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

No. F.DE.15(521)/PSB/2022/ 3033-3037 Dated: 17/05/22

ORDER

WHEREAS, **Mamta Modern Senior Secondary School (ID-1618183), Vikaspuri, New Delhi-110018** (hereinafter referred to as "**the School**"), run by the Mamta Modern Education Society 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 **Mamta Modern Senior Secondary School (ID-1618183), Vikaspuri, New Delhi** for the academic session 2019-2020, necessary records and explanations were called from the school through email. Further, school was also provided an opportunity of being heard on 18 Dec 2019 at 2 PM 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.

AND WHEREAS, the school did not submit its compliance report towards order No. F.DE.15(673)/PSB/2018/30848-52 dated 24 Dec 2018 issued by the Directorate of Education to the school post evaluation of the fee increase proposal for FY 2017-2018. During the personal hearing, the school informed that the compliance report was not submitted to the Directorate since the school had filed a writ petition in the Hon'ble High Court of Delhi (W.P.(C) 3988/2019 & CM APPL.18079/2019) against the said order. The Hon'ble High Court in the said petition ordered that the status quo, regarding enhancement of fees would be maintained by the school till the next date of hearing and shall also be maintained by the Directorate regarding taking of any coercive action against the petitioner. Thus, no such action has been initiated by the Directorate.

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. Financial Observations

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

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

   Directorate's order No. F.DE.15(673)/PSB/2018/30848-52 dated 24 Dec 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the audited financial statements of the school for the FY 2015-2016 revealed that the school has incurred expenditure on construction of school building amounting to INR 13,20,806, which were spent from the school funds without complying with the requirements of Rule 177 and thus were liable to be recovered from the Society.

   Further, the audited financial statements of the school for FY 2018-2019 indicated a building fund of INR 43,87,718. On the basis of the aforementioned provisions, the school is not allowed to collect any building fund from students or create such fund by transfer from another fund. It was further noted the school had presented utilisation of INR 15,57,575 from the building fund during FY 2018-2019 towards Building Upgradation. Also, the said expenditure was not routed as revenue expense in the Income and Expenditure Account or as an addition to Building in the Fixed Assets Schedule annexed to the financial statements.

   Based on the fact that the school did not implement the recommendations of 7th CPC till July 2019, did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary till 23 Apr 2019 (i.e. the first time the school obtained actuarial valuation report towards gratuity and leave encashment) and did not earmark funds in investments (plan assets such as group gratuity scheme and group leave encashment scheme of LIC or other insurer) for securing funds towards its liability for staff retirement benefits, 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*", yet the school incurred expenditure of developmental nature on the school building.

   Rule 177 of DSER, 1973 clearly lays down the conditions (i.e. payment of salaries and benefits [including retirement benefits] admissible to staff as per applicable pay commission) after compliance of which the school can incur expenditure on the needed expansion of the school or any expenditure of a development nature or expansion of the school building or for the expansion or construction of building. Accordingly, the burden of additions to building could not shifted on the students and has to be borne by the Society on account of non-compliance with provisions of DSEA&R, 1973.Therefore the school should clear off the building fund appearing in the balance sheet.

Therefore, the amount of INR 28,78,381 (INR 13,20,806 plus INR 15,57,575) 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 to ensure compliance of requirements of Rule 177 before incurring any expenditure of developmental nature on the school building.

2. 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.*"

   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:*
   - *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."

   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."

During FY 2016-2017, the school has purchased luxury car amounting of INR 12,60,988 from school funds. During personal hearing the school mentioned that the vehicle is used for staff and students to attend various seminars, competitions, etc.

It has been observed that the school has purchased vehicle and submitted proposal for increase of fee from students that 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 i.e. without deriving savings in accordance with Rule 177.

Accordingly, the amount spent by the school on purchase of luxury car of INR 12,60,988 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. The school is further directed to ensure that capital assets (other than eligible assets against development fund) are not procured from school funds unless savings are derived in accordance with Rule 177.

3. 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(673)/PSB/2018/30848-52 dated 24 Dec 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that though the school has created provision against gratuity and leave encashment, the liability of gratuity provided in the books is not equal to the amount of liability determined in the actuarial valuation report. Further, the school has not earmarked funds or created any investment against the same.

   On review of the audited financial statements of FY 2018-2019, it was noted that though the school has provided for the liability against gratuity and leave encashment in the financial statements based on the actuarial valuation report, the same is not supported by equivalent investments against the provision for gratuity and leave encashment in the form plan-assets such as group gratuity scheme and group leave encashment scheme of LIC (or any other insurer).

