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

No. F.DE.15(26)/PSB/2018/2019/995-999 Dated: 24/01/2019

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

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Rules, 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, **The Pinnacle School (School ID-1925282), D-Block, Panchsheel Enclave, New Delhi-110017** 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 Jan 2016.

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 13 July 2018 at 2:00 PM 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 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 2016-2017 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 years.

   During personal hearing of the school, it was 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 Mar 2017 will remain in the books of account of the school as a liability towards the society.

Further, from the ledger account of the society submitted by the school, it was observed that the school has paid an amount totalling of INR 59,82,000 to the society during FY 2007-2008 to FY 2012-2013 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 2015-2016 and FY 2016-2017, it was observed that the school reversed 'Tax Deducted at Source' and transferred it the Society Account totalling of INR 18,842. Thus, resulted in transfer of current assets of the school to the society.

Based on above orders, the school is not allowed to transfer any amount to the society whatsoever. Therefore, the amount of INR 59,82,000 transferred to the society towards outdoor camp and adventure sports and INR 18,842 towards tax deducted at source are 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 is directed to write-off the amount of loan appearing as payable to the society in its books of account towards construction of building, which is part of the responsibility of the society.

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

   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 2016-2017 noted that the development fee collected by the school has been treated as revenue in the Income and Expenditure account of the school. The school was directed to capitalized the development fee in the books of accounts of the school and a separate fund to be maintained by the school.

   On review of the audited financial statements of the school for FY 2016-2017, it was noted that the school was not treating development fees as capital receipt instead treated it as revenue receipts for meeting revenue expenses of the school. Further, the school has not opened a separate bank nor has it earmarked any fixed deposits against development fund to ensure availability of funds at the time of incurring capital expenditure on furniture, fixture and equipment. The school confirmed that the same will be opened in FY 2018-2019 and would be used for collection and utilisation of development fund going forward.

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The school is directed to follow DOE instruction in this regard and open bank account for deposit and utilisation of development fund. The school is also directed to ensure that development fee is treated as capital receipt by creating development fund and transferring depreciation charged in revenue account to depreciation reserve. Development fund so created should be utilised only towards purchase of furniture, fixture and equipment. The school is directed not to charge development fee from students till the time school complies with above directions.

Accordingly, no adjustment towards development fund has been made while deriving the fund position of the school (enclosed in the later part of the order).

3. 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 2016-2017 noted that the school has paid remuneration to the members of the managing committee. The members of managing committee are not entitled to any remuneration from school as per the scheme of management.

It was noted that school had paid following remuneration to three members of the Managing Committee as per details hereunder:

Financial Year	Mr. Raeburn Demonte	Mr. K K Batra	Mr. K K George
2013-2014	11,70,000	-	87,641
2014-2015	12,90,000	4,41,000	87,640
2015-2016	14,10,000	4,74,000	89,115
2016-2017*	10,57,500	3,55,500	66,836
Total	**49,27,500**	**12,70,500**	**3,31,232**

* The school did not provide the details of remuneration paid to the members of the managing committee for FY 2016-2017. The figures for FY 2016-2017 in table above have been calculated based on remuneration paid by the school during FY 2015-2016 (pro-rated for nine months - April to December 2016).

During personal hearing, the school mentioned that the school has discontinued payment of honorarium to the members of the managing committee with effect from January 2017 after receipt of order from Directorate. 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.

Accordingly, honorarium paid to the members of the managing committee in non-compliance of DSEA & R, 1973 from FY 2013-2014 till December 2016 totalling to INR 65,29,232 (INR 49,27,500 plus INR 12,70,500 plus INR 3,31,232) 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/ members of the Management Committee. Further, the school is directed not to pay any remuneration to the members of the managing committee of the school.

4. 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."* Accounting Standard 15 further 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."*

While the school has invested in group gratuity scheme of LIC of India and based on the intimation provided by LIC, the liability of the school towards gratuity was derived by LIC as on 1 July 2017 on the basis of actuarial assumptions. However, the school has not created any provision for gratuity in its books of account, which should have been created equivalent to the amount determined by LIC on the basis of actuarial assumptions to reflect its liability towards gratuity.

