

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

No. F.DE.15(564) / PSB / 2022 / 3301-3305

Dated: 22/05/22

ORDER

WHEREAS, **Gyan Mandir Public School, E Block, Naraina Vihar, (School Id-1720150)** (hereinafter referred to as "School"), run by the Khosla Education Foundation (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

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

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

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

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



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

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other 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 & 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 very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the School was also provided an opportunity of being heard on 11.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues were noted. During the aforesaid hearing, compliances against Order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued for academic session 2017-18, was also discussed and submissions taken on record

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

A. Financial observations:

1. As per the Directorate's Order No. DE.15/Act/Duggal.Com/203/99/23033-23980 dated 15.12.1999, *the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution.* The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

The Directorate in its order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, noted that the School paid consultancy charges of INR. 39,72,791 for the period from 2013-14 to 2016-17 to M/s Cosmopolitan Enterprises. For which the school did not provide any supporting documents such contract, invoice etc. Accordingly, the genuineness of this expense could not be verified. During the person hearing the school had explained that consultancy charges was paid for providing consultancy service to the Society on managing the school effectively and the contract was concluded on 31.03.2017. As the consultancy charges was provided to the society, therefore this expenditure should have been borne by the society not the school. Accordingly, the school was directed to recover this amount of INR 39,72,791 from the Society which is still pending for recovery.

During personal hearing, the School explained that the contract has already been expired on 31.03.2017 but kept quiet on the recoverability of the aforesaid amount. Therefore, the aforesaid amount of INR 39,72,791 has been included in the calculation of fund available with the school with the direction to the school to recover this amount from society and submit the compliance status within 30 days from the date of issue of this order.

2. As per direction no. 2 included in the Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/ KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Moreover, Rule 177 of DSER, 1973 states that *"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. And the*

aforesaid savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

Based on aforesaid provisions mentioned above, 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.

DoE in its order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 stated that the school for FY 2016-17 reflected cost of land carried over from previous years. During personal hearing school explained that the land in district "Nooh", Haryana for INR. 24,00,000 in FY 2011-12 was purchased. The aforesaid payment towards purchase of building which is a capital asset of the society resulted in diversion of funds by the school to the Society.

Therefore, the amount of INR 24,00,000 capitalized by the school on buildings is recoverable from the Society. Accordingly, this amount has been included in the calculation of fund availability 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.

3. As per Rule 125 of Delhi School Education Rules, 1973 "Every employee of a recognised private school, not being an unaided minority school, shall be entitled to travelling allowance and daily allowance according to the rules made by the Delhi Administration."

The Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018, observed that the school paid INR 5,79,000 to Principal and manager as a 'Conveyance charges' for the period from Apr'16 – Mar'17. The aforesaid amount was paid over and above the travelling allowance paid along with the salary. For which the school did not provide any justification for the same.

It has also been noted that the school instead of following with the direction given in the DoE order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018, has continuously been paying conveyance charges to the principal and manager. During the FY 2017-18 and 2018-19, the school has further paid INR 7,94,000 & INR 6,26,000 to principal and manager respectively in contravention of the above-mentioned provision.

It has been further noted that the School has paid conveyance charges of INR 2,40,000 to Vani Talwar (INR 15,000 per month from Nov'16 to Feb'18) who is not an employee of the school and has not provided any details for the same. In the absence of such details the kind of services provided by her and nature of payment cannot be justified.

Therefore, the total amount of INR 16,60,000 (INR 7,94,000 paid to Principal, INR 6,26,000 paid to Manager and INR 2,40,000 paid to Vani Talwar) is recoverable from the concerned persons/ society. Therefore, this amount has been added while deriving the fund position of the school considering the same are available with the school and with the directions to the school to recover this amount from the concerned persons/society within 30 days from the date of issue of this order.

4. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."*

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

Also, 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."*

As per Rule 177 of DSER, 1973 *"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. And the aforesaid savings shall be arrived at after providing for the following, namely:*

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

The DoE in its Order no. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of proposal for fee enhancement for FY 2017-18, to obtain an actuarial valuation of its gratuity and leave encashment liabilities, Further, the school was directed to disclose its liabilities on account of gratuity and leave encashment. Also invest the amount in the plan assets as prescribed in AS-15.

