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

No. F.DE.15(643) / PSB / 2022/3805-3809 Dated: 31/05/22

## ORDER

WHEREAS, **DAV PUBLIC SCHOOL, (School ID-1925262), Kailash hills, Delhi-110065,** (hereinafter referred to as **"the School"**), run by the **DAV College Trust & Management Society** (hereinafter referred to as the "**Society")**, is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

*"27....*

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **DAV PUBLIC SCHOOL, (School ID-1925262), Kailash hills, Delhi-110065** submitted its proposal for enhancement of fee for the academic session **2019-20**. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the school for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 22.10.2019 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.

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 and key observations noted are as under:

## A. Financial Observations

1. As per clause 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.*"

Accordingly, based on the aforementioned public notice and High Court Judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e., fee collected from students is not to be utilised for the same.

Further, Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

1. *award of the scholarships to students,*
2. *establishment of any other recognised school, or*
3. *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

*(2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:-*

- *(a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,*
- *(b) the needed expansion of the school or any expenditure of a development nature,*
- *(c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,*
- *(d) co-curricular activities of the students,*
- *(e) reasonable reserve fund, not being less than ten percent, of such savings."*

Thus, based on the aforementioned provisions, 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 should not be utilized for this purpose.

However, on review of audited Financial Statements of the school for FY 2015-16, 2016-17, 2017-18 and 2018-19, it has been noted that the school has incurred capital expenditure for building and has reflected the same as additions to building amounting INR 94,37,535 in contravention of aforesaid public notice and High court judgement and Rule 177 of DSER, 1973. Accordingly, the amount of INR 94,37,535 incurred towards capital expenditure on building from school fund is hereby added to the fund position of the school with the direction to the school to recover the same from the society within 30 days from the date of this order.

2. As a practice adopted by the schools under the management of DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance, which is transferred to DAV CMC. DAV CMC in turn manages and maintains the common pool of funds for all schools under its management and uses the same for payment of gratuity and leave encashment liability as and when the same arises in respect of the staff of respective school at the time of his/her resignation/ retirement.

During hearing, the school has submitted that actuarial valuation for gratuity and leave encashment as at 31.03.2019 have been taken but has not make any investments in the 'Plan Assets' as defined in AS-15 issued by the Institute of Chartered Accountants of India (ICAI). 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."

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15).

The school for the first time has obtained Actuary repot for gratuity and leave encashment as at 31.03.2019 which has been taken on record. As per the Actuary report, the school has liability towards gratuity and leave encashment as on 31.03.2019, INR 6,42,03,730 and INR 1,36,73,773 respectively. But the school has not recorded total liability towards gratuity and leave encashment in its audited financial statements. The details are as under.

| Head | As per Actuary Report as on 31.03.2019 (A) | As per Audited FS as on 31.03.2019 (B) | Difference C=(A-B) |
|---|---|---|---|
| Gratuity | 6,42,03,730 | 5,82,89,054 | 59,14,676 |
| Leave Encashment | 1,36,73,773 | 1,44,11,052 | (7,37,279) |

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

**(Amount in INR)**

| Head | Balance as on 31.03.2019 |
|---|---|
| Gratuity & Leave Encashment balance with DAV CMC | 3,47,32,002 |

It has been submitted by the school that the society is in the process of making investments in the 'Plan Assets' within the meaning AS-15 Employee Benefits and require at least 3-6 months for making investments as the society is running approximately 40 private unaided schools in Delhi and, these investments are made in govt. securities and FDRs. It is pertinent to note here that enough time has been given to the School as well as to the Society for making equivalent investments in the plan assets in accordance with AS-15 from FY 2016-17 onwards. Therefore, failing to make investments in 'Plan Assets' as per AS-15 Employee Benefits has been treated as non-compliance of directions of the Directorate and the amount deposited in the gratuity pool fund and leave encashment pool fund with DAV CMC is treated as fund available with the school in the evaluation of fee proposal of the school.

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). Further, the school has provisioned INR 61,41,354 towards gratuity and INR 26,32,010 towards leave encashment for the FY 2019-20 without depositing any amount in the plan assets in accordance with AS-15. Since the school has not deposited any amount in the plan assets in accordance with AS-15, these provisions towards gratuity and leave encashment have not been considered while deriving the fund position of the school and the amount for gratuity and leave encashment actually paid by the school during financial year 2019-20 amounting to INR 40,75,540 and INR 4,44,502 respectively (as per the details provided by the school) have been considered in the calculation of available fund of the school with the direction to the school to comply with the direction to the school to comply with the direction of the school.