Also, it was noted that the school recorded the amount paid towards group gratuity scheme was recorded as expense in the Income and Expenditure Account during FY 2016-2017 instead of recording the same as investment and did not reflect the fund value of the scheme as on 31 Mar 2017 as an asset in its audited financial statements for FY 2016-2017. Thus, the school had not disclosed both the asset and liability towards retirement benefits in its financial statements for FY 2016-2017. Based on the details provided by the school, the liability and value of group gratuity scheme is tabulated below:

Particulars	Amount (INR)
Liability determined by LIC as on 1 July 2017 (as per LIC's intimation)	1,22,63,953
Provision of gratuity as on 31 March 2017 (as per audited financial statements for FY 2016-2017)	-
Fund Value of Group Gratuity Scheme with LIC as on 1 July 2017	81,82,118
Amount deposited in Group Gratuity Scheme with LIC during FY 2017-2018	5,46,418

Also, the school has not made any provision for leave encashment and has not obtained actuarial valuation for liability towards leave encashment. The school is directed to obtain actuarial valuation for liability towards leave encashment. Further, the school is directed to accurately disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statements.

The investments made by the school towards liability for gratuity and the expenses towards gratuity budgeted by the school for FY 2017-2018 have been restricted to the amount of actual deposit of INR 87,28,536 (i.e. INR 81,82,118 plus INR 5,46,418) made with LIC and budgeted expenses towards leave encashment have not been considered while deriving the fund position of the school (enclosed in the later part of this order).

5. As per direction no. 2 included in the Public Notice dated 4 May 1997 issued to the managers of recognised unaided schools in Delhi, *"Not to charge building fund and development when the building is complete or otherwise as it is the responsibility of the*

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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.*"

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 2016-2017 noted that the society collects INR 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."* As per the details submitted by the school, donations amounting to INR 15,27,000, INR 16,55,500 and INR 16,05,000 were collected during FY 2013-2014, FY 2014-2015 and FY 2015-2016 respectively. Further, these donations were recorded in the books of Babs Noronha Memorial Education and Social Welfare Society, the society which manages the school.

During personal hearing, the school explained 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 on account of 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. It was further explained that building fund/donation were not collected from students from FY 2016-2017.

The school did not provide detail of students from whom donations were collected in the aforementioned years. As construction of the school building is the responsibility of the society, donations should not have been collected from students for construction of building in non-compliance of the provisions of DSEA&R, 1973 and RTE, 2009. The school is hereby directed to recover the amount collected as donation by the society from the students of INR 47,87,500 from the society within 30 days from the date of this order and refund the same to the students from whom the same was collected within 60 days from the date of this order.

Accordingly, the amount of INR 47,87,500 to be recovered from society has been added in the fund position of the school (enclosed in the later part of this order) along with a deduction of same amount for making payment to the students from whom the same was collected.

6. 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 2016-2017 noted that the expenses in the nature of sanitation and hygiene, printing and stationery and local conveyance, etc. include expenses incurred for another school named as "Tiny Tots School" situated at 36 Link Road, Lajpat Nagar, which is also run by the Babs Noronha Memorial Education and Social Welfare Society which is contravention to the clause 8 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 and further reiterated by clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 which states that *"no amount shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution."*

   During personal hearing, the school explained that 'Tiny Tots School' was established as a small Nursery/Kindergarten school in Defence Colony. The school further grew up to the level of middle school and was subsequently recognized as a composite Middle school in the name of Junior & Tiny Tots by the Directorate of Education. The existing school was further upgraded from Middle to Secondary level by Directorate of Education. Subsequently the name of the school was changed from Junior & Tiny Tots School to 'The Pinnacle School – Senior, Junior & Tiny Tots' with the prior approval of the Directorate of Education. It is further upgraded from Secondary to Senior Secondary level by the Directorate of Education. Further, the school explained that many of the vendors are associated with the school for long number of years and they are using the old name of the school 'Tiny Tots School'. The expenditures incurred on account of sanitation and hygiene, printing and stationery and local conveyance, etc. were actually incurred by The Pinnacle School located at Panchsheel Enclave and not by Tiny Tots School.

   The school submitted copies of couple of bills relating to printing and stationery, sanitation and hygiene, etc. which were in the name of 'The Pinnacle'. The school did not submit complete documents including ledger account and supporting invoices in relation to the expenses mentioned above, as the invoices noted previously were in the name of 'Tiny Tots School', Lajpat Nagar. The school is directly to submit detailed ledger accounts and all invoices in relation to expenses incurred by the school towards sanitation and hygiene, printing and stationery and local conveyance along with its compliance report for detailed evaluation.

7. 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 2016-2017 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 Mrs. Barbara Gail Demonte and 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.

