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

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No. F.DE.15(31) / PSB / 2019 / 902-906 Dated: 22/01/2019

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court while issuing the aforesaid direction has observed that the issue regarding the liability of Private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"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 Supreme Court in the above said Judgment also held that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of Delhi School Education Rules,

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1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS in response to this directorate's circular dated 23 Oct 2017 referred to above, **Darbari Lal DAV Model School (School ID- 1309175), Shalimar Bagh, Delhi-110088** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format including the impact on account of implementation of recommendations of 7th CPC with effect from 1 Apr 2017.

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, necessary records and explanations were also called from the school through email. Further, school was also provided an opportunity of being heard on 30 May 2018 at 10:00 AM and 27 June 2018 at 10:00 AM 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 findings noted are as under:

A. Financial Discrepancies

1. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Hon'ble Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The audited financial statements of the school for FY 2016-2017 reflected a receivable balance (of Reserve Fund) of INR 4,41,24,354 from DAV CMC (Society), which has been carried over from previous financial year. The school was directed to prepare a reconciliation statement of interest received/ receivable through this Directorate's Order No. F.DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 Sep 2017, which was provided by the school (in the form of ledger account of the school with DAV CMC as of 31 March 2018) and taken on record. From the ledger account submitted by the school, it was observed that interest of two financial years (INR 35,29,948 for FY 2016-2017 and INR 38,12,344 for FY 2017-2018) was credited to the school, which was calculated at the rate of 8% per annum compounded annually. This amount of interest along with the balance carried over from previous year of INR 4,41,24,354 totalling to INR 5,14,66,646 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

2. Directorate's order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16 Apr 2016 regarding fee increase proposals for FY 2016-2017 states "*In case, the schools have already charged any increased fee prior to issue of this order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal.*" Based on the details submitted by the school, it was noted that the school had increased its fees by 10% during first quarter of FY 2016-2017 without prior approval of the Directorate. Whereas, post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the fee increase proposal was rejected by DoE with the direction that in case increased fee has already been charged from the parents, the same shall be refunded/adjusted vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 September 2017. Based on the information provided by the school, the school collected an increased fee of INR 1,20,99,567 during FY 2016-2017 out of which the school adjusted fee from students totalling to INR 35,00,135. Thus, the balance amount of INR 85,99,432 is yet to be refunded to students/adjusted from the fee collected from students. Reasonable explanation/justification for not refunding/adjusting the excess amount collected from the students was not provided by the school. Accordingly, the amount of increased fee yet to adjusted/refunded to students of INR 85,99,432 has been adjusted while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of this order) with the direction to the school to immediately adjust/refund this amount and submit the evidence of the same to the Directorate within 30 days from the date of this order.

3. 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.

   The school was directed by DoE through its Order no. F.DE-15/Act-I/WPC-4109/Part/13/912-916 dated 26 September 2017 to obtain an actuarial valuation of its gratuity and leave encashment liabilities. Further, the school was directed to disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statements from FY 2017-2018 onwards. The school is yet to obtain an actuarial certificate regarding its liability towards retirement benefits of the staff and has continued to maintain the investments with DAV CMC.

   Based on discussion with the school during personal hearing, the school provided details of fund balance with DAV CMC in respect of payments made by the school to DAV CMC towards maintenance of retirement benefits fund with DAV CMC including interest accrued for last two years. The balances disclosed by the school based on records maintained by DAV CMC as on 31 Mar 2017 have been indicated below:

Head	Balance as on 31 Mar 2017 (INR)
Gratuity Fund	4,20,62,021
Leave Encashment Fund	2,41,95,010
Total	**6,62,57,031**

Further, 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 mentioned that DAV CMC is in the process of getting the actuarial valuation of retirement benefits of staff of all the schools under its management and the selection process of the actuary has been completed by DAV CMC for carrying out the valuation. It was further explained that the valuation exercise has been initiated for all school under the management of DAV CMC, thus, it has taken more time than expected in collecting the staff data from schools across India, verifying the same and submitting it to the Actuary for valuation. The school further mentioned that the liability as per actuarial valuation would be presented in the financial statements of the school for FY 2018-2019 along with investment in plan-assets as per the requirements of AS-15.