3. On review of audited Financial Statements of the school for FY 2017-18 and FY 2018-19 and further, as per discussion with the school during personal hearing, the school has explained that administration charges were paid to DAV CMC at the rate of 4% of the basic salary paid by the school to its staff till 2016-17.

However, on review of audited Financial Statements for FY 2017-18 and FY 2018-19, it has been noted that the school has provided administration charges @ 7% of basic salary which resulted in excess expenditure of INR 25,23,089 and INR 43,52,658 recorded in FY 2017-18 and FY 2018-19. Considering that the basic salary of the staff at school has also increased substantially on account of implementation of 7th CPC during FY 2017-2018, administrative charges have been considered at 2% of basic salary. The details of Administrative charges paid by the school to DAV CMC during FY 2017-18 and FY 2018-19 has been provided below.

| **Particulars** | **FY 2017-18** | **FY 2018-19** |
|---|---|---|
| Basic Pay | 3,32,43,382 | 6,34,32,304 |
| **Total** | **3,32,43,382** | **6,34,32,304** |
| Applied Rate | 10% | 9% |
| Administrative charges (as per applied rate) (A) | 31,87,957 | 56,21,304 |
| Allowable rate | 2% | 2% |
| Administrative charges (as per allowable rate) (B) | 6,64,868 | 12,68,646 |
| Difference (A-B) | 25,23,089 | 43,52,658 |
| Less: Administrative charges payable (as per audited financial statements) | - | - |
| **Balance recoverable from Society** | **25,23,089** | **43,52,658** |

Therefore, excess amount of INR 68,75,747 (INR 25,23,089 plus INR 43,52,658) paid by the school to DAV CMC by way of administrative charge is recoverable from the society and has been included while deriving the fund position of the school considering the same fund is 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 administrative charges proposed in FY 2019-20 amounting INR 55,00,851 is also more than 2% of basic salary and therefore, excess amount of INR 39,29,180 has not been considered in the calculation of fund availability.

4. The school has submitted copies of fixed deposits with bank totalling to INR 1,50,86,197 invested during FY 2018-19 and has described as created towards Contingency (Salary) Reserve fund of the school. However, the FDRs submitted by the school were made in the name of the school not in the joint name of the school and Deputy Director of Education as per the directions given above.

Thus, the school is directed to invest fixed deposits in the joint name of the Manager of the School and Deputy Director of Education for an amount of INR 1,50,86,197 and submit the same to the Directorate within 30 days from the date of this order. Accordingly, this amount of Rs 1,50,86,197 is hereby added to the fund position of the school considering the same as funds available with the school.

**B. Other Observations**

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

Rule 176 provides "*Income derived from collections for specific purposes shall be spent only for such purpose.*" Further, as per Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*" And as per Sub-rule 3 of Rule 177 of DSER, 1973 "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

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

Also, as per Guidance Note 21 Accounting by Schools issued by the ICAI, earmarked levies collected from students are a form of restricted funds, and which are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet. The above-mentioned Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note.

Thus, school is hereby 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, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies. It was also submitted by school that at times, they have used the surplus of earmarked levies to meet shortfall in Tuition Fee vis-à-vis Establishment cost as Tuition Fee is not sufficient. Details of income and expenditure of earmarked levies as per audited financial statements for FY 2017-18 and 2018-19 are as follows:

**(Amount in INR)**

| **Particulars** | **Transport Fee** | **Magazine fee*** | **Computer Fee*** |
|---|---|---|---|
| **For the year 2016-17** | | | |
| Fee Collected during the year (A) | 70,87,100 | 10,250 | 50,33,870 |
| Expenses during the year (B) | 51,61,880 | | |
| **Difference for the year (A-B)** | **19,25,220** | **10,250** | **50,33,870** |
| **For the year 2017-18** | | | |
| Fee Collected during the year (A) | 63,90,535 | 1,49,000 | 47,15,695 |
| Expenses during the year (B) | 53,29,826 | 7,63,155 | 2,83,959 |
| **Difference for the year (A-B)** | **10,60,709** | **(6,14,155)** | **44,31,736** |
| **For the year 2018-19** | | | |
| Fee Collected during the year (A) | 68,22,140 | 1,50,750 | 46,40,445 |
| Expenses during the year (B) | 59,74,836 | 8,17,390 | 2,72,008 |
| **Difference for the year (A-B)** | **8,47,304** | **(6,66,640)** | **43,68,437** |
| **Total** | **19,08,013** | **(12,80,795)** | **88,00,173** |

*The school has not provided the details of expenditure incurred out of earmarked levies.