The documents submitted by the school were taken on record, on review of the documents submitted by the school post personal hearing, it has been noted that the school has obtained group gratuity scheme from

LIC and invested INR 50,04,858 as on 31.03.2019 against the total liability of INR 1,20,35,374. Thus, the school has not invested the whole amount in plan assets as per the requirement of AS-15. Therefore, the amount invested by the school in plan assets of INR 50,04,858 has been considered while deriving the fund position of the school. Accordingly, the provision made by the school toward retirement benefit during FY 2019-20 of INR 15,00,000 has not been considered while deriving the fund position of the school.

The school is hereby directed to get the actuarial valuation report for its retirement benefit and report the same in its audited financial statements. The school is further directed to invest an amount equivalent to the liability determined by the actuary in plan asset within 30 day from the date of issue of this order.

5. Sub rule (4) of Rule 173 of DSER, 1973 states *"Every Recognised Unaided School Fund shall be kept deposited in a nationalised bank or a scheduled bank or in a post office in the name of the school, and such part of the said fund as may be specified by the Administrator or any officer authorised by him in this behalf shall be kept in the form of Government securities and as cash in hand respectively."*

Also, as per para 73 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India *"(i) A school should disclose current investments and long term investments distinctly in its financial statements. A current investment is an investment that is by its nature readily realisable and is intended to be held for not more than one year from the date on which such investment is made. A long term investment is an investment other than a current investment, (iii) Investments classified as current investments should be carried in the financial statements at the lower of cost and fair value and (v) Investments classified as long term investments should be carried in the financial statements at cost. However, provision for diminution should be made to recognise a decline, other than temporary, in the value of the investments, such reduction being determined and made for each investment individually."*

Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18 stated that school had invested INR 23,07,367 in mutual funds, which was in contravention of rules mentioned above as schools are not permitted to invest Recognised Unaided School Fund in mutual funds.

Review of audited financial statements of FY 2018-19 and other documents submitted by the school, revealed that School has made investments in mutual funds. As per the portfolio statement as on 31.03.2019, the purchase value of mutual funds is INR 31,41,636 while the school has reported the same at INR 23,07,367. Thus, the school has understated the value of investments by INR 8,34,269 which not in accordance with the above GN. According, to the para 73 of above-mentioned guidance note, long term investments are required to be carried at cost in the financial statements unless there is permanent decline in value of investments.

The School explained that for getting the better returns and for providing great infrastructure to the students, it has invested the surplus funds in the mutual funds. As the investment in mutual funds is subject market risk. Therefore, the school is directed to invest its funds in accordance with provisions laid down under DSER, 1973 and not to invest the school funds in volatile investments which are subject to the market risks.



6. Rule 172 of DSER, 1973 states

- a. *'trust or society not to collect fees, etc. schools to grant receipts for fees, etc., collected by it'*
- b. *No fee, contribution or other charge shall be collected from any student by the trust or society running any recognised school, whether aided or not.*
- c. *Every fee, contribution or other charge collected from any student by a recognised school, whether aided or not, shall be collected in its own name and a proper receipt shall be granted by the school for every collection made by it"*

As per Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, it was noted that the fee from pre-school (Nursery & KG classes) during FY 2016-17 were collected by the Society and receipts were issued in its name, which was a non-compliance of Rule 172. School's explanation that it is not preparing separate financial statements for the society and the school, the explanation was not satisfactory and was directed to prepare separate set of accounts for the school and society and to collect the fee on the name of school only.

On review of submissions made by the school, it has been noted that school has not submitted fee receipts for various classes charged by the school from students to the Directorate. Therefore, it could not be established whether school has stopped diverting the school fees income of nursery & KG class in FY 2018-19. Also, school has not prepared separate set of accounts for school and the society.

Accordingly, the School is directed to ensure compliance with the above provisions of DSEA & R, 1973, prepare separate set of accounts for the school and collect fee on its own name and compliance report for the same need to be submitted by school within 30 days from the date of issue of this order.

B. Other Observations

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

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

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

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance



Sheet.

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

From review of the audited financial statements of the FY 2015-16 to FY 2018-19, it has been noted that the school charges earmarked levies in the form of Computer Fees and Activity Fees from students. However, the school has not maintained separate fund accounts for the above-mentioned earmarked levies. From the audited Financial Statements, the position of earmarked levies collected, and expenditure incurred by the school during has been tabulated in the below table.