   Despite the direction given to the school by the Directorate vide its order No. F.DE.15(673)/ PSB/2018/30848-52 dated 24 Dec 2018 post evaluation of fee hike proposal for FY 2017-2018, the school did not deposit any amount against the provision created in its books of account towards gratuity and leave encashment in plan-assets in the form of group gratuity and leave encashment policies of LIC or other insurer. Accordingly, no amount has been considered towards gratuity and leave encashment in the fund position of the school (enclosed in the later part of this order).

On the same rationale, the amount budgeted by the school towards gratuity and leave encashment for FY 2019-2020 has not been considered as part of budgeted expenses in the fund position of the school (enclosed in the later part of this order).

The school is directed to start depositing amount in investments that qualify as plan assets such as group gratuity scheme and group leave encashment schemes of LIC of other insurer in subsequent years in order to create investments equivalent of the liability derived by the actuary in order to protect statutory liability towards retirement benefits of school staff.

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."*

Directorate's order No. F.DE.15(673)/PSB/2018/30848-52 dated 24 Dec 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school collects one time charges from Nursery, prep and class I @ INR 3,500, INR 4,200 and INR 2,500 respectively from students at the time of admission which the school was directed to stop collection of the same from students.

On review of audited financial statements for FY 2017-2018 to FY 2018-2019 and fees structure submitted by the school, it was observed that the school is continuing to collect one-time orientation and smart school from Nursery, prep and class I @ INR 3,500, INR 4,200 and INR 2,500 respectively 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. Collecting one-time charge from students at the time of admission of students takes the form of admission fee, which can be collected maximum to 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.

Based on the audited financial statements of school for FY 2018-2019, the school collected a total sum of the INR 2,02,500 from students at the time of admission. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fee has 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 from during FY 2019-2020 within 30 days from the date of this order.

Further, the school is directed not to collect one-time Orientation Charges from students at the time of admission or otherwise with immediate effect and refund/adjust any subsequent collection.

5. 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*".

Further, 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.*"

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(673)/PSB/2018/30848-52 dated 24 Dec 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school has increased development fees and annual charges during FY 2016-2017 without the prior approval of the Directorate and the school was directed to refund/adjust the excess fees collected by the school. On review of the fees structure and the fee receipts provided for the FY 2015-2016 to FY 2018-2019 submitted by the school, it was noted that the school has increased fees as follows-

Financial Year	**FY 2016-2017**	**FY 2017-2018**	**FY 2018-2019**
Tuition Fees			
- Nursery	-	-	10%
- KG	12%	23%	23%
- Class-1	10%	10%	10%
- Class II- IX	-	-	10%
- Class-11	-	10%	-
- Class-12	-	10%	-
Development Fees	110%- 152%	110%- 199%	132%- 219%
Annual Charges	110%- 142%	115%-125%	135%-194%

From the above table it is clear that the school is continuously increasing fees every year from FY 2016-2017 and onwards without taking prior approval of the Directorate. Further, from the FY 2019-2020 the school has already started to charge increased fees as proposed by the school as under:

Class	Tuition Fees	Development Charges	Annual Charges
Nursery	3,600	5,346	8,000
KG	3,250	4,752	7,200
Class-1	2,900	4,176	5,500
Class II- V	2,640	3,960	5,500
Class VI-VII	2,770	4,158	5,500
Class-IX	3,170	4,752	6,100
Class-X	3,100	4,500	6,100
Class XI (Science/ Commerce/ Arts)	3,830/ 3,635/ 3,430	5,742/ 5,445/ 5,148	6,100
Class XII (Science/ Commerce/ Arts)	3,670/ 3,480/ 3,290	5,400/ 5,040/ 4,770	6,500

Further, the school did not provide the exact amount of increased fees already collected from students during FY 2016-2017 to FY 2019-2020. Thus, no adjustment could be reflected in the fund position of the school (enclosed in the later part of this order).

Accordingly, the school is hereby directed to calculate the excess fee collected from students from FY 2016-2017 to FY 2019-2020 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to increase any fee/charge of any class without approval from the Directorate.

6. Based on the financial statements of the school for FY 2016-2017 to FY 2018-2019, it is reflected that the school has taken security deposits from teachers, which is not in accordance with the DSEA & R, 1973.

   The financial statements of FY 2018-2019 reflected a balance of teacher's security as on 31 Mar 2019 of INR 1,61,100, which has been adjusted while deriving the fund position of the school (enclosed in the later part of the order) with the direction to the school to refund the amount of security already collected from teachers to respective teachers within 30 days from the date of this order. Further, the school is directed not to collect any amount from teachers as security.