While the school has initiated the process of actuarial valuation, the school should get the valuation of its liability towards staff retirement benefits from an actuary at the earliest and ensure that the liability and corresponding investments are disclosed appropriately in its financial statements for FY 2018-2019. The school should also invest the amount of funds available with DAV CMC towards retirement benefits of the staff of the school in the investments that qualify as 'Plan Assets' within 30 days from the date of this order.

In absence of actuarial valuation, expenditure towards gratuity and leave encashment budgeted by the school during FY 2017-2018 have been restricted to the amount of actual pay-out of the same to the staff upon retirement during FY 2017-2018 (as per ledger account submitted by the school) and adjusted from the budgeted expenses of FY 2017-2018 while deriving the fund position of the school (enclosed in the later part of this order).

4. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes*

the sole property of the society". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Accordingly, based on the aforementioned order, provision of the act and Hon'ble 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.

The audited financial statements of the school for FY 2014-2015 revealed that the school has incurred expenditure on construction of building out of school funds and has capitalised building totalling to INR 8,68,972 in the aforesaid financial year, which is not in accordance with the aforementioned provisions. Further, the above capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Though the financial statements of the school reflect opening block of building, adjustment in the fund position of the school has been done to the extent of additions made in the past three financial years (based of financial statements obtained for evaluation of the fee increase proposal for FY 2017-2018). Accordingly, this amount of INR 8,68,972 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

5. Point 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment.*" However, it was noted that the school had incurred an expenditure on purchase of CNG Bus for INR 37,77,400, during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the direction included in above order.

   Further, the above capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Also, the school has not maintained transport fund account and has not accumulated any reserve from out of transport facility for purchase of vehicles for providing transportation facility to user students. Thus, the amount spent by the school on purchase of vehicle of INR 37,77,400 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

Further, the school has also budgeted an amount of INR 25,00,000 towards purchase of additional bus for providing transportation facility to user students during FY 2017-2018, which has not been considered as allowable expenditure while deriving the fund position of the school (enclosed in the later part of this order).

6. As per Rule 177 of DSEA & R 1973, "*(1)Income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school:*

   Provided that savings, if any from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:-

   (a) award of scholarships to students;
   (b) establishment of any other recognised school, or
   (c) 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 developmental nature;
   (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
   (d) co-curricular activities of the students;
   (e) reasonable reserve fund, not being less than ten per cent, of such savings."

   However, as per details provided by the school, it was noted that the school is paying scholarships to meritorious students without deriving savings in accordance with Rule 177 of DSER, 1973. The school has awarded scholarships amounting to INR 2,10,000 during FY 2016-2017 from the school funds. Hence, this amount of scholarship awarded to the students during FY 2016-2017 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society.

   Further, the school has also budgeted an amount of INR 2,25,000 towards scholarship during FY 2017-2018, which has not been considered as allowable expenditure while deriving the fund position of the school (enclosed in the later part of this order).

7. Based on the documents submitted by the school and taken on records, it was observed that an amount of INR 5,00,000 was paid to DAV CMC on account of advertisement and publicity.

During personal hearing, the school provided a justification that this amount was paid during FY 2016-2017 as part subscription to defray the expenses of holding function in Jawahar Lal Nehru Stadium where the students of this school also participated besides other schools. However, the school could not provide supporting documents in relation to the event such as list of participant schools, number of school participants, amount of contribution, total cost incurred, supporting of the invoices, basis of allocation of cost, etc.

As further explained by the school, this amount was collected only from few schools of Delhi, allocation of the common expense to various participating schools was not done by the DAV CMC. Basis the absence of the information, the expenses of INR 5,00,000 is deemed to be an expense incurred on behalf of the DAV CMC. Accordingly, the amount paid to DAVCMC as donation/grant of INR 5,00,000 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover the same from the society within 30 days from the date of this order.

