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

No. F.DE.15 (487 ) / PSB / 2022 / 2699-2703 Dated: 10/05/22

## ORDER

WHEREAS, **The Heritage School (School ID-1720159), D-II, Vasant Kunj, Delhi-110070,** (hereinafter referred to as **"the School"**), run by the **Shri K D Rajpal Educational Society** (hereinafter referred to as the **"Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi **(hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 **(hereinafter referred to as "DSEAR, 1973").** The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

"27....

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, **The Heritage School (School ID-1720159), D-II, Vasant Kunj, Delhi-110070,** submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 29.10.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing, compliances against order no. F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants including follow up of Order No. F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued for academic session 2017-18 and key observations noted are as under:

## A. Financial Observations

1. 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.*

   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 the school funds i.e. fee collected from students is not to be utilised for the same.

   The Directorate in its Order no. F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, it was noted that school made addition to building for INR 2,47,72,011 in FY 2014-15 and 2015-16 by taking loan from the bank, the balance of the loan was INR 1,50,35,432 on 31.03.2016. Accordingly, the school was directed to recover INR 1,38,94,576 (additions to building of INR 2,47,72,011 minus outstanding loan amount of INR 1,08,77,435 as on 31.03.2017) spent from school funds towards construction of building and interest paid on such loan of INR 31,42,745 from the society, which is still pending for recovery. .

   On review of audited financial statements for FY 2017-18 and FY 2018-19, it has been noted that the school has further paid interest of INR 14,18,479 on the aforesaid loan. And the closing balance of the loan was INR 10,43,689 as on 31.03.2019. Further, INR 4,65,080 was spent on

addition to school building and INR 10,12,971 was spent for construction of basketball court which is also not in accordance with the abovementioned provisions.

The representation submitted by the school against the order dated 04.04.2019 were taken on record. The school submitted that as the land has been allotted by DDA for opening a school only, it cannot be used by the society for any other purpose. For all intent and purposes the land and building can only be used by the school and it can never be used by the society for any other purposes. The school further, submitted that the aforesaid expenditure on building was in nature of upgradation due enhancement need of the school as the school building was constructed in the year of 1998. The above contention of the school cannot be accepted considering the fact that school has not yet implemented the recommendation of 7th CPC and could not deposit the liability of retirement benefit in the plan assets due to shortage of funds. On the one hand school is incurring capital expenditure on school's building and on the other hand it is claiming that it does not have the sufficient funds to pay the salary to its staff.

In view of the above, total expenditure of INR 2,97,67,597 (additions to building of INR 2,47,72,011 minus outstanding loan amount of INR 10,43,689 as on 31.03.2019 plus INR 4,65,080 spent on additions and INR 10,12,971 for construction of basketball court in FY 2017-18 plus interest of INR 45,61,224 (including interest of INR 31,42,745 as per the previous order) has been included in the calculation of fund availability of the school considering the same funds is available with the school with the direction to the school to recover the aforesaid amount from the society within 30 days from the date of issue of this order. Further, FDR of INR 9,63,000 (Bank of Maharashtra) which has been lien by the school for taking the loan for construction of building, has been considered that it is available with the school. Therefore, the same has not been excluded while deriving the fund position of the school.

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Further, the fees/ funds collected from the parents / students shall be utilised strictly in accordance with Rules 176 and 177 of the DSER-1973.

The Directorate in its Order no.F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, noted that the school had incurred capital expenditure of INR 56,75,426 for purchase of buses in FY 2017-18 by taking loan from bank as part funding of the cost of buses. It was also noted that the school had purchased the above buses without complying with requirements of Rule 177 of DSER, 1973 and used the school funds for providing service only to specific users of the transport service. Accordingly, the school was directed to recover INR 14,67,417 (Purchase cost of Buses of INR 56,75,426 plus Interest on term loan of Vehicles INR 2,72,838 minus outstanding bus loan balance of INR 35,86,090 minus net earnings of INR 8,94,757 generated from the transport fee) from the Society. The school was also directed to not utilise the school funds for repayment of the above loan.