Particulars	Year	Computer fee	Activity Expenses
Fees Collection	2015-16	17,73,845	75,41,214
Expenses	2015-16	3,86,816	13,51,288
Surplus/ (Deficit)		13,87,029	61,89,926
Fees Collection	2016-17	19,47,345	51,83,964
Expenses	2016-17	4,10,635	21,63,033
Surplus/ (Deficit)		15,36,710	30,20,931
Fees Collection	2017-18	22,72,890	33,23,741
Expenses	2017-18	5,56,470	15,47,061
Surplus/ (Deficit)		17,16,420	17,76,680
Fees Collection	2018-19	21,63,350	23,46,050
Expenses	2018-19	6,51,925	25,31,534
Surplus/ (Deficit)		15,11,425	(1,85,484)

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 computer fee and co-curriculum fee from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user-based fee. Thus, based on the nature of computer fee and co-curriculum fee and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked levy and should incur the expenses relating to these either from the tuition fee or from the annual charges as applicable. The school explained that tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/other revenue expenditure of the school. Accordingly, total fees (including earmarked fee) have been considered while deriving the fund position of the school.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilized and balance amount for each earmarked levy collected from students for all earmarked levies 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

2. Clause 14 of Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*" Further, Para 102 of the abovementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

- a) *In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;*)
- b) *Assets, such as investments, and liabilities belonging to each fund separately*
- c) *Restrictions, if any, on the utilization of each fund balanced)*
- d) *Restrictions, if any, on the utilization of specific assets. "*

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

Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, it was noted that school was not treating development fees as capital receipt instead treated it as revenue receipt for meeting revenue expenses of the school. Also, school had not opened a separate bank account, nor has it earmarked any fixed deposits against development fund to ensure availability of funds at the time of incurring capital expenditure on purchase, upgradation and replacement of furniture, fixtures and equipment. Hence, the school was directed to treat development fee as capital receipt and not to charge development fee from the students till the time school complies with above directions.

On review of submission made by school at the time of personal hearing, it has been noted that school has



continued treating development fee as revenue receipt and has not transferred any amount to development fund. Also, the school has not complied with Directorate's order of not charging development fee till compliance for order is made and has continued charging development fee from students.

Further, School has not maintained development fund utilization fund and has not credited deferred income in income & Expenditure account to the extent of the cost of the asset in proportion to the depreciation charged every year.

The school is once again directed to strictly follow Directorate's order and ensure that development fee is treated as capital receipt by creating development fund and transferring depreciation charged in revenue account to depreciation reserve, created development fund which should be utilised only towards purchase, upgradation and replacement of furniture, fixtures and equipment and should maintain development fund utilization fund to credit deferred income in income & expenditure account to the extent of the cost of the asset in proportion to the depreciation charged every year. School is once again directed not to charge development fee from students till the time school complies with the above directions.

3. 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, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states *"No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund."*

Clause 3 and 4 of Order No. DE/15/150/Act/2010/4854-69 dated 09.09.2010 stated *In case of those ex-students who have not been refunded the Caution money/Security deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year"*.

Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, it was noted that school has not refunded interest on caution money along with refund of caution money to be made for all exiting students. Also, the school had not treated un-claimed caution money as income after the expiry of 30 days from the date of informing the students to collect their caution money.

During the personal hearing, school mentioned that it has discontinued collecting caution money from students in FY 2018-19 and started refunding caution money as and when students exit the school.

Thus, the school is directed to ensure compliance with the aforementioned directions including refund of



interest along with caution money to exiting students and Accordingly, the amount to be refunded to students as per audited financial statements as on 31.03.2019 has been considered while deriving the fund position of the school (enclosed in the later part of this order).

4. Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18 stated that school has not taken any measure to define its procurement process and has continued to award contracts on discretionary basis to the selected contractors without inviting quotations/bids from other parties. School did not provide policy/procedure followed by it nor has it provided documents related to procurement process carried out for contracts awarded during FY 2016-17.

School was directed to implement proper internal control system in relation to procurement of goods and services so as to ensure that contracts are awarded on Arm's length and competitive prices. However, on review of submissions made by school for proposal of fee hike for academic session 2019-20, it has been noted that school has not submitted its policy/procedures and also has not submitted documents evidencing following up any procedure for awarding of contracts.