8. During the personal hearing, the school explained that administration charges payable to DAV CMC are accounted for at the rate of 4% of the basic salary paid by the school to its staff. However, based on the details provided by the school and expenditure included in the audited financial statements of FY 2016-2017, it was noted that the school has provided administration charges @ 4% of basic salary and dearness allowance, which resulted in excess expenditure of INR 4,05,350 recorded in FY 2016-2017. This amount of INR 4,05,350 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

B. Other Discrepancies

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.*"

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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, Science fee, IT Charges, Activity Charges, Group Insurance, Internet Charges and Computer Fee from students. 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, which was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 September 2017. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**(Deficit)/Surplus (INR)**
IT Charges	1,00,76,500	1,05,14,151	(4,37,651)
Science & Computer Fees	12,74,000	37,12,385	(24,38,385)
Transport fee^#	93,65,600	83,47,049	10,18,551
Activity Charges	34,89,900	47,22,855	(12,32,955)
Group Insurance	5,43,750	5,22,340	21,410
Internet Charges	77,750	94,875	(17,125)
Total	**2,48,27,500**	**2,79,13,655**	**(30,86,155)**

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

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The school purchased CNG Bus during FY 2016-2017 for INR 37,77,400, which was indicated by the school as expenditure towards earmarked levy. However, the same expenditure was also adjusted from development fund and was indicated as utilisation of development fund in the audited financial statements of FY 2016-2017. Accordingly, this expenditure of INR 37,77,400 has not been considered as expenditure against earmarked levy in table above.

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 IT Charges and Group Insurance 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 IT Charges and Group Insurance and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee and/or annual charges, as applicable collected from the students. 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 (enclosed in the later part of this order).

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

2. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 Dec 1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

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

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

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

It was noted that the school's fee structure include pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised on co-curricular and medical expenses. Details of collection and utilization of pupil fund provided by the school for FY 2016-2017 is included hereunder:

Particulars	**Nature**	**Amount (INR)**
Pupil Fund Fee	Income	90,63,025
Co-Curricular Expenses	Expenses	26,60,261
Medical Expenses	Expenses	50,859
Sports^	Expenses	-
Net surplus reflected by school		**63,51,905**

^ The school purchased sports equipment during FY 2016-2017 for INR 71,660, which were indicated by the school as expenditure towards pupil fund. However, the same expenditure was also adjusted from development fund and indicated as utilisation of development fund in the audited financial statements of FY 2016-2017. Accordingly, this expenditure of INR 71,660 has not been considered as expenditure against earmarked levy in table above.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purposes for which the school has utilised the same is covered under 'Annual Charges' collected by the school from students. Also, the school is directed not to collect pupil fund from students with immediate effect. For the purpose of evaluation of the fee hike proposal for FY 2017-2018, the above-mentioned fee has been included in budgeted income while deriving the fund position of the school (enclosed in the later part of this order).

3. 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.*"

Basis the presentation made in the audited financial statements for FY 2016-2017 submitted by the school, it was noted that the school transferred an amount equivalent to the purchase cost of the assets from development fund to general reserve instead of accounting treatment as indicated in the guidance note cited above.

Also, basis the presentation made in the audited financial statements for FY 2016-2017 submitted by the school, it was noted that the school reported net balance of development fund (i.e. development fee received minus assets purchased during the year) as closing balance of development fund in the balance sheet for FY 2016-2017, which was an incorrect presentation. The amount of development fee received should have been reported as additions to development fund and assets purchased out of development fund should have been reflected as deletions from development fund.

Further, 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 2016-2017 and has not prepared separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve.

This being a procedural finding, the school is instructed to make necessary rectification entries relating to development fund to comply with the accounting treatment and presentation 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. Direction no. 3 of the public notice dated 4 May 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 Feb 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.*"

The following were noted in DoE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 September 2017:

- School had not maintained separate bank account for deposit of caution money collected and was directed to maintain separate bank account for collection of caution money and interest earned on the same, if any, is to be credited to the caution money account.
- School had not refunded interest on caution money along with refund of caution money to exiting students and was instructed to include interest earned on caution money in the refund amount.

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During the personal hearing, school mentioned that it has stopped collecting caution money from students from FY 2017-2018 onwards. Also, the school has started adjusting the caution money already collected from existing students against the fee due in FY 2018-2019. The same would be completely adjusted in FY 2018-2019. Thus, based on the explanation provided by the school, the school should refund total caution money within FY 2018-2019 and should not collect it subsequently. The amount to be refunded to students after adjusting the income to be recorded by the school towards unclaimed caution money, as declared by the school, has been considered while deriving the fund position of the school (enclosed in the later part of this order).