The financial statements of FY 2018-19 revealed that school spent INR 22,34,702 for purchase of new bus without complying with the requirement of Rule 177 of DSER, 1973. During personal hearing, the school explained that these buses were purchased to meet the needs of the school

towards providing the transport service to the students. Thus, it appears that the school purchased buses first in order to exhaust its existing funds and the submit the proposal for increase of fee, that translates to constituting capital expenditure as component of the fee structure of the school. The school has paid interest of INR 2,67,028 and INR 1,18,982 during FY 2017-18 and FY 2018-19 respectively on the aforesaid term loan taken for purchase of the buses.

In view of the above, the schools' funds which was utilised for purchase of buses amounting to INR 81,32,373 (Cost of Buses of INR 79,10,128 plus interest cost of INR 6,58,848 minus outstanding balance of loan of INR 4,36,603) is recoverable from the society.

However, based on the details of income and expenditure submitted by the school in relation to the transport facilities provided by the school to the students From FY 2016-17 to 2018-19, it was noted that school has generated net surplus of INR 11,76,034 (refer other observation no. 1). Though school has not created a transport fund, the amount of surplus of INR 11,76,034 reported by the school towards transport facility has been adjusted from the amount of INR 81,32,373 computed as utilised from the school funds.

Accordingly, INR 69,56,339 (INR 81,32,373 minus INR 11,76,034) has been considered while deriving the fund position of the school considering the same as fund available with 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. Further, the school is directed to ensure that capital assets are not procured from school funds unless savings are derived in accordance with Rule 177 of DSER, 1973 and the school funds should not be utilised for repayment of the above loan.

3. As Section 18(4) DSEA,1973 states. "*(a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and (b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received".*

Further, the fees/ funds collected from the parents / students shall be utilised strictly in accordance with Rules 176 and 177 of the DSER-1973.

The financial statements of the school revealed that the school spent INR 1,60,000 in FY 2017-18 and INR 66,020 in FY 2018-19 for membership and subscription. The payment of membership and subscription fee by the school cannot be treated as educational expenditure and is not in accordance with the aforesaid provisions. Therefore, such expenditure of INR 2,26,020 has been included in calculation of fund position of the school with the direction to the school to recover this amount from the school management/ society within 30 days from the date of issue of this order. The school is further directed to not incur such type of expenditure out of school funds.

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, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

1. Assets held by a long-term employee benefit fund; and
2. Qualifying insurance policies.

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"*.

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than twenty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"plan assets"* as per AS-15 issued by ICAI.

The school has got the actuarial valuation report of its liability towards gratuity and leave encashment and has reported the same in the audited financial statements. As per the financial statements, the total liability towards retirement benefit was INR 1,81,76,773 as on 31.03.2019 against which the school has invested INR 88,80,726 with LIC and reflected in the audited financial statements.

Therefore, the amount deposited by the school in plan assets amounting to INR 88,80,726 has been considered while deriving the fund position of the school. The school is hereby directed to ensure equivalent investment in plan assets against the retirement benefit.

5. 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."*

Based on the presentation made in the audited financial statements for the FY 2018-19, it has been noted that the school reported purchase of assets from depreciation reserve fund and reflected the same as deduction from the fund. Further, the school has transferred of INR 16,25,574 from depreciation reserve fund to general reserve. The school has not provided any reasonable justification for non-maintenance of the depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts.

Also, the school has reported fixed assets purchased from development fund and general fund at written down value in the fixed asset schedule and on the face of the Balance Sheet as on 31.03.2019.

Therefore, the school is directed to maintain depreciation reserve fund in compliance to the above-mentioned provisions and to make necessary rectification entries relating to development fund, fixed assets and depreciation reserve in conformity with the accounting treatment indicated in the Guidance Note cited above.