The school is once again directed to follow Directorate's order in this regard, implement policies and procedures within 30 days from the date of issue of this order.

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

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

6. As per Sub-clause A of clause 3 of Notification no. 15 (172)/DE/Act/2010/69 dated 07/01/2011 of GNCT, "All schools shall admit children in class one to the extent of at least twenty five percent of the strength of that class, children belonging to weaker sections and disadvantaged groups in neighborhood and provide free and compulsory elementary education till its completion: Provided that where such school imparts pre-school education, the provision shall apply for admission to such pre-school education".

We analyzed the school proposal for the FY 2019-20 and observed that there are 1442 students which are on-roll of the school. Out of 1442 students, 1159 students are fee paying students and 283 students are non-fee paying students.

We also observed that as per GNCT order at-least 25% of the strength belongs to weaker section and disadvantaged groups. However, school has not maintained such proportion in the various classes. It is suggested that school should follow GNCT directions and implement the same in the school at earliest to



minimize the risk of non-compliance and promote the Right to Education policy of Government of India. Detail of such differences are given below:

No of Student	Total no of Students	Total no of fee Paying Students	Total no of Non fee Paying Students
	F.Y 18-19	F.Y 18-19	% of non paying student
Nursery	101	79	22%
KG	103	78	24%
1	105	77	27%
2	102	78	24%
3	104	78	25%
4	104	79	24%
5	105	78	26%
6	104	81	22%
7	107	79	26%
8	102	81	21%
9	109	95	13%
10	92	88	4%
11 (Sci)	48	45	6%
11 (Voc)	10	10	0%
11 (Comm.)	41	33	20%
12 (Sci)	51	50	2%
12 (Voc)	10	10	0%
12 (Comm.)	44	40	9%
Total	1442	1159	20%

7. As per Section 18(5) of the DSEA, 1973, the management 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.

Further, Rule 180 of DSER, 1973 states “ (1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in sub-rule (1), shall be submitted to the Director by the 31st day of July of each year.(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 any officers authorised by the Comptroller and Auditor General of India”

And Section 24 (2) of DSA. 1973 states “The Director may arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him”.

Whereas Appendix-II to Rule 180 specify that “final accounts i.e. receipts, and payment account, income and expenditure and balance sheet of the preceding year should be duly audited by Chartered Accountant. And It has been noticed that Financial Documents/ Certificates Attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non CAs.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e. Unique Document Identification Number which is being implemented in phased manner. It will secure the certificates attested/certified by practicing CAs. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

Accordingly, the Council in the 379th meeting of ICAI held on 17.12.2018 and 18.12.2018, made mandatory for all practicing member to obtain 18 digits UDIN before issuing any audits reports/certification etc. in the following manner:

- All Certification done by Practicing CAs w.e.f. 01.02.2019.
- All GST & Tax Audit Reports w.e.f. 01.04.2019.
- All other attest functions w.e.f. 01.07.2019.

However, on examination of the financial statements submitted by the school for evaluation of fee increase proposal of FY 2019-20, it been has observed that the financial statements of the school were certified by the Chartered Accountant without mentioning the UDIN as required by the council. This being the procedural finding therefore, the school management are instructed to ensure this compliance from the Auditor of the school.

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

- The total funds available for the FY 2019-20 amounting to INR 9,65,34,303 out of which cash outflow in the FY 2019-20 is estimated to be INR 6,96,21,013. This results in surplus of INR 2,69,13,290. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	61,01,625
Investments (Fixed Deposits) as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	3,43,51,455
Investment with LIC for group gratuity scheme as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	50,04,858
Investments (Mutual Funds) as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	23,07,367
Liquid funds as on 31.03.2019	4,77,65,305
Add: Recovery of consultancy charges paid by the school on behalf of the society from FY 2013-14 to FY 2016-17 (Refer Financial observation no 1)	39,72,791
Add: Recovery of cost of land paid by school on behalf of the Society (Refer Financial observation no 2)	24,00,000
Add: Recovery of additional allowance against conveyance paid to the principal, Manager and one other member from 01.04.2016 to 31.03.2019 (Refer Financial observation No 3)	16,60,000
Fees for 2018-19 as per audited Financial Statements (Refer Note 1 below)	4,45,77,746
Other income for 2018-19 as per audited Financial Statements (Refer Note 1 below)	25,34,963