   During personal hearing, the school explained that the above two cars were purchased in the name of Mrs. Barbara Gail Demonte (Principal of the School) because the school was not able to take loan for purchase of vehicles in the name of the school are considered as commercial vehicles. It was further explained that the management of the school has

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decided to transfer these cars in the name of the school and these would not remain in the personal name of the principal, as these vehicles are being used for the transportation of students for participation in various outdoor activities and also for other purposes relating to school matters.

Based on the fact that the school has paid the cost of the vehicles, which are personal property of the principal. Thus, the school has diverted school funds for creation of capital assets of the principal. Accordingly, the cost of the cars and running and maintenance expenses incurred on the same are to be recovered from the principal. The school has not reported historic purchase cost of assets in the fixed assets schedule annexed to the audited financial statements of the school, rather has reported written down value of the assets. Also, the school did not provide cost of the vehicles purchased in the name of the principal.

Accordingly, in absence of exact cost, estimate cost of the vehicles of INR 30 lakhs and estimated expenses incurred on running and maintenance of these vehicles of INR 8 lakhs totalling to INR 38 lakhs 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 Principal of the school. The school is further directed not to purchase any asset other than its own name.

8. 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 2016-2017 noted that the salary amounting to INR 5,86,440 , INR 7,34,720 and INR 7,14,148 was paid in FY 2013-2014, FY 2014-2015 and FY 2015-2016 respectively to two teachers, whose records were not available in attendance register maintained by the school and in the statement submitted to DoE.

During personal hearing, the school explained 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.

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.

The school submitted copy of an order dated 5 Jan 2017 signed by its Manager on the letterhead of the school citing that basis Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 67 dated 23 Dec 2016 of the Directorate, the two teachers will no more on roll of the school and they will not be paid salary with effect from 1 Jan 2017. The school, instead of regularising its processes, terminated the teachers from the school, which raises doubt on the salaries paid to staff previously. Accordingly, it appears like diversion of school funds and thus, the amount paid to the aforesaid teachers of 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 2015-2016 plus INR 5,35,611 [calculated prorated for 9 months of FY 2016-2017 based on salary of

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FY 2015-2016]) 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. The school is further directed to ensure compliance with Recruitment Rules and maintaining adequate records in respect of each staff hired by the school.

B. Other Discrepancies

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 incurring losses (deficit), which has been met from other fees/income. 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)	Surplus/ (Deficit) (INR)
	A	B	C=A-B
E-Learning Charges	8,59,590	10,45,971	(1,86,381)
School Diary/Magazine/ Calendar Charges	4,58,395	10,72,241	(6,13,846)
Transport Fee^	17,91,480	12,77,689	5,13,791

^ 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.

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 and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students. The school explained that tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure on account of which fund balance of earmarked levies could not separate 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 (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 school has prepared a Fixed Asset register (FAR) that only captures asset name, date and amount. The school should also include 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.

   During the personal hearing, the school confirmed that it will update the FAR as per the recommendations of the Directorate in FY 2018-2019. The school is directed to update the FAR with details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

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

   While the school has presented fixed assets at gross value and corresponding depreciation reserve on the face of the Balance Sheet as on 31 Mar 2017, the fixed asset schedule annexed to the financial statements reflected only the written down value of the assets. The fixed asset schedule did not disclose opening gross block of assets, closing gross block of the asset, opening depreciation reserve and closing depreciation reserve.

   The school is hereby directed to maintain fixed asset schedule that reconciles with the figures presented on the face of the Balance Sheet in accordance with the Guidance Note on Accounting by Schools. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. 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 2016-2017 noted that the school is charging late fees of INR 10 per day after first month of the quarter which is non-compliance to rule 166 of Delhi School Education Rules, 1973 which states that "*school shall charge fine for late payment of fees or contributions at the rate of 5 paisa per day after 10th day of the month for which the fees is due.*"

   Review of the financial statements of FY 2016-2017 highlighted that the school had continued to charge late fees as highlighted in the aforementioned order. Accordingly, the school is directed to ensure compliance to the directions of the Directorate.

   The amount of fine collected by the school as per audited financial statements of the school has been considered while deriving the fund position of the school (enclosed in the later part of this order).

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5. As per Order No. F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 April 2016, *"The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix –II of Delhi School Education Rules,1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."*

   Further, As per Para 7 of Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, *"Financial Statements include income and expenditure account and balance sheet and other statements and explanatory notes which form part thereof."*

   The school did not prepare Notes to Accounts to the financial statements for FY 2016-2017 and did not submit the same along with the audited financial statements. which is a deviation from the provisions of the Guidance Note on Accounting by Schools (GN 21) issued by the Institute of Chartered Accountants of India.