6. Rule 59 of the DSER, 1973 states "members of the managing committee not entitled to any remuneration, honorarium or *allowance but may be permitted to draw allowances for attending meetings of the managing committee at a rate not exceeding the rate of daily allowance or travelling allowance admissible to the non-official members of the committees, boards, and the like in accordance with the orders issued by the Government of India from time to time:*

*Provided that if the head of school or a teacher happens to be a member of the managing committee, he shall draw his remuneration in his capacity as the head of school or teacher, as the case may be,*

*Provided further that the allowances paid to the members of the managing committee for attending meetings thereof shall not be a charge on the school fund*".

Based on the above-mentioned provisions no payment to the members of the managing committee is allowed out of the school funds. However, from the review of the documents submitted by the school, it was noted that school paid INR 7,57,200 during the FY 2018-19 to the following members of the managing committee which is not in accordance with the above-mentioned provisions. Therefore, the amount paid by the school to these members are recoverable from the concerned members /society. The details of such payment are provided below:

| Name | Designation | FY 2018-19 | Services |
|---|---|---|---|
| Sunil Aggarwal | Consultant | 6,37,200 | Consultancy charges relating to day-to-day matters of the school @ INR 53,100 per month. |
| K. L. Sobti | Legal Advisor | 1,20,000 | Legal Advisor for School related matter @ INR 10,000 per Month. |

| | | | |
|---|---|---|---|
| **Total** | | **7,57,200** | |

Further, the details of actual amount paid to the above-mentioned members during the FY 2016-17 and FY 2017-18 has not been provided by the school. In the absence of this information, it has been assumed that the school has paid the same amount during the FY 2016-17 and FY 2017-18 as well. Accordingly, INR 22,71,600 (INR 7,57,200 X 3 years) has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the concerned members/society within 30 days from the 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.*"

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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.

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport charges, Science fee, online Education and Digital Communication charges and Audio Visual (AV) Charges from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies that has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus or deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

| Particulars | Science Fees | Transportation Fees^ | Audio Visual Charges | Online Education and D.C Fees |
|---|---|---|---|---|
| **For the year 2016-17** | | | | |

| Particulars | Science Fees | Transportation Fees^ | Audio Visual Charges | Online Education and D.C Fees |
|---|---|---|---|---|
| Fee Collected during the year (A) | 3,63,050 | 63,37,150 | 14,09,620 | 22,55,540 |
| Expenses during the year (B) | 1,47,479 | 54,42,393 | 4,43,775 | 21,09,685 |
| **Difference for the year (A-B)** | **2,15,571** | **8,94,757** | **9,65,845** | **1,45,855** |
| **For the year 2017-18** | | | | |
| Fee Collected during the year (A) | 4,17,600 | 62,39,450 | 15,87,440 | 25,83,280 |
| Expenses during the year (B) | 26,662 | 60,90,454 | 8,19,942 | 20,38,051 |
| **Difference for the year (A-B)** | **3,90,938** | **1,48,996** | **7,67,498** | **5,45,229** |
| **For the year 2018-19** | | | | |
| Fee Collected during the year (A) | 2,86,200 | 56,97,700 | 15,93,440 | 25,90,555 |
| Expenses during the year (B) | 4,56,179 | 55,65,419 | 15,06,694 | 26,41,352 |
| **Difference for the year (A-B)** | **-1,69,979** | **1,32,281** | **86,746** | **-50,797** |
| **Total** | **4,36,530** | **11,76,034** | **18,20,089** | **6,40,287** |

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

From the above table, the 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). From the record submitted by the school, it was noted the school has been collecting Online Education & Communication fee and Information Technology fee from all the students which loses the character of earmarked levies. Therefore, the school is directed to stop the collection in the name of Online Education & Communication fee and Information Technology fee with immediate effect.

Since, the school is not following fund base accounting in accordance with the provision cited above. The total fee (including earmarked fee) have been included in income and expenditure and have been considered in calculation of fund availability with the school and school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilised 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 structure for earmarked levies during the subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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

2. Order no.F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 wherein it was noted:

- No tagging of the assets was done in Fixed Assets Register (FAR) and physically on fixed assets to identify their location because of which the assets could not be physically verified.
- Item wise details are not mentioned in the FAR. Details of the assets sold/scrapped/shifted out of the school are not mentioned in the FAR.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.