Particulars	Amount in INR
Available funds for FY 2019-20	10,29,10,805
Less: Fixed Deposits in the joint name of Secretary, CBSE and Manager, School as on 31.03.2019 (as per School's submission)	3,70,136
Less: Fixed Deposits against Scholarship (as per school's submission)	81,629
Less: Fixed Deposits in the joint name of Directorate of Education and Manager, School as on 31.03.2019 (as per School's submission)	1,48,772
Less: Amount invested in LIC towards gratuity (Refer Financial observation 4)	50,04,858
Less: Caution Money as on 31.03.2019 (Refer Other observation 3)	7,71,107
Less: Depreciation Reserve Fund (Refer Note 2 Below)	-
Net Available funds for FY 2019-20	9,65,34,303
Total cash outflow (Revenue Expenditure + Capital Expenditure - Depreciation) (Refer Note 3 below)	5,49,83,944
Less: Salary arrears for 7th CPC as provided by the school in its justification of fee (Refer Note 4 below)	1,46,37,069
Net Surplus	2,69,13,290

Note 1: Fee and income as per audited Financial Statements of FY 2018-19 has been considered with the assumption that the amount received in FY 2018-19 will at least accrue during FY 2019-20 except profit on sale of assets.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund of INR 13,589,954 as reported by the school in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the school.

Note 3: All amount budgeted by the school has been considered while deriving the fund position of the school except the following:

Particulars	Amount in INR	Remarks
Provision for Gratuity	15,00,000	Refer Financial Observations no.4
Depreciation	12,50,000	Depreciation being non-cash expense, it would not result in cash outflow. Thus, it has not been considered.

Note 4: Review of audited financial statements of the school and as per explanation given, school is paying the salary as per VI pay commission. Accordingly, the impact of salary arrears amounting to INR 1,46,37,069 which is still pending for payment (as provided by the school) has also been considered while deriving the fund position of the school with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. The School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 that,

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

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

WHEREAS The Directorate in its order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, noted that the School paid consultancy charges of INR. 39,72,791 for the period from 2013-14 to 2016-17 to M/s Cosmopolitan Enterprises against which no supporting documents were provided by the school. Since, School has not submitted any evidence of recovery made against the above-mentioned order. Thus, the school was directed to recover the amount from the society.

AND WHEREAS as per Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018, Financial statements of the school for FY 2016-17 reflected land carried over from previous years. As explained by school, a land was purchased in Nooh district of Haryana for INR. 24,00,000 during FY 2011-12. From review of documents related to land it was noted that the land is registered in the name of the society (Khosla Education Foundation) but continues to reflect in financial statements of the school under fixed assets schedule and no recovery of funds has been made by the school from the society. Hence, amount showing under fixed asset schedule for land of INR. 24,00,000 was directed to be recovered from the society.

AND WHEREAS as per Rule 125 of Delhi School Education Rules, 1973 "Every employee of a recognised private school, not being an unaided minority school, shall be entitled to travelling allowance and daily allowance according to the rules made by the Delhi Administration." As per Directorate's order No. F.DE.15(626)/PSB/2018/30552-30556 dated 14.12.2018 Principal and manager of the school were paid 'Conveyance charges' of INR 5,79,000 during FY 2016-17 over and above the travelling allowance paid along with the salary. The school failed to provide any supporting documents in relation to the same. Further, school has not discontinued the practice of paying conveyance charges to Principal and Manager rather one more person who was not found in the list of staff- Vani Talwar was paid INR. 15,000 per month from November 2016 to February 2018. Accordingly, the amount of 'conveyance charges' paid takes the form of monthly allowance, which is not allowed as per the provisions of DSEA, 1973 and DSER, 1973 and amount paid to Principal, Manager and Vani Talwar for the period April 2016 to March 2019 of INR. 16,60,000 is to be recovered from the concerned persons/Society.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial



implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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

Accordingly, it is hereby conveyed that the proposal of fee increases for the academic session 2019-20 of **Gyan Mandir Public School, E Block, Naraina Vihar, (School Id-1720150)** has been rejected by the Director (Education). Further, the management of said school is hereby directed under section 24(3) of DSEAR 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
Gyan Mandir Public School (School ID-1720150)
E block Naraina Vihar
Delhi

No. F.DE.15 (564)/PSB/2022 | 3301- 3305

Dated: 23/05/22

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 (South 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