   The school is hereby directed to prepare notes to accounts annexed to the financial statements which form part thereof and should ensure that the same are part of the financial statements submitted subsequently to the Directorate.

6. As per clause 1 of Order No. DE./15(150)/Act/2010/ 4854-69 dated 9 Sep 2010, *"Caution money/ security deposit shall not be charged/ collected beyond INR 500 (Rupees five hundred only) per student."* However, the amount collected as caution money reflected in the audited Receipt and Payment Account for FY 2016-2017 could not be reconciled with the details of new admissions during FY 2016-2017 provided by the school. The school could not provide any reconciliation for the difference noted as under:

Particulars	**Amount/ No.**
No. of new admissions in the school during FY 2016-2017, as per details provided by school (A)	118
Caution money receipt @ INR 500 per new admission (B)=(A*500)	INR 59,000
Caution Money receipt reported in the audited Receipt and Payment Account for FY 2016-2017 (C)	INR 93,733
Difference – Excess Collected (D) = (C-B)	INR 34,733

   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."*

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 9 Sep 2010 stated *"In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial-year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year."*

The following were noted in DoE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/67 dated 23 December 2016:

- School had not refunded interest on security deposit to the students along with caution money refund and was 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 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 was 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 2018-2019 onwards and that the amount appearing in the financial statements as on 31 March 2017 in relation to caution money relates only to existing students of the school.

However, it was noted from the financial statements of the school for FY 2016-2017, the caution money of INR 1,69,374 as on 31 March 2017, which is less than the amount of caution money derived for existing students of the school of INR 3,91,500 (i.e. 786 students * INR 500). The school did not provide any reconciliation for the shortfall in caution money account. Also, the school could not provide student wise details of caution money refundable.

The school is directed to reconcile the amount reflected as caution money refundable in its financial statements with the total number of students studying in the school and evaluate reasons for difference(s). Also, the school is directed to refund the caution money along with interest to students at the time of leaving the school. Compliance of the directions will be validated at the time of evaluation of subsequent fee increase proposal.

The amount to be refunded to students as on 31 March 2017 as per audited financial statements has been considered while deriving the fund position of the school (enclosed in the later part of this order).

7. 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 2016-2017 noted that

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the school charged personal expenses of the members of the managing committee in its Income and Expenditure Account.

During personal hearing, the school explained that the reported expenses were not incurred for any personal purposes but related to the routine functioning of the school. Further, the school assured that every possible care will be taken in obtaining clear documents in future to avoid any such confusion and lack of clarity of expenses. The school also explained that no personal expenses has been debited to the school accounts during any of the financial years.

However, the school did not provide supporting documents regarding expense heads local conveyance expenses, telephone expenses, postage and courier expenses, general expenses and staff expenses, where personal expenses were identified in the previous order, for substantiating the claim made by the school.

The school is hereby directed not to incur any personal expenses from the school fund and provide the details for the expenses heads mentioned above. Compliance shall be validated at the time of evaluation of subsequent fee increase proposal.

8. 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 2016-2017 noted that the school does not maintain any record for the picnic charges collected by the teachers from the students, who organise picnic/trips for students.

   During personal hearing with the school, the money collected from the students on account of picnic/excursion during FY 2016-2017 was not reflected in the financial statements for FY 2016-2017 as it was maintained by the Activity In-charge of the school. However, the school mentioned that money collected on account of picnic/excursion during FY 2017-2018 and the expenses towards the same will be reflected in the financial statements for the year ending 31 March 2018.

   However, the school did not provide any details regarding amount collected from the students and expenses incurred towards picnic/excursion during any of the previous financial years for validate the incomes and expenses incurred.

   The school is hereby directed to maintain sufficient and adequate records for charges collected for picnic/excursion and ensure that income and expenses accounted in the books of account with appropriate disclosure in the Income and Expenditure Account of the school.

9. 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 2016-2017 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.

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During personal hearing, the school explained that the contract with Mr. Trevor DeMonte was executed on 1 April 2013, prior to which he was working with Alexanders Pty. Ltd., Melbourne, Australia and was getting handsome salary over there. He was engaged in this school being proven IT management experience and knowledge of technical management, information analysis and of computer hardware/software system, etc. He was having the overall responsibility for the functioning of IT department of the school which includes setting up computer Lab and its further maintenance for the students, providing local admin network/Wifi facility, facilitation of e-learning process, etc. in the school. After hard negotiation and in view of his vast experience as IT professional, he was offered INR 50,000 per month for the services provides to the school. In view of the foregoing explanation, the management of the school did not consider appropriate to invite any bids for the said purposes.