During the personal hearing, the school explained that preparation of the FAR with the above details is in the process and the same would be submitted at the earliest. This being a procedural observation, no financial impact is warranted in calculation of fund position of the school.

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.*"

On review of audited financial statements for FY 2018-19, It has been noted that school has not been refunding the caution money to the students along with interest at the time of leaving the school. Further, the school has not provided the calculation of amount of unclaimed cation money payable to the ex-student which is not in compliance with above mentioned provisions.

Therefore, the school is directed to ensure compliance with the aforementioned directions including refund of caution money along with interest to exiting students and treat un-claimed caution money as income after the expiry of 30 days from the date of communication with ex-students to collect the same. Further, the balance of caution money outstanding INR 5,79,000 as on 31.03.2019 has been considered while deriving the fund position of the school.

4. As per the affiliation bye laws prescribed by Central Board of Secondary Education (CBSE), there should be 1.5 teachers per section to teach various subjects. Information relating to teaching staff, students enrolled, and section were obtained from the school and included in the below table:

| Particulars | FY 2016-17 | FY 2017-18 | FY 2018-19 |
|---|---|---|---|
| No. of Section (all classes) {A} | 34 | 35 | 35 |
| Teaching staff during FY 2016-2017 {B} | 81 | 86 | 92 |
| No. of teachers as prescribed by CBSE (No. of sections X 1.5) {C=A*1.5} | 51 | 53 | 53 |
| Derived overstaffing at school (basis CBSE norms) {D=B-C} | 30 | 33 | 39 |
| Derived Teacher-Section Ratio {E=B/A} | 2.38 | 2.46 | 2.63 |

The above calculations indicate that the school has on and average Teacher-Section Ratio of 2.49, which is higher than the ratio prescribed by CBSE. During the personal hearing, the school informed that in order to provide quality education, the school has appointed teachers based on needs of the students. The school prepares plans for each lesson in detail, which is discussed with in-charge of the subjects and quality output is delivered to students after lot of brainstorming. Also, the school tries to document learning curve and patterns of the students and work on the weaknesses of students, for which additional time is required.

As salary expense is the major component of the total cost of the school, the school is required to make an assessment of the staff to ensure effective utilisation of the same in accordance with the norms specified by CBSE. The similar observation was also noted in previous year's order dated 04.04.2019 but the school has not taken any corrective action until now.

5. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

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

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

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

Order no.F.DE.15(289)/PSB/2019/1570-1574 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 stated that the school's fee structure included pupil fund which is being utilised on expenses such as activity expenses, function & festivals, music, sports, printing & stationery and welfare activities.

On review of financial statements for FY 2018-19, it has been noted that the school has been charging pupil fee from students. Hence, school is directed not to charge pupil fee from students

in subsequent financial years and to refund/adjust the aforesaid fee collected from the concerned students against future dues payable.

**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 academic session 2019-20 amounting to INR **17,24,47,344** out of which cash outflow is estimated to be INR **18,19,80,463**. This results in estimated deficit of INR **95,33,119**. The details are as follows:

