

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

No. F.DE.15(523)/PSB/2022/ 3043-3047

Dated: 17/05/22

ORDER

WHEREAS, Prestige Convent Sr Sec School (School ID-1413260), Sector-08, Rohini, Delhi-110085, (hereinafter referred to as “the School”), run by the Shiv Shakti Education Society (hereinafter referred to as the “Society”), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as “DoE”), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as “DSEAR, 1973”). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

“27....

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



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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **Prestige Convent Sr Sec School (School ID-1413260), Sector-08, Rohini, Delhi-110085** submitted its proposal for enhancement of fee for the academic session **2018-19**. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the school for the academic session **2018-19**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-2019, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 6.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During the aforesaid hearing compliances against order no. F DE15 (212) PSB/2019/1295-1299 dated 29.03.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants. And after evaluation of fee proposal of the school the key observations and status of compliance against order no. F DE15 (212) PSB/2019/1295-1299 dated 29.03.2019 issued for academic session 2017-18 are as under:



A. Financial Observations

1. As per direction no. 2 included in the Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Further, Rule 177 of DSER, 1973 states *"income derived by an unaided private recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run"*.

The abovementioned savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

Based on the above-mentioned provisions, the cost relating to land and construction of the school building should be met by the society, being the property of the society not from the school funds.

During the FY 2017-18 the school has incurred INR 6,89,096 on renovation washroom and reported the same as capital expenditure. Which should either be met by the society based in above mentioned provisions or should be met of the out the savings of the school. For financial year 2017-18 the school has applied for fee increase proposal and the same was accepted by the Director of Education on the ground that the school did not have the sufficient fund to meet its operational expenditure. Therefore, incurring of capital expenditure in the same financial year cannot be said the school has incurred these expenditures out the saving as provided in Rule 177 of the DSER, 1973. Accordingly, the total amount incurred INR 6,89,096 has been included in the calculation of fund availability of the school with the direction to recover this amount from the society within 30 days from the issue of this order.



2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/ KKK/883-1982 dated 10.02 2005 issued by the Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure. Salaries and allowances are revenue expenses incurred during the current year and therefore, have to come out of the fee of the current year while capital expenditure/investments have to come from savings.*" The same was also upheld by the Hon'ble Supreme Court of India in the matter of Modern School Vs Union of India & Ors. Further, section 18(4) (a) of DSEA, 1973 states "*Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed*".

From review of the audited financial statements of the School, it was noted that the school purchased Car in the FY 2017-18 of INR 23,54,156 by taking loan. On which the school has paid INR 8,49,389 towards principal repayment and interest thereon out of school funds without complying Rule 177 of DSER, 1973 and orders of the Courts and DoE cited above. As per Rule 177, income of the school should be firstly utilised for meeting the establishment cost including the retirement benefit payable to the employees/ staff of the school. From the documents submitted by the school, it was noted that the school funds were used for purchase of car while the school is yet to implement the recommendations of 7th CPC. Thus, the school fund which was utilised by the school for repayment of loan and interest cost of INR 8,49,389 has been considered while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

Further, the directorate order no. F.DE.15(251) PSB/2019/1325-1329 dated 29.03.2019 issued post evaluation of fee increase proposal for the academic session 2017-18, it was noted that the school funds were utilised for repayment of vehicle loan including interest and the school was directed to recover INR 8,14,513 from the society. The school in its reply explained that the amount of INR 8,14,513 has been recovered from the society. However, it has been shown in the financial statement as amount payable to the "Shiv Shakti Educational Society". Hence, the school is directed to write off the liability shown under society.

Accordingly, the school is directed to make necessary corrections in its books of accounts within 30 days from the date of issue of this order.

3. Clause 14 of DoE's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account.*"

Further, para 99 of Guidance Note 21 on "Accounting by Schools" issued by the Institute of Chartered Accountants of India specify the accounting treatment for specific funds. The GN-21 states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as*



deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.”

Further, the school vide order no. F.DE.15(251) PSB/2019/1325-1329 dated 29.03.2019 issued for academic session 2017-18 post evaluation of fee increase proposal for the financial year 2017-18 it was noted that the school has treated development fee as revenue receipts in FY 2015-16 and FY 2016-17 in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Accordingly, the school has treated development fee as capital receipt from FY 2017-18 onwards.

Form the presentation made in the audited financial statements for FY 2018-19 submitted by the school, it has been noted that the school transferred an amount equivalent to the purchase cost of the assets from development fund to ‘Development Fund Utilisation Account’. However, school has not created deferred income account equivalent to the amount utilized for purchase of fixed assets out of development fund and transferred the amount from deferred income account to the credit of income and expenditure account in proportion of the depreciation charged.

Accordingly, the accounting treatment followed by the school does not fulfil with requirements of the aforesaid clause 14 of the order dated 11.02.2009 and Guidance Note 21 issued by the Institute of Chartered Accountant of India. Thus, the school is required to make necessary rectification entries relating to development utilisation fund to comply with requirement as indicated in the clause 14 of the order dated 11.02.2009 and the Guidance Note-21.

Accordingly, the school is directed to make necessary corrections in its books of accounts within 30 days from the date of issue of this order.

4. As per 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

Para 57 of Accounting Standard 15 - ‘Employee Benefits’ issued by the Institute of Chartered Accountants of India, *“An enterprise should determine the present value of defined benefit 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.”*

On review of financial statements, it has been noted that the school has neither recorded and reported liability towards gratuity and leave encashment in the audited financial statements nor it has been determined by the actuary in accordance with AS-15 issued by ICAI as of now.

Accordingly, the school is hereby directed to get the actuarial valuation of its liability for retirement benefit and report the same in its audited financial statement within 30 days from the date of issue of this order. The school is also required to invest an amount equivalent to amount determined by the actuary in a scheme that qualify as ‘Plan Asset’ within the meaning of AS-15.



B. Other Observations

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

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."*

However, it has been noted that the school charges earmarked levies in the form of Transport fees and Lab Fees from students.

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note 21 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 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).

However, the school has not maintained separate fund accounts for the above-mentioned earmarked levies and the school was directed by this directorate through its order no. F.DE.15(251) PSB/2019/1325-1329 dated 29.03.2019 issued for academic session 2017-18 to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. The details of funds position for the three financial years as follows.

(Figures in INR)

Particulars	Transportation Fee	Science Fee
For the year 2015-16		
Fee Collected during the year (A)	32,55,595	2,54,325
Expenses during the year (B)	32,50,292	34,242
Difference for the year (A-B)	5,303	2,20,083
For the year 2016-17		
Fee Collected during the year (A)	37,69,550	2,73,480
Expenses during the year (B)	37,40,274	27,612
Difference for the year (A-B)	29,276	2,45,868
For the year 2017-18		
Fee Collected during the year (A)	35,43,650	2,94,120
Expenses during the year (B)	32,63,620	34,531
Difference for the year (A-B)	2,80,030	2,59,589

Particulars	Transportation Fee	