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and 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 should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services. And if the services are extended to all the students at the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is directed to stop collecting separate charges in the name of Computer fees immediately failing which necessary action shall be initiated against the school under section 24(4) of DSEA, 1973

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

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

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

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

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

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

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

Further, on review of school fee structure as submitted by the school for FY 2017-18 and 2018-19 it has been noted that school has charged fee in the name of Student Safety and Security Charges amounting INR 10,000 per student at the time of admission.

Similar observation was also noted in order issued for session 2016-17 in most of the schools run by DAV CMC wherein it was instructed

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

Thus, in view of aforesaid legal provisions and directions given, school is not allowed to charge any fee in the name of Students Welfare Activity Fund or Student Safety and Security Charges or Orientation Charges or Stipulated Learning Charges at time of admission. The collection of these fee at the time of admission will be treated as charging of capitation fee and therefore, school is directed to stop the collection of aforesaid fees immediately.

3. As per Clause 14 of 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 fixtures and equipment's. 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.*

As per 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."*

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

From the presentation made in the audited Financial Statements for the FY 2016-17 to 2018-19, it has been noted that the school has followed the accounting treatment prescribed in the Guidance Note 21 on "Accounting by Schools" issued by The Institute of Chartered Accountants of India. The school has transferred amount from development fund to General Fund account, resulting in the overstatement of general fund balance with the notional amount. This is an incorrect accounting treatment and presentation of general fund and development fund. The school is directed to follow DOE instruction in this regard and ensure that development fee is treated as capital receipt and the accounting treatment as prescribed in para 99 of aforementioned Guidance Note is applied.

Also, the school has enclosed a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement for FY 2018-19 and has not prepared separate fixed assets schedules for assets purchased against development fund and those purchased against other funds.

This being a procedural finding, the school is instructed to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.

4. As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Director, Education. Further, as per the directions of Hon'ble Supreme Court in the matter of ***Modern School vs. Union of India & Ors.*** (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

a) It is reiterated that annual fee-hike is not mandatory.
b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
c) If any school has collected fee in excess of that determined as per procedure prescribed, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

In continuation of order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, the Directorate of Education has issued order No. F. DE-15/ACT-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 with the direction that, *"Now, therefore, all the HoSs/ Managers of Private Unaided Recognized Schools, allotted land by the land owning agencies on the condition of seeking prior sanction of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction of the Director of Education for increase in fee/tuition fee for the academic session, online through website of the Directorate and upload returns and documents mentioned therein..."*

*"...In case no proposal is submitted by the School in terms of this order, the School shall not increase the tuition fee/ fee and any increased fee already charged shall be refunded/ adjusted by such schools".*

Moreover, for determination of fee for entry level classes including nursery, the Directorate vide order dated 11.02.2009 and 16.04.2010 has issued detailed guidelines to be followed for determination of fee under various heads and it has been emphasized that the rate of tuition fee shall be determined so as to cover the standard cost of establishment including provisions for DA, bonus etc. and all terminal benefits, and also the expenditure of revenue nature concerning curricular activities. The school is being run by the society on "no profit no loss" basis, and in the guise of autonomy, the school cannot adopt unfair practice while determining the fee structure. The fee should be commensurate with the expenditure incurred by a school for providing educational facilities in a particular class or earmarked levies should be commensurate with the specific facilities or services provided to a particular student. The provision regarding determination of fee and increase in fee under the provisions of DSEA & R, 1973 and circulars, notifications, circulars issued thereunder in this regard are equally applicable to all classes including entry level classes.

However, on review of school records and documents, it appears that the school has increased the tuition fee, annual charge, School safety and security fee and development fee in FY 2018-19 without prior approval of the Directorate in contravention of aforesaid orders of the Directorate. Thus, school is required to refund/ adjust the increased fee collected to students. The school has not provided the details of amount of fee increased and therefore, no impact of the increased fee could be considered in the calculation of funds availability.

The school is directed to refund/ adjust the increased fee collected to the concerned students and submit evidence of the same within 30 days of issue of this order. Also, the school is directed not to collect increased fee from students in future without prior approval of the Directorate.

5. The fixed assets register normally include basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

   During the evaluation of fee increase proposal school was asked to provide Fixed asset register. However, the school has failed to provide the same. Therefore, the school is directed to prepare and submit the fixed assets register and same shall be verified at the time of evaluation of fee proposal of the school for next academic session.