5. Directorate's order no. F.DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 Sep 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 submitted by the school noted that the school has not prepared Fixed Asset Register (FAR). It was informed during personnel hearing by the school that it is in the process of maintaining fixed assets register, which would be completed/finalised by FY 2018-2019.

   This being a procedural finding, the school should prepare proper FAR, which should include 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.

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 2017-18 amounting to INR 29,86,27,703 out of which cash outflow in the year 2017-18 is estimated to be INR 28,49,75,950. This results in net Surplus of INR 1,36,51,753. The details are as follows:

Particulars	**Amount (INR)**
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	3,07,73,104
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	6,98,659
Total Liquid Funds Available with the School as on 31 Mar 2017	**3,14,71,763**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	23,18,15,164
Add: Reserve/Capital Fund with DAV CMC and interest on reserve/capital fund for FY 2016-2017 and FY 2017-2018 [Refer Financial Finding No. 1]	5,14,66,646
Add: Recovery of additions to Building reflected in the financial statements for FY 2014-2015 from the Society [Refer Financial Finding No. 4]	8,68,972

Particulars	Amount (INR)
Add: Recovery from society of amount incurred on purchase of vehicles [Refer Financial Finding No. 5]	37,77,400
Add: Recovery from Society for scholarships paid by the school during FY 2016-2017 [Refer Financial Finding No. 6]	2,10,000
Add: Recovery of amount paid to DAV CMC towards advertisement expenses [Refer Financial Finding No. 7]	5,00,000
Add: Recovery from society against excessive administrative charges [Refer Financial Finding No. 8]	4,05,350
Gross Estimated Available Funds for FY 2017-2018	**32,05,15,296**
Less: FDR against specific funds (with CBSE & Directorate of Education) (as per audited financial statements of FY 2016-2017)	6,98,659
Less: Caution Money (Net of transfer to income in FY 2017-2018) [Refer Note 2]	19,47,500
Less: Development Fund balance as on 31 Mar 2017 (as per audited financial statements of FY 2016-2017)	1,06,42,002
Less: Depreciation Reserve fund [Refer Note 3]	-
Less: Amount to be refunded by the school against increased fee collected during FY 2016-2017 [Refer Financial Finding No. 2]	85,99,432
Net Estimated Available Funds for FY 2017-2018	**29,86,27,703**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 4]	28,49,75,950
Estimated Surplus as on 31 Mar 2018	**1,36,51,753**

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018 with an adjustment of INR 85,99,432 towards increased fee to be refunded to students/adjusted during FY 2017-2018 (included as income in the audited financial statements of FY 2016-2017), which would not accrue during FY 2017-2018.
2. Unclaimed caution money of INR 9,33,865, as declared by the school to be treated as income during FY 2017-2018, has been adjusted from the liability towards caution money as on 31 Mar 2017 of INR 28,81,365 (as per audited financial statements of FY 2016-2017) and net balance of INR 19,47,500 refundable to students has been considered for deriving the net estimated available funds with the school for FY 2017-2018.
3. On evaluation of depreciation reserve, it was noted that the school had charged depreciation on fixed assets and had transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. Also, the school is charging development fund from students for purchase, up-gradation and replacement of furniture, fixture and equipment. Though development fund maintained by the school has been adjusted for deriving the fund position of the school as per audited financial statements of FY 2016-2017, depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009) is more of an accounting head for appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered

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Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

4. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 30,61,95,904, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, some of the expenses heads as budgeted were considered, while other expense heads were restricted to 110% of the expense incurred during FY 2016-2017 giving consideration to general rise in cost/inflation and especially because FY 2017-2018 is the year of implementation of 7th CPC where additional financial burden of increase salary of staff is already there. Therefore, certain expenses in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal. The same were discussed during personal hearing with the school.

