

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

No. F.DE.15 (649)/PSB/2022/3775-3779

Dated: 31/05/22

ORDER

WHEREAS, The Pinnacle School (School ID-1925282), D-Block, Panchsheel Enclave, New Delhi-110017 (hereinafter referred to as "the School"), run by the Babs Noronha Memorial Educational & Social Welfare 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 para's 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"27....

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, **The Pinnacle School (School ID-1925282), D-Block, Panchsheel Enclave, New Delhi-110017**, submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 25 November 2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. FDE15 (26) PSB/2018/2019/995-999 dated 24.01.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants and the key observations noted are as under:

A. Financial Observations

1. Clause 2 of the Public Notice dated 04.05.1997 states "*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.**"

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

Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23 Dec 2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-17 noted that a loan was appearing in the financial statements of the school in the name of BNM Educational and Social Welfare Society. This liability was created against transfer of building by the society to the school in the year 2001-02 and the balance in the books of accounts was arrived after considering payments made in subsequent.

During personal hearing with the school in the previous year, the school explained that the society raised necessary fund required for purchase of land from DDA and subsequently constructed the school building and acquired the infrastructure required for smooth functioning of the school. Therefore, the school insisted that the amount standing to the credit of the Society of INR. 1,03,44,938 as on 31.03.2017 will remain in the books of account of the school as a liability towards the society which has been increased to INR. 1,20,36,031 as on 31.03.2019.

It was also noted that the school has paid an amount totalling of INR 59,82,000 to the society during FY 2007-08 to FY 2012-13 towards outdoor camp and adventure sports. From the details submitted by the school, it was noted that the school recorded outdoor camp and adventure sports expense in its books of account and transferred equivalent funds to the society.

Also, from the ledger account of the society for FY 2015-16 and FY 2016-17, it was observed that the school reversed 'Tax Deducted at Source' and transferred it to the Society Account totalling of INR. 18,842. Thus, resulted in transfer of current assets of the school to the society. Accordingly, INR. 60,00,842 is still recoverable from the society and therefore, has been considered as funds available with the school while deriving the fund position of the school with the direction to the school to recover this amount within 30 days from the date of issue of this order.

However, the school has reported the total cost of Building in fixed assets schedule forming part of the Financial Statements of FY 2018-19 at INR. 1,32,23,082 against which initial contribution of INR. 15,95,000 in the form of Corpus fund and INR. 60,29,189 (INR. 1,20,30,031 minus INR. 60,00,842 which recoverable from the society towards outdoor camp and TDS) in the form of Unsecured Loan from the Society is appearing in the Financial Statements. That means remaining cost of building amounting to INR. 55,98,893 (INR. 1,32,23,082 minus INR. 15,95,000 and INR. 60,29,189) was financed from the school fund. Therefore, INR 1,15,99,735 (INR 60,00,842 for outdoor camp and TDS plus INR 55,98,893 for

building) has been considered while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

2. Clause 14 of this DoE'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, upgradation 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."*

From review of the audited financial statements of the FY 2018-19, it has been observed that school has been treating development fee as revenue receipts instead of treating as capital receipts. During the personal hearing the school explained that from going forward the school would comply with the requirement of clause 14 of the order dated 11.02.2009 and the school has already open separate bank account for collection and investment development fund/fee. The similar finding was also observed during the evaluation of fee enhancement proposal for the academic session 2017-18 wherein the school had confirmed with the compliance with the clause 14 of the order dated 11.02.2009. However, the same is still pending for compliance by the school and the school is again seeking more time to comply with the above cited direction. Therefore, the development fund balance has not been considered while calculating the fund availability with the school.

The representation made by the school during the personal hearing has been taken on record. And basis of this the school is hereby again directed to ensure that the development fee must be treated as capital receipt and create depreciation reserve account equivalent to the depreciation charged in revenue account. Development fund/fee should be utilised only for purchase, upgradation and replacement of furniture, fixture and equipment. *The school is also directed not to charge development fee from students till the time school complies with above directions and non-compliance with this direction would be viewed seriously while evaluating the fee increase proposal of the subsequent year.*

3. The members of managing committee are not entitled to any remuneration from school as per the scheme of management. However vide order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23.12.2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-17 and order no. FDE15(26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 the school was directed to recover INR. 65,29,232 for the remuneration to the members of the managing committee. Wherein, the school was directed to as per below table for honorarium paid to the members of the managing committee in non-compliance of DSEA & R, 1973.