B. 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 Smart School and Computer fees, Science fees, Painting fees, Medical charges, Air conditioner charges, School magazine/newsletter and Transportation charges from students. The school started maintaining a separate fund for transport fee from FY 2018-2019 and reported a negative balance of INR 15,70,534 as on 31 Mar 2019 on account of deficit against transport facility during FY 2018-2019.

It was further noted that the school failed to disclose transport fees in the income and expenditure account rather it was presented directly in designated funds maintained by the school as Transport Fund. While these are revenue receipts collected by school, the school did not route the incomes and expenses in relation to the transport fee head through the Income and Expenditure Account, which is not in accordance with Generally Accepted Accounting Principles (GAAP).

Based on financial statements for FY 2018-2019, the following were the incomes and expenses against earmarked levies:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Transportation fees	1,03,00,018	1,18,70,552^	(15,70,534)
Science Fee	5,45,700	1,68,100	3,77,600
Smart School & Computer Fee	68,84,157	65,73,540	3,10,617
Medical Fee	2,58,300	4,66,719	(2,08,419)
Painting Fee	2,41,350	2,11,807	29,543
Software ERP and Magazine Charges	3,42,345	4,57,653	(1,15,308)
Air conditioning Charges	13,78,450	-*	13,78,450

^ Includes depreciation on vehicles used for transportation of students.

* Details of the expenses incurred against this earmarked levy not provided by the school.

The surplus in Air conditioning Charges is reflected since the school did not provide details of expenses incurred by the school against such earmarked levies. Thus, actual surplus or deficit against this earmarked levy could not be determined. Also, the school has been generating surplus against science fee, which has been utilised for meeting other expenses of the school, which is not in accordance with provisions of DSEA & R, 1973.

Further, the school has not been able to meet the expenses towards transport facility from fee collected from students. Therefore, 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. surplus/deficit from transport facility) to students not availing transport facility i.e. it must not adjust the surplus/deficit from school funds. Further, the school is instructed to operate transport facility strictly on no-profit no-loss basis.

Further, based on 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 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 school is charging Smart school, medical charges and school magazine/newsletter compulsory 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 Smart school, medical charges and school magazine/newsletter and details of expenses provided by the school, 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/or annual charges, as applicable, collected from the students.

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.

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. 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, 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 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.*"

   From the audited financial statements for the FY 2017-2018 of the school it was noted that the school has spent INR 57,137 on the purchase of ATL projector from the development fees. It was noted that the school has received a separate grant for Atal Tinkering Lab. Accordingly, the cost of the assets purchased from the said grant should not have been met out of the development fund. Hence, this is incorrect utilisation reported by the school and should be rectified correspondingly.

   Based on the presentation made in the audited financial statements of the school for FY 2018-2019, it was noted that the school has started creating 'development fund utilized' account equal to amount of development fund utilized during the year. However, the school did not transfer an amount equivalent to the depreciation on assets from the development fund utilized to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Thus, the school has not done the accounting and reporting of development fund utilized in accordance with the requirements of Para 99 of Guidance Note 21.

   The school is directed to follow the accounting and disclosure requirements prescribed in the Guidance Note 21 and ensure that the development fund is utilised for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Further, the school must rectify the cost of the assets purchased from a grant and not report under the assets procured from development fund.

3. 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	2,203	2,194	2,249
No. of EWS Students	228	258	295
% of EWS students to Total Students	10.35%	11.76%	13.12%

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.

4. On review of the proposal for enhancement of fee for FY 2019-2020 submitted by the school, it was noted that the school did not include/disclose transport fee collected by it from students in its proposal for fee hike submitted for FY 2019-2020.

   The school must ensure that it discloses all heads of income in its proposal for enhancement of fee including earmarked levies. Also, the school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

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 11,30,47,823** out of which cash outflow in the year 2019-2020 is estimated to be **INR 10,63,83,42**. This results in net surplus of **INR 66,64,399**. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	35,56,238
Investments (Fixed Deposits) as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	2,14,96,223
Total Liquid Funds Available with the School as on 31 Mar 2019	**2,50,52,461**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2018-2019) [Refer Note 1]	8,78,25,537
Add: Amount recoverable from Society towards construction of building [Refer Financial Discrepancy No. 1]	28,78,381
Add: Amount recoverable from Society towards purchase of car during FY 2016-2017 [Refer Financial Discrepancy No. 2]	12,60,988
Gross Estimated Available Funds for FY 2019-2020	**11,70,17,367**
Less: FDR held jointly with CBSE (as per audited financial statements of FY 2018-2019)	4,58,442
Less: Staff retirement benefits [Refer Financial Discrepancy No. 3]	-
Less: Development Fund Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	30,19,102
Less: Balance of teachers' security as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019) [Refer Financial Discrepancy No. 6]	1,61,000
Less: Caution Money Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	3,31,000

