and 2018-19 are as follows:

(Amount in INR)

Particulars	Transport Fee	Computer and I.T. Fee	Science Fee and Home Science Fee
For the year 2016-17			
Fee Collected during the year (A)	64,63,387	49,63,144	13,68,540
Expenses during the year (B)	58,72,177	22,07,817	2,56,273
Difference for the year (A-B)	5,91,210	27,55,327	11,12,267
For the year 2017-18			
Fee Collected during the year (A)	57,68,293	58,27,912	16,43,075
Expenses during the year (B)	59,32,511	24,74,713	2,74,123
Difference for the year (A-B)	(1,64,218)	33,53,199	13,68,952
For the year 2018-19			
Fee Collected during the year (A)	58,07,911	57,36,700	13,94,070
Expenses during the year (B)	56,02,010	24,46,972	2,18,550
Difference for the year (A-B)	2,05,901	32,89,728	11,75,520
Total	6,32,893	93,98,254	36,56,739

#School has not followed fund based accounting for earmarked levies and thus, not showing expenditure incurred exclusively against these earmarked fees and therefore, aforesaid surplus/ (deficit) amount calculated above may get revised upon correct presentation of expenses against these earmarked fees.

On the basis of aforementioned orders, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of

surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form.

In view of aforesaid orders, it is noted that school has not complied with legal positions laid for charging, collecting and accounting of earmarked levies and thus, not complied with the aforesaid directions stated in order dated 29.03.2019. Therefore, it is again directed to the school to maintain 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 enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

The 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. As per 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 & Other.

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing, and stationery etc.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Also, the school is directed not to collect pupil fund from students with immediate effect.

3. The school do not prepare a Fixed Assets Register (FAR). During the personal hearing, school mentioned that school maintains "Property Register" for fixed assets. However, school explained that the value of fixed assets as per property register does not match with the fixed assets



schedule. The school should prepare Fixed Assets Register (FAR) including details such as supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. Hence, the school is directed to prepare FAR with relevant details mentioned above and make it available for verification at the time of evaluation of next fee proposal of the school.

4. As per direction no. 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of 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(23) PSB/2019/1205-1209 dated 29.03.2019 issued for academic session 2017-18 school had not maintained separate bank account for deposit of caution money collected and not credited the interest earned thereon to the credit of caution money account. It was also noted that interest on caution money was not paid to the students at the time of payment. School was directed to open a separate bank account for caution money deposit and to transfer the interest thereon to the credit of caution money account and to refund the caution money to the students along with interest. But school failed to comply the aforesaid directions.

During the personal hearing, 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 fee due from them and will adjust the balance amount payable in the coming financial years. Thus, based on the explanation provided by the school, the school should refund/adjust total caution money and should not collect it subsequently. Thus, amount payable as on 31.03.2019 against caution money has been considered while deriving the fund position of the school.

5. The Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 December 1999, indicates that *"recognised private unaided school can collect following fees from the students/ parents"* under the following heads which include.

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

Further, clause no. 9 of the abovementioned order states "No fee, fund or any other charge by whatever name called shall be levied and collected or levied or realised unless it is determined by the management committee in accordance with the direction contained in this order."

The above was also upheld by the Hon'ble Supreme Court in "*Modern School vs Union of India & Others*".

However, on review the fee structure as submitted by the school for FY 2015-16, 2016-17, 2017-18 and 2018-19, it has been noted that over the years, school has been charging fee in the name of "Students Welfare Activity Fund" (SWAF) of INR. 9,600 from the students at the time of admission. During the personal hearing, school has clarified that INR. 9,600 was being collected till FY 2018-19 and thereafter INR. 10,625 per student (i.e. *Student Safety and Security Charges*), INR. 4,600, "*Orientation Charges*" INR. 1,025 and "*Stimulated Learning Facility Charges*" INR. 5,000) at the time of new admission.

The Directorate through its order issued post evaluation of fee increase proposal for academic session 2016-17 instructed to schools running by DAV CMC.

".....School is not allowed to charge one-time fees at the time of admission for development activity of students. Charging of one-time fees at the time of admission tantamount to capitation fee which is prohibited under section 13 of the Right of Children to Free and Compulsory Education Act, 2009" Accordingly, the school was directed not to charge any such fee from the students in future and adjust the fee already collected against the monthly fee due from the students.

Thus, in view of the above, the school is not allowed to charge any fee in the name of Orientation Charges, Student Safety and Security Charges fee and Stimulated Learning Facility Charges from the students at time of admission as a capitation fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is hereby directed to stop such collection of Orientation Charges, Student Safety and Security Charges fee and Stimulated Learning Facility Charges with immediate effect.

6. Para 99 of the Guidance Note-21, Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrance 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.*"

However, the school on purchase of assets out of the development fund 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 deprecation charged on the assets. As the school has not been following correct accounting treatment in respect of development fund utilization which results in incorrect reporting of the balance of General Reserve 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, 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 next academic session.