Financial Year	Mr. Raeburn Demonte	Mr. K K Batra	Mr. K K George	Total (in INR.)
2013-14	11,70,000	-	87,641	12,57,641
2014-15	12,90,000	4,41,000	87,640	18,18,640

Financial Year	Mr. Raeburn Demonte	Mr. K K Batra	Mr. K K George	Total (in INR.)
2015-16	14,10,000	4,74,000	89,115	19,73,115
2016-17	10,57,500	3,55,500	66,836	14,79,836
2017-18	-	-	-	-
2018-19	-	-	-	-
Total	49,27,500	12,70,500	3,31,232	65,29,232

The school had already submitted during the evaluation of fee hike proposal for the FY 2017-18 that it has discontinued payment of honorarium to members of managing committee with effect from January 2017. Regarding discontinuance of payment to managing committee members, the school submitted copies of its orders issued to Mr. Raeburn Demonte and Mr. K. K. Batra confirming that no remuneration will be paid to them with effect from January 2017 and copy of resignation from Mr. K. K. George.

During the evaluation of fee hike proposal for the academic year 2019-20, it has been noticed that remuneration paid to Mr. Raeburn during the FY 2016-17 is amounting to INR. 12,90,000. In the previous order it has been considered as INR. 10,57,500 due to lack of information. Hence the balance amount of INR. 2,32,500 to be included in recoverable amount.

The documents submitted by the school post personal hearing has been taken on record, from the document submitted by the school it has been noted that the school has recovered INR. 20,00,000 from Mr. Raeburn Demonte in FY 2018-19 and balance amount is not recoverable from the above members.

Accordingly, balance honorarium paid to the members of the managing committee in non-compliance of DSEA & R, 1973 totalling to INR. 47,61,732 (INR. 65,29,232 plus 2,32,500 minus INR. 20,00,000) is still recoverable from the society/ members of the management committee. Therefore, the same has been included to the fund position of the school considering the same as funds available with the school with the direction to the school to recover this amount within 30 days from the date of issue of this order. The school is also directed not to pay any remuneration to the members of the managing committee of the school.

4. Section 2(m) defines that "*Manager*" in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school". Further, Rule 59 of DSEAR, 1973 states "*Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee:*

(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided;

(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties and responsibilities of the manager;

(l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf;

(m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school;

(r) Manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager.

Thus, the manager of the school cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973

The post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Hence, the Manager of the School cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

From review of audited Financial Statements of the school, it has been noted that school paid INR.15,30,000, INR. 16,50,000 and INR.17,70,000 in FY 2016-17, FY 2017-18 and FY 2018-19 respectively to Manager of the school as remuneration. Since the post of the manager is honorary post. Thus, the total remuneration of INR. 49,50,000 paid by the school to the manager is recoverable from the manager/ society of the school within 30 days from the date of issue of this order. Accordingly, INR. 49,50,000 is hereby added while deriving the fund position of the school considering the same as funds available with the school.

Further, the amount of INR.18,90,000 proposed by the school as remuneration to manager for FY 2019-20 has not been considered while deriving the fund position of the school.

5. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"An enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

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."

From review of the audited Financial Statements of FY 2018-19, it has been noted that the school has created provision for gratuity INR. 1,99,80,267 in accordance with the actuarial valuation report. However, has invested INR.1,00,81,178 with LIC which qualify as plan assets

as per AS-15 issued by ICAI. Accordingly, the amount of invested made by the school with LIC has been considered while deriving the fund position of the school. The school is directed to make equivalent provision in the plan assets as per requirement of AS-15. Since the school has not made the equivalent investment in plan assets for the entire liability towards gratuity therefore, the amount of INR. 98,99,090 budgeted by the school for FY 2019-20 has not been considered while deriving the fund position of the school.