Particulars	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
Gratuity Fund Contribution	2,93,47,966	1,06,24,640	53,71,470	52,53,170	Refer Financial Finding No. 3
Leave Encashment Contribution		45,53,417	18,97,071	26,56,346	
Administrative Charges	23,14,682	1,01,42,678	28,97,908	72,44,770	Refer # below
Printing & Stationery	35,77,060	45,00,000	39,34,766	5,65,234	No reasonable justification/ explanation provided by the school for such increase in expense as compared with FY 2016-2017. Accordingly, budgeted expenses have been restricted to 110% of the expense incurred during FY 2016-2017.
School Buses Running & Maintenance	1,69,221	5,00,000	1,86,143	3,13,857	
Function & Co-curricular activities	16,17,400	20,00,000	17,79,140	2,20,860	
Agency Charges & Insurance	1,06,87,426	1,50,00,000	1,33,59,282	16,40,718	Based on the explanation provided by the school regarding increase in minimum wages, the budgeted expense has been restricted to 125% of the expense incurred during FY 2016-2017.
Vehicles	37,77,400	25,00,000	-	25,00,000	Refer Financial Finding No. 5
Donation	-	6,00,000	-	6,00,000	Donation budgeted by the school has not been considered, as this can only be a charge on savings derived in accordance with rule 177 of DSER, 1973. However, the school has not complied with the

Particulars	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
					requirements of Rule 177.
Scholarship	2,10,000	2,25,000	-	2,25,000	Refer Financial Finding No. 6
Total	**5,17,01,155**	**5,06,45,735**	**2,94,25,781**	**2,12,19,954**	

the school budgeted administrative charges payable to DAV CMC at the rate of 7% of basic pay (against 4% charged previously) on account of implementation of pay scales recommended by 7th Central Pay Commission (CPC) for the staff at DAV CMC. 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 allowed @ 2% of basic salary, which results in a 25% increase in the amount (compared with FY 2016-2017) and should be sufficient to absorb the impact of increased cost at DAV CMC.

In view of the above examination, it is evident that the school has sufficient funds for meeting all the budgeted expenditure for the financial year 2017-2018.

ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states "*All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.*" The school has sufficient funds to carry on the operation of the school for the academic session 2017-2018 on the basis of existing fees structure and after considering existing funds/reserves.

As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. However, the school has a recoverable balance of INR 5,14,66,646 towards reserve fund balance from Society. Thus, the school is directed to recover these amounts from Society.

Whereas per direction no. 2 of Public Notice dated 4 May 1997, it is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society. Thus, the additions to the building should not be met out of the fee collected from students and is required to be recovered from the society.

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Whereas per point no. 22 of Order No. F.DE./15 (56)/Act/2009/778 dated 11 Feb 2009, user charges should be collected at 'no profit and no loss' basis and should be used only for the purpose for which these are collected. In most of the levies' the expenses incurred against are more than the charges collected from students. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levy charged from the students in accordance with the DSEA & R, 1973 and orders, circulars, etc. issued thereunder. Surpluses/deficit under each earmarked levy collected from the students should be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019.

Whereas per point no. 14 of Order No. F.DE./15(56)/ACT/2009/778 dated 11 Feb 2009, Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up-gradation and replacement of furniture, fixture and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the deprecation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account. The school is advised to comply with the directions with regard to proper accounting and presentation of Development Fund in the School's financial statements and utilisation of development fund only towards purchase of furniture, fixtures and equipment.

And whereas Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies.

The school has been directed to ensure compliance with Accounting Standard 15 including measurement of its liability towards retirement benefits of the staff by a qualified actuary and making the investment against the liability so determined in the mode specified under the said Accounting Standard.

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 though along with certain financial irregularities that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings which were also noted (appropriate instructions against which have been given in this order), the funds available with the school for implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

And whereas, recommendations of the team of Chartered Accountants along with relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for meeting the financial implications of 7th CPC salary and other expenses for the financial year 2017-2018. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2017-2018.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2017-2018 of **Darbari Lal DAV Model School (School ID- 1309175), Shalimar Bagh, Delhi-110088** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2017-2018. In case, the school has already charged increased fee during FY 2017-2018, 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 communicate with the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.
3. To rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise 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.
6. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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 order has to be read in continuation to this Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/912-916 dated 26 September 2017 issued to the School.

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This order is issued with the prior approval of the Competent Authority.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education,
GNCT of Delhi

To:
The Manager/ HoS
Darbari Lal DAV Model School
School ID 1309175
Shalimar Bagh, Delhi-110088

No. NO. F.DE.15(31) / PSB / 2019 / 902-906 Dated: 22/01/2019

Copy to:
1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Spl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education,
GNCT of Delhi