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

- i. The total funds available for the FY 2019-20 amounting to INR **22,18,75,936** out of which cash outflow in the FY 2019-20 is estimated to be INR **23,03,84,824**. This results in net deficit of INR **85,08,888** for FY 2019-20 after all payments. The details of fund position are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements	88,41,226
Investments (Fixed Deposits) as on 31.03.19 as per audited Financial Statements	4,50,211
Current Account Balance with Schools/ Colleges as on 31.03.2019 as per audited Financial Statements	5,14,68,768
Liquid funds as on 31.03.2019	6,07,60,205
Add: Amount recoverable from Society against additions to building (Refer Financial Observation No. 1)	27,91,932
Add: Bad debts pertaining to DAV Publication written off recoverable from Society (Refer Financial Observation No. 2)	4,83,102
Add: Recovery of excess administration charges from DAV CMC (Refer Financial Observation No. 3)	30,16,760
Add: Fees as per Audited Financial Statements of FY 2018-19 (On the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	15,24,54,918
Add: Other income as per Audited Financial Statements of FY 2018-19 (On the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20) (Refer Note 1 Below)	27,37,201
Add: Increase in Tuition fee @15% from 01.04.2019 (as per order no. FDE15(23) PSB/2019/1205-1209 dated 29.03.2019 issued for academic session 2017-18)	1,55,65,522
Available funds for FY 2019-20	23,78,09,640
Less: Staff Retirement Benefits (Refer Financial Observation No. 3)	-
Less: Development fee collected during FY 2018-19 (Refer Financial Observation No. 5)	1,46,20,493
Less: Fixed Deposits against specific funds (with CBSE and DOE) as on 31.03.2019 (as per School's submission)	4,50,211
Less: Caution Money as on 31.03.2019 (as per audited financial statements of FY 2017-18)	8,63,000
Net Available funds for FY 2019-20	22,18,75,936
Total cash outflow (Refer Note 2 to 4 Below) (Revenue Expenditure + Capital Expenditure - Depreciation)	16,83,47,868
Less: Arrears of salary as per 7th CPC (Refer Note 4 Below)	6,20,36,956

Particulars	Amount in INR
Net Surplus/ (Deficit)	(85,08,888)

Notes:

1. Fees and other income for FY 2019-20 considered on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 except liability written back of INR 20,50,582 and income of exceptional nature INR 36,28,759.
2. The school has not made investment with LIC (or any other agency) equivalent to liabilities towards gratuity and leave encashment as per actuarial valuation report as on 31.03.2019. Therefore, the provision made by the school towards gratuity and leave encashment for FY 2019-20 has been considered to the extent gratuity and leave encashment actually paid by the school during financial year 2018-19. (Refer Financial Observation No. 3).
3. Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2018-19 or proposed new head of expenditure for which the school has not offered satisfactory explanation/ justification. Therefore, the aforesaid expenditure in excess of 10% over the previous year and/or new head of expenditure have not been considered in the evaluation of fee increase proposal.

Particulars	Audited Expenditure in FY 2018-19	Budgeted Expenditure in FY 2019-20	Net Increase/ (Decrease)	% Change	Amount disallowed in excess of 10%
Establishment Expenses					
Basic Pay & dearness Allowance	8,35,35,717	10,09,48,100	1,74,12,383	21%	90,58,811
Dearness Grade Pay	74,35,944	1,21,05,116	46,69,172	63%	39,25,578
House Rent Allowance	1,11,58,306	2,41,07,340	1,29,49,034	116%	1,18,33,203
Total	10,21,29,967	13,71,60,556	3,50,30,589		2,48,17,592
Other Expenses					
Building Maintenance	15,93,824	25,00,000	9,06,176	57%	7,46,794
Other Expenses	-	26,00,000	26,00,000	100%	26,00,000
Legal & Professional Charges	1,74,100	3,00,000	1,25,900	72%	1,08,490
Furniture Fixture Maintenance	3,34,198	7,00,000	3,65,802	109%	3,32,382
Function Expenses	36,002	8,50,000	8,13,998	2261%	8,10,398

Total	21,38,124	69,50,000	48,11,876	45,98,064
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Further, as per school submission, the school has implemented 7th CPC w.e.f April, 2017. The school has proposed 7th CPC salary arrears for FY 2019-20 amounting to INR. 7,72,62,920 which is 137% of 7th CPC salary arrears of FY 2018-19 amounting to INR. 5,63,97,233. Hence, 7th CPC salary arrears of FY 2019-20 has been restricted to 110% of 7th CPC salary arrears of FY 2018-19 amounting to INR. 6,20,36,956 .

4. School has budgeted for vehicles amounting INR 18,00,000 and other capital expenditure amounting INR 20,00,000. The cost of capital expenditure vehicles cannot form part of fee structure of all students and the same need to be met out of the savings, if any, from the transport activity and therefore, the same has been adjusted from the budgeted expenditure. Moreover, school has not explained the composition of 'Other capital expenditure' and the purpose of such huge expenditure. Accordingly, the same has been adjusted while deriving the fund position of the school.
- ii. The school does not have sufficient funds to carry on the operation of the school for the academic session 2019-20 at the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other observations, that the sufficient funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, the school funds have been used in contravention of provisions of Rule 177 of DSER, 1973 and other aforesaid rules amounting to INR. 62,91,794. Accordingly, school is directed to recover the aforesaid amounts from the society within 30 days from the date of this order and shall submit the copy of receipt along bank statement showing receipt of the amount at the time of evaluation of next fee proposal of the school.

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

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional

sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 6% to be effective from 01 July 2022.

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

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for the session 2019-20 of **DAV Public School, Sector-7, Rohini, New Delhi – 110085 (School Id: 1413257)** has been accepted by the Director (Education) and the school is allowed to increase the fee by 6% to be effective from 01 July 2022

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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



(Yogesh Pal Singh)

**Deputy Director of Education
(Private School Branch)**

Directorate of Education, GNCT of Delhi

To:

**The Manager/ HoS
DAV Public School, Sector-7,
Rohini, New Delhi – 110085
(School Id: 1413257)**

No. F.DE.15 (677)/PSB/2022/ 4130-4134

Dated: 03/06/22

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 (North West B) 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