The school has also reported INR. 24,30,756 as provision for leave encashment as on 31.03.2019 on the basis of management estimates. But has not invested any amount which qualify as plan assets as per AS-15. Therefore, the school is hereby directed to get liability for leave encashment determined by the actuary and create equivalent provision and made an investment in plan assets equivalent to the liability determined by the actuary in accordance with AS-15.

Further, the school has proposed INR. 24,30,756 in its budget for FY 2019-20 towards further liability for leave encashment which has not been considered while deriving the fund position of the school because it was not determined by the actuary as per requirement of AS-15 issued by ICAI.

6. Clause 2 of Public Notice dated 04.05.1997 states *"Not to charge building fund and development fee when the building is complete or otherwise as it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Rule 172 – 'Trust or society not to collect fees, etc. schools to grant receipts for fees, etc., collected by it' of DSER, 1973 states *"(1) No fee, contribution or other charge shall be collected from any student by the trust or society running any recognised school; whether aided or not. (2) Every fee, contribution or other charge collected from any student by a recognised school, whether aided or not, shall be collected in its own name and a proper receipt shall be granted by the school for every collection made by it."*

During the personal hearing of last year, the school explained to the department that the amounts collected on account of Building Fund has been purely utilized for the purpose of construction of third floor on the existing school building to enable the students to utilize the expanded facilities and students can opt for science stream at senior secondary level as the students used to leave the school due to non-availability of science stream at senior secondary level. The school further mentioned that it collected contribution of INR. 15,000 towards building fund for construction of the third floor from the willing parents who takes fresh admission for their wards in the school. The school informed that the entire amount of Building Fund is retained by the society and spent on the construction of building.

Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23.12.2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-17 noted that the society collects 15,000 as donation at the time of admission, which is in contravention of the section 13 of the Right to Children to Free and Compulsory Education Act, 2009 which states that, *"no fee shall be collected by the school/trust in the name of capitation fee which means any kind of donation or contribution."*

The similar observation was also noted in order no. FDE15 (26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18. As per previous order, the school collected donation from FY 2013-14 to FY 2015-16 and the school was directed to recover the amount of INR. 47,87,500 from the society. Further, explained that donation were not collected from students from FY 2016-17. However, it has been noted that donation amounting to INR. 17,40,000 was collected during the financial year 2018-19.

Financial Year	Amount of donation (Amount in INR.)
2013-14	15,27,000
2014-15	16,55,500
2015-16	16,05,000
2018-19	17,40,000
Total	65,27,500

Further, the documents submitted by the school revealed that the school has received INR. 60,00,000 and INR. 20,00,000 during the FY 2017-18 and FY 2018-19 from the society on account of Building Fund. Hence, the above amount to be considered as recovered from the society.

And during the personal hearing held with the school on 25.11.2019 at HQ, the school again submitted that the school has stopped collection of Building Fee w.e.f. FY 2018-19.

7. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23.12.2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-17 noted that fixed assets of the school i.e. two cars namely Toyota Innova and Toyota Corolla Altis, which are not in the name of school. These cars are in the name of MINR. Barbara Gail Demonte and they are used by her and her husband Mr. Raeburn Demonte (member of the managing committee). It was also reported that 2/3rd of the vehicle repair and maintenance expenses are related to these two cars only and should be treated as personal expenditure.

Order no. FDE15(26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 noted that the school has diverted school funds for creating capital assets of the principal. Accordingly, it was directed to recover the estimated cost of vehicles of INR.30,00,000 and estimated expense incurred on running and maintenance of these vehicles of INR. 8,00,000 from the Principal of the school.

As per school submission, the school authorities were finding difficulty in transferring the vehicles in the name of the school. Thus, the school authorities decided to sell these vehicles and the sale proceeds amounting to INR. 6,30,000 has been transferred to school account in FY 2018-19. The action taken by the school has been taken on record, from the reply submitted by the school as it could has recovered INR. 6,30,000 from the sale of car therefore, the remaining amount of INR. 31,70,000 still recoverable from the principal/ society within 30 days from the date of issue this order. Accordingly, INR. 31,70,000 has been considered while deriving the fund position of the school.