Based on the explanation given by school above, 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.

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

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 9,82,18,855 out of which cash outflow in the year 2017-18 is estimated to be INR 7,98,17,309. This results in net surplus of INR 1,84,01,546. 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)	90,08,111
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	7,86,607
Investment with LIC in Group Gratuity Scheme (Fund value of LIC as on 1 July 2017) [Refer Financial Finding No. 4]	81,82,118
Total Liquid Funds Available with the School as on 31 Mar 2017	**1,79,76,836**
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]	6,62,38,043
Add: Recovery from Society of payment made to it towards outdoor camp and adventure sports [Refer Financial Finding No. 1]	59,82,000
Add: Recovery of amount of TDS receivable from Society [Refer Financial Finding No. 1]	18,842

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Particulars	Amount (INR)
Add: Recovery of remuneration paid to members of the Managing Committee [Refer Financial Finding No. 3]	65,29,232
Add: Recovery of donations collected by the society [Refer Financial Finding No. 5]	47,87,500
Add: Recovery from Principal of school for Car purchased in her Principal [Refer Financial Finding No. 7]	38,00,000
Add: Recovery from society of salary paid to two teachers, details of whom were not available with the school [Refer Financial Finding No. 8]	25,70,919
Gross Estimated Available Funds for FY 2017-2018	**10,79,03,372**
Less: FDR against specific funds (with DoE)	7,86,607
Less: Development Fund [Refer Financial Finding No. 3]	-
Less: Retirement Benefits – Gratuity [Refer Financial Finding No. 4]	87,28,536
Less: Caution Money balance as on 31 Mar 2017 (as per audited financial statements of FY 2016-2017)	1,69,374
Net Estimated Available Funds for FY 2017-2018	**9,82,18,855**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 2]	6,61,01,942
Less: Arrears of salary as per 7th CPC since January 2016 (as per separate computation provided by the school) [Refer Note 2]	1,37,15,367
Estimated Surplus as on 31 Mar 2018	**1,84,01,546**

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.
2. Per the Budget Estimate for FY 2017-2018 submitted by the school along with the proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 7,19,35,456 (excluding arrears of 7th CPC amounting to INR 1,37,15,367 that are considered separately), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. Therefore, the following expenses have been adjusted while considering in the budgeted expenses for FY 2017-2018:

Expense Heads	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
Salaries to teaching	3,36,16,102	3,89,99,897	3,52,96,907	37,02,990	Arrears of salary has been considered separately in the fund position table above. Thus, expenditure restricted to 105% of that incurred

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Expense Heads	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
					during FY 2016-2017.
Gratuity	7,80,381	8,80,000	-	8,80,000	Refer Financial Finding No. 4
Leave Encashment	25,610	1,00,000	-	1,00,000	Refer Financial Finding No. 4
Transport expenses in respect of vehicles not owned by school	9,42,000	11,00,000	10,36,200	63,800	Reasonable explanation or supporting documents not provided by the school for such percent increase. Thus, expenditure restricted to 110% of that incurred during FY 2016-2017.
Legal Expenses	9,21,160	12,00,000	10,13,276	1,86,724	
Depreciation	9,90,689	9,00,000	-	9,00,000	Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered.
Total Expenditure	**3,72,75,942**	**4,31,79,897**	**3,73,46,383**	**58,33,514**	

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 had paid amount to the society of INR 59,82,000 towards outdoor camp and adventure sports and INR 18,842 towards TDS recoverable from the Society. Thus, the school is directed to recover these amounts from Society.

And whereas per clause 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. The school has continued to charge earmarked fee higher than the expenses incurred against the same and has utilised the surplus earned for meeting other expenses of the school and has thus continued its non-compliance. 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.

And whereas per clause 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 and 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 maintaining separate bank account, proper accounting & 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 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

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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 of enhancement of fee for session 2017-2018 of **The Pinnacle School (School ID-1925282), D-Block, Pancsheel Enclave, New Delhi-110017** 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 issue 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.

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

This 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
The Pinnacle School
School ID 1925282
D-Block, Pancsheel Enclave,
Delhi-110017

No. F.DE.15(26)/PSB/2018/ 995-999 Dated: 24-01-2019

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