Particulars	Amount (INR)
Less: Teacher Reserve/ Salary Reserve [Refer Note 2]	-
Less: Increased fee/charges collected from students during FY 2016-2017 to FY 2019-2020 without prior approval of the Directorate [Refer Financial Discrepancy No. 5]	-
Net Estimated Available Funds for FY 2019-2020	**11,30,47,823**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 3 and 4]	10,63,83,424
Estimated Surplus as on 31 Mar 2020	**66,64,399**

Notes:

1. Fee and income based on income reported in financial statements of FY 2018-2019 (except amount written off, being a non-cash income) have been considered (after adjusting excessive fee of INR 2,02,500 collected from students in the name of orientation fee, which the school is required to refund/adjust during FY 2019-2020 in accordance with Financial Discrepancy No. 4) with the assumption the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020.
2. Though the school has created salary reserve of INR 1,47,24,363 in its financial statements as on 31 Mar 2019, but the school has failed to create Fixed Deposit in the joint name of the school and Deputy Director of Education toward salary reserve. Accordingly, the same has not been considered in table above.
3. Per the Budget for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated revenue expenditure of INR 11,79,13,974 during FY 2019-2020, 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 Observations 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	Actual FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Salary and wages including allowances	4,41,73,089	7,42,87,874	6,95,94,700	46,93,274	Salary and wages have been considered based on the calculation of salary as per 7th CPC separately submitted by the school.
Gratuity	17,13,915	13,94,761	-	13,94,761	Refer Financial Discrepancy no 3
Leave Encashment	(23,29,728)				
Staff Welfare, Uniform, Festival Expenses	5,77,944	7,15,000	6,35,738	79,262	Reasonable explanation/ justification not provided by the

Expense Heads	Actual FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Independence & Annual Day Expenses	6,51,623	12,00,000	7,16,785	4,83,215	school for such percent increase in expenses. Thus, expenditure restricted to 110% of that incurred during FY 2018-2019
Computer Education/ Smart Class	65,73,540	77,38,800	72,30,894	5,07,906	
Art & Craft	2,11,807	2,94,000	2,32,988	61,012	
Science Lab	1,68,100	5,50,000	1,84,910	3,65,090	
Seminar & Workshop Expenses	96,722	1,80,000	1,06,394	73,606	
Educational Tour & Picnic	-	3,00,000	-	3,00,000	New expense head budgeted during FY 2019-2020 for which no reasonable justification or rationale was provided by the school. Thus, the same have not been considered.
Unforeseen Exp	-	2,50,000	-	2,50,000	
Orientation Exp	-	2,30,000	-	2,30,000	
AC- R&M	-	17,90,000	-	17,90,000	
Transport Charges	1,18,70,552	1,16,02,443	1,03,00,018	13,02,425	Depreciation, being a non-cash expense does not have any impact on the fund position of the school. Thus, the same has not been considered.
Total	**6,37,07,564**	**10,05,32,878**	**8,90,02,427**	**1,15,30,551**	

4. The school has also budgeted capital expenditure of developmental nature on school building, which the school cannot incur from development fund, being not budgeted for replacement, upgradation or purchase of furniture, fixture or equipment. Also, since the school has not secured funds towards staff gratuity and leave encashment, it has not complied with the requirements of Rule 177. Thus, the school is directed not to incur such expenditure of development nature from school funds:

Expense Heads	Actual FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed
Construction of Stadium Stairs	-	43,00,000	-	43,00,000
Room Upgradation Junior Wing	-	10,00,000	-	10,00,000
Total	**-**	**53,00,000**	**-**	**53,00,000**

In view of the above examination, it is evident that the school has adequate funds for meeting all the budgeted expenses for the financial year 2019-2020.

ii. 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.*" The school has sufficient funds to carry on the operation of the school for the academic session 2019-2020 on the basis of existing fees structure and after considering existing funds/reserves.

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, certain financial observations were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2019-2020 and payment of salaries as per the recommendations of 7th CPC are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, the relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for payment of salaries as per the recommendations of 7th CPC and meeting the expenses for the financial year 2019-2020. **Since the school has accumulated surplus funds, increasing fee from students would result in profiteering and commercialisation of education.** Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2019-2020.

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 session 2019-2020 of **Mamta Modern Senior Secondary School (ID-1618183), Vikaspuri, New Delhi-110018,** has been rejected by the Director of 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 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
Mamta Modern Senior Secondary School (ID-1618183),
Vikaspuri, New Delhi-110018

No. F.DE.15 (521)/PSB/2022/3033-3037 Dated: 17/05/22

Copy to:
1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (West A) 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