8. As per section 18(4) (a) of DSEA, 1973 states *"Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed"*.

Rule 177 of DSER, 1973 states *"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 capital or contingent expenditure of the school...."

From the review of the audited Financial Statements of the FY 2018-19, it has been observed that the school has bought Car for INR.36,95,415 which cannot be considered that school funds was utilised for educational purposes. This car was bought even without complying the requirement of Rule 177 of DSER, 1973. Clause 14 of the order dated 11.02.2009 states "Cost relating to furniture fixture and equipment could be met out of the development fund and for meeting the cost of other assets it could be purchased out the saving only as per Rule 177 of DSER, 1973.

Based on the above provisions, amount of expenditure amounting to INR. 36,95,415 incurred by the school on purchase of car is recoverable from the school management/society within 30 days from the date of issue of this order. Accordingly, it has been included while deriving the funds position of the school.

9. In the previous year's order, it was found and reported that the salary amounting to INR. 25,70,919 (INR. 5,86,440 for FY 2013-2014 plus INR. 7,34,720 for FY 2014-2015 plus INR. 7,14,148 for FY 2015-16 plus INR. 5,35,611 [calculated prorated for 9 months of FY 2016-17 based on salary of FY 2015-16]) to two teachers, whose records were not available in attendance register maintained by the school and in the statement submitted to DoE. Accordingly, the school was directed to recover this amount from the society within 30 days vide Order no. FDE15 (26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18. This amount is still pending for recovery.

The school instead of regularising its process, has submitted during personal hearing of the previous year that these two teachers were engaged over and above the sanctioned strength to assist and help the babies of Nursery / KG section to enable them to do their day to day work. Also, the school explained that the services of these two teachers have been discontinued with immediate effect. Further, the school did not provide the adequate evidence to substantiate that the teachers actually worked in the school including documents relating to their recruitment (in accordance with Recruitment Rules), service books, reason for not taking their attendance, their inclusion in PF/ ESIC, etc. which raises doubt on the salaries paid to staff previously and appears as diversion of school funds to the tune of INR. 25,70,919. Therefore, it has been added to the fund position of the school considering the same as funds available with the school and with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Non-compliance with this direction would be viewed seriously while evaluating the fee enhancement proposal of the subsequent years.

B. Other Observations

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states *"The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."*

Further clause 21 of the aforesaid order states *"No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."*

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

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

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

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

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

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transport Fees, E-Learning charges, School Magazine, Diary and Calendar, etc. from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus/(deficit) from earmarked levies, which has been utilised for meeting other expenses of the school or has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school is given below:

(Figures in INR.)

Particulars	Transport Fee	E-Learning Fee	School Dairy/ Magazine/ Calendar
For the year 2016-17			
Fee Collected during the year (A)	17,91,480	8,59,580	4,58,395
Expenses during the year (B)	12,77,689	10,45,971	10,72,240
Difference for the year (A-B)	5,13,791	(1,86,391)	(6,13,845)
For the year 2017-18			
Fee Collected during the year (A)	18,28,800	8,43,310	4,54,570
Expenses during the year (B)	12,83,394	9,36,871	8,69,194
Difference for the year (A-B)	5,45,406	(93,561)	(4,14,624)
For the year 2018-19			
Fee Collected during the year (A)	18,40,000	8,31,280	4,37,182
Expenses during the year (B)	20,21,388	6,24,652	7,51,745
Difference for the year (A-B)	(1,81,388)	2,06,628	(3,14,563)
Total	8,77,809	(73,324)	(13,43,032)

On the basis of aforementioned orders, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The school is charging E-Learning Charges and School Diary/Magazine/Calendar charges from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user based fees. Thus, based on the nature of the E-Learning Charges and School Diary/Magazine/Calendar charges and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee. The expenses relating to these services / facilities shall be incurred from tuition fee and annual charges, as the case maybe. The school explained that tuition fee and annual charges collected from students are not sufficient to meet the establishment cost and other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure. On account of this, the school could not separate the fund balance of earmarked levies from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (including those for earmarked purposes) while deriving the fund position of the school.