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

i. The total funds available for the year 2019-20 amounting to INR **26,10,56,065** out of which cash outflow in the FY 2019-20 is estimated to be INR **17,76,35,946.** This results in net balance of surplus amounting to INR **8,34,20,119** for FY 2019-20 after all payments. The details are as follows:

| **Particulars** | **Amount in INR** |
|---|---|
| Cash and Bank balances as on 31.03.19 as per audited Financial Statements | 1,30,56,793 |
| Investments (Fixed Deposits) as on 31.03.19 as per audited Financial Statements | 7,60,45,588 |
| Gratuity and Leave Encashment Pool fund with DAV CMC as on 31.03.2019 as per audited Financial Statements | 3,47,32,002 |
| **Liquid Funds as on 31.03.2019** | **12,38,34,383** |
| Add: Recovery from society of additions to building reflected in financial statement for FY 2015-16 to FY 2018-19 **[Refer Financial Observations No. 1]** | 94,37,535 |
| Add: Recovery from Society from excess payment of administrative charges **[Refer Financial Observations No. 3]** | 68,75,747 |
| Add: Fees for FY 2018-19 as per Audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 **(Refer Note 1 below)** | 11,64,85,459 |
| Add: Fees for FY 2018-19 as per Audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 **(Refer Note 1 below)** | 84,71,758 |
| **Available funds for FY 2019-20** | **26,51,04,882** |
| Less: Development Fund as on 31.03.2019 | - |
| Less: Fixed Deposits in the joint name of Secretary, CBSE and Manger, School as on 31.03.2019 (as per School's submission) | 5,96,245 |
| Less: Fixed Deposits in the joint name of DDE and Manger, School as on 31.03.2019 (as per School's submission) | 3,22,105 |
| Less: Caution money balance **(Refer Note 2 below)** | 31,30,467 |
| Less: Retirement benefits **[Refer Financial Observations No. 2]** | - |
| Less: Salary reserve fund **[Refer Financial Observations No. 4]** | - |
| **Net availability of funds for 2019-20** | **26,10,56,065** |
| **Total cash outflow (Refer Note 3 to 6 below)** | 17,76,35,946 |
| **Cash Surplus/(Deficit)** | **8,34,20,119** |

**Notes:**

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. Further, profit on sale of fixed assets of INR 40,815 and liabilities written back of INR 25,57,415 have not considered being noncash items.

2. The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 April 2010 states "All schools must, first of all, explore and exhaust the possibility of utilizing the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of the increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase." Over the number of years, the school has accumulated a development fund and has reflected the closing balance of INR 3,22,99,845 in

its audited financial statements of FY 2018-19. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school and has not been considered while deriving the fund position of the school. Refer other observations no. 2 for more details.

3. The caution money balance as on 31.03.2019 as submitted by the school has been considered in the evaluation of fund position of school.

4. As per financial observation no. 3, the school has not invested any amount in plan assets ( i.e., LIC or similar agency) within the meaning of AS-15 for gratuity and leave encashment. Accordingly, the amount proposed amounting to INR 61,41,354 towards gratuity and INR 26,32,010 towards leave encashment for the FY 2019-20 have been restricted to actual amount paid by the school during financial year 2019-20 amounting to INR 40,75,540 and INR 4,44,502 respectively.

5. As per financial observation no.3 the school has proposed INR 55,00,851 towards administrative expenses to be transferred to society. Which is also more than 2% of basic salary and therefore, excess amount of INR 39,29,180 has not been considered in the calculation of fund availability.

6. The school has proposed INR 1,00,00,000 for building and INR 10,00,000 for vehicles out of the development fund. As clause 14 of the order 11.02.2009, the development can only be utilised for purchase, upgrade and replacement of furniture, fixture, and equipment. Thus, the development fund cannot be utilised for purchase of car and constriction building. Additionally, as per public notice no. 2 dated 4.5.1997, the school cannot not incur any expenditure on contraction of school building being property of the society. In view of this, the amount proposed by the school toward purchase of car and construction of building has been excluded from the total expenditure of the school.

7. As per the estimated expenditure for FY 2019-20, the school has proposed INR 6,40,000 towards interest on loan for which the school has failed to provide any justification. Accordingly, this has been excluded from the estimated expenditure for FY 2019-20.

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

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has utilised INR 1,63,13,282 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover INR 1,63,13,282 from the society. The amount of above receipt along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2019-20 of **DAV PUBLIC SCHOOL, (School ID-1925262), Kailash hills, Delhi-110065** is rejected by the Director (Education).

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

1. Not to increase any fee/charges during FY 2019-20. In case, the school has already charged increased fee during FY 2019-20, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

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

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

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

This is issued with the prior approval of the Competent Authority

**(Yogesh Pal Singh)**
**Deputy Director of Education**
**(Private School Branch)**
**Directorate of Education, GNCT of Delhi**

To

**DAV Public School (School ID-1925262)**
**Kailash hills, Delhi-110065**

No. F.DE.15(643) / PSB / 2022 / 3805-3809 Dated: 31/05/22

**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 East) 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**