| Particulars | Amount (in INR) |
|---|---|
| Cash and Bank balances as on 31.03.19 as per Audited Financial Statement | 20,72,641 |
| Investments as on 31.03.19 as per Audited Financial Statements | 1,08,78,062 |
| **Liquid funds as on 31.03.19** | **1,29,50,703** |
| Add: Recovery from the society for additions to building and construction of Basketball court **(Refer Financial Observations No. 1)** | 2,97,67,597 |
| Add: Recovery from the society towards amount spent on purchase of buses out of school funds **(Refer Financial Observations No. 2)** | 69,56,339 |
| Add: Recovery from the society towards Membership Fee paid out of school funds **(Refer Financial Observations No. 3)** | 2,26,020 |
| Add: Recovery from the society towards consultancy charges paid to members of management committee out of school funds **(Refer Financial Observations No. 6)** | 22,71,600 |
| Add: Impact of Fee increase as per previous years Order | 45,54,961 |
| Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1 below)** | 12,49,91,505 |
| Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1 below)** | 18,32,940 |
| **Total Available funds for FY 2019-20** | **18,35,51,665** |
| Less: Investment with Secretary, CBSE as provided by the school | 4,17,578 |
| Less: Investment with District S/W DOE as provided by the school | 6,16,758 |
| Less: FDR with Bank of Maharashtra (Bank Guarantee for building loan) **(Refer Financial Observations No. 1)** | - |
| Less: Caution money as on 31.03.2019 (as per audited financial statements for FY 2017-18) **(Refer Other Observations No. 3)** | 5,79,000 |
| Less: Depreciation Reserve **(Refer Note No.2 below)** | - |
| Less: Development Fund Balance as on 31.03.2019 | 6,10,259 |
| Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Observations No. 4)** | 88,80,726 |
| **Estimated Available Funds for FY 2019-20** | **17,24,47,344** |
| Less: Budgeted expenses for the session 2019-20 **(Refer Note 3 below)** | 14,39,86,463 |
| Less: Arrears of salary on implementation of 7th CPC from 01.01.16 to 31.03.20 (as provided by the school in its justification for increase of Fee) **(Refer Note 4 below)** | 3,79,94,000 |
| **Estimated Deficit** | **95,33,119** |

**Note 1**: Income as per the audited financial statements of FY 2018-19 has been considered on the assumption that the fee received in FY 2018-19 will at lease accrue to the school except depreciation charged on development assets of INR 58,63,170, Liabilities written off INR 27,247 and Short & excess adjustments INR 259, being non-cash incomes.

**Note 2**: On evaluation of depreciation reserve, it was noted that the school had charged depreciation on fixed assets and had transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. Also, the school is charging development fund from students for purchase, up-gradation and replacement of furniture, fixture and equipment. Though development fund maintained by the school has been adjusted for deriving the fund position of the school as per audited financial statements of FY 2018-19, depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009) is more of an accounting head for 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, it is not considered in table above.

**Note 3**: All budgeted expenditure proposed by the school has been considered in the above table except the following:

| Particulars | Amount Disallowed | Remarks |
|---|---|---|
| Salaries & Allowances | 14,02,097 | Reasonable justification was not provided for such unusual increase. |
| Vehicle running, repair & maintenance | 9,21,240 | |
| Interest on term loan against buses and processing charges | 1,15,000 | Refer Financial Observations No.2 |
| Charges paid to members of management committee | 7,57,200 | Refer Financial Observations No.6 |
| **Total** | **31,95,537** | |

**Note 4:** The Directorate vide order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by*

*the appropriate authority*". Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Others vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

As per the minutes of meeting of the School Management Committee dated 27.03.2019, it has been noted that School Management has not yet implemented the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds with the school.

While as per Directorate's Order no. F.DE.15 (289)/PSB/2019/1570-1574 dated 04.04.2019 issued post evaluation of fee increase proposal of the school for the FY 2017-18, wherein school was allowed to increase its fee after considering the impact of 7th CPC. Accordingly, the school was directed to implement the recommendations of 7th CPC. But the school has not complied with the direction mentioned in the previous year's order. Accordingly, the impact of salary arrears which is still pending for payment (as provided by the school in its fee justification for increase in fee) 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 does not have sufficient funds to carry on its operation for the academic session 2019-20 at 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 along with certain financial and other observations, that the sufficient funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, 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 do not have sufficient funds for meeting financial implication for the academic session 2019-20.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the

Justice Anil Dev Singh Committee during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 8% to be effective from 01st July 2022.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for the academic session 2019-20 of **The Heritage School (School ID-1720159), D-II, Vasant Kunj, Delhi-110070** is accepted by the Director (Education) and the school is allowed to increase the fee by 8% (Eight percent) with effect from 1st July 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This 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
The Heritage School
School ID 1720159
D-II, Vasant Kunj, Delhi-110070

No. F.DE.15 (487 ) / PSB / 2022 / 2699-2703 Dated: 10/05/22

**Copy to:**

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (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**