The 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/deficit, if any, generated from earmarked levies shall be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.



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

2. Order no. FDE15 (26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 noted that the school was directed to prepare Fixed Asset Register with the details such as supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

As per the details provided by the school, the fixed asset register does not have the details of depreciation and profit/ loss on sale of assets. Therefore, the school is again directed to update the Fixed Asset register with the details mentioned above.

3. As per Section 18(5) of the DSEA, 1973, the management committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.

Further, Rule 180 of DSER, 1973 states “ (1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in sub-rule (1), shall be submitted to the Director by the 31 July of each year.(3) The account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by any officers authorised by the Comptroller and Auditor General of India”

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

Whereas Appendix-II to Rule 180 specify that “final accounts i.e. receipts, and payment account, income and expenditure and balance sheet of the preceding year should be duly audited by Chartered Accountant.

And It has been noticed that Financial Documents/ Certificates Attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non CAs.

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

Accordingly, the Council in the 379th meeting of ICAI held on 17 and 18 December 2018, made mandatory for all practicing member to obtain 18 digits UDIN before issuing any audits reports/ certification etc. in the following manner:

- All Certification done by Practising CAs w.e.f. 1 February 2019.

- All GST & Tax Audit Reports w.e.f. 1 April 2019.
- All other attest functions w.e.f. 1 July 2019.

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

4. 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."*

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

The following were noted in DoE's order no. F. DE-15/ACT-I/WPC-4109/PART/13/67 dated 23 December 2016 and Order no. FDE15 (26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18

- School had not refunded the caution money along with interest thereon on to the students. Hence, the school is directed to refund caution money along with interest to students.
- The school had not reflected un-refunded caution money belonging to ex-students as income in the next financial year after the expiry of thirty days from the date of communication with the students to collect their caution money and had also not taken this into account while projecting fee structure for ensuring academic year. The school is instructed to follow DOE's directions in this regard.

During the personal hearing, school mentioned that it has stopped collecting caution money from students from FY 2019-20 onwards and that the amount appearing in the financial statements as on 31.03.2019 in relation to caution money relates only to existing students of the school.

As per audited financial statements, the amount to be refunded to students as on 31.03.2019 has been considered while deriving the fund position of the school.

5. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23.12.2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-17 noted that the school has entered into contract of INR.50,000 per month with Mr. Trevor Demonte, brother of Mr. Raeburn Demonte (Chairman of Managing Committee), but no document was provided relating to bids received and bid evaluation and hence, it was not possible to comment whether the contract was made at arm's length price or not.

Order no. FDE15(26) PSB/2018/2019/995-999 dated 24.01.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 noted that the school did not invite any bids before awarding above contract. Also, the school did not provide the copy of contract, terms of reference, any evidence regarding qualification, work performed by him, attendance and number of man months worked by him. Due to absence of the requisite information, it is not possible to comment whether the contract was made at arm's length price or not.

During the evaluation of fee hike proposal for the FY 2019-20, the school has not provided any documentary evidence regarding the above contract. On evaluation of compliance report provided by the school, it is noted that the school has assured about following proper procedures for contracting it w.e.f. FY 2019-20.

The school is again directed to invite and evaluate bids for entering into contracts to strengthen its internal control mechanism on awarding contract and to ensure that all contracts are awarded at competitive and arm's length prices. Compliance regarding the above will be validated at the time of evaluation of subsequent fee increase proposal.

6. On review of the audited financial statements 2017-18, it has been noted the school has made an adjustment of INR. 98,88,892 in fixed assets and Depreciation Reserve Fund, for which the school did not submit any details regarding the nature of this adjustment. Therefore, the school is directed to submit the details of adjustment made in fixed assets and depreciation reserve fund. The compliance of which would be verified during evaluation of fee increase proposal of the subsequent year.

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

- i. The total funds available for the FY 2019-20 amounting to INR. **9,88,16,872** out of which cash outflow in the FY 2019-20 is estimated to be INR. **10,47,92,569**. This results in net Deficit amounting to INR. **59,75,697** 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 of FY 2018-19	32,48,021
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19	10,11,966
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19 with LIC	1,00,81,178
Liquid Fund as on 31.03.2019	1,43,41,165
Add: Recovery from Society for payment made towards outdoor camp and adventure sports and towards cost of Building [Refer Financial Observation No.1]	1,15,99,735

Particulars	Amount (in INR.)
Add: Recovery of remuneration paid to members of the Managing Committee [Refer Financial Observation No. 3]	47,61,732
Add: Recovery of salary paid to Manger [Refer Financial Observation No. 4]	49,50,000
Add: Recovery from Principal of school for Car purchased for Principal [Refer Financial Observation No. 7]	31,70,000
Add: Recovery from society for purchase of Car [Refer Financial Observation No. 8]	36,95,415
Add: Recovery from society of salary paid to two teachers, details of whom were not available with the school [Refer Financial Observation No.9]	25,70,919
Add: Fees as per Audited Financial Statements of FY 2018-19 [On the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20]	6,48,12,493
Add: Other income as per Audited Financial Statements of FY 2018-19 [On the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20]	3,78,352
Total Available Funds for FY 2019-20	11,02,79,811
Less: FDR with joint name of School Manager and DOE as on 31.03.2019	9,47,266
Less: Staff retirement benefits- Gratuity (Investments with LIC) [Refer Observation No. 5]	1,00,81,178
Less: Development Balance as on 31.03.2019 (Refer Financial Observation No. 2)	-
Less: Caution Money balance as on 31 Mar 2019 [Refer Other Observation No. 4]	4,34,495
Net Available Funds for FY 2019-20	9,88,16,872
Less: Budgeted expenses as per the Budgeted Financial Statement for the Financial Year 2019-20 after adjustment [Refer Note below]	7,25,67,751
Less: Salary Arrears of 7CPC (as submitted by the school) (Refer Note 1 Below)	3,22,24,818
Estimated Surplus/ (Deficit)	(59,75,697)

Note 1: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except the following:

Particulars	Amount Budgeted (in INR.)	Remarks
Gratuity	98,99,090	Financial Observation No. 5
Leave Encashment	24,30,756	Financial Observation No. 5
Future Contingencies	1,52,78,185	Since the school has not implemented 7 th CPC Therefore, this amount has not been considered.
Remuneration to Manager	18,90,000	Financial Observation No. 4
7 th CPC Salary Arrears	3,22,24,818	7 th CPC salary arrears has been considered separately in the fund flow.
Total	6,17,22,849	

- ii. In view of the above examination, it is evident that the school does not have surplus fund to meet its budgeted expenditure for the academic session 2019-20 at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

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

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 (Education) for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2019-20.

AND also, school funds have been used for purpose of outdoor camp and building amounting INR. 1,15,99,735 , for purpose of salaries to members of management committee amounting to INR. 1,22,82,651 and for purchase of car INR. 68,65,415. These payments were made in contravention of provisions of Rule 177 of DSER, 1973 and other aforesaid rules. Accordingly, school may be directed to recover the aforesaid amounts from the society within 30 days from the date of the order and shall submit the copy of receipt along bank statement showing receipt of the amount at the time of evaluation of next fee proposal of the school.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) 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 10% to be effective from 01 July 2022.

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

Accordingly, it is hereby conveyed that the proposal for fee increase for the academic session 2019-20 of **The Pinnacle School (School ID-1925282), D-Block, Panchsheel Enclave,**



New Delhi-110017 is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 10% to be effective from 01 July 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEA 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

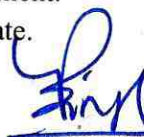
To:

The Manager/ HoS
The Pinnacle School (School ID-1925282),
D-Block, Panchsheel Enclave,
New Delhi-110017
No. F.DE.15 (649)/PSB/2022/3775-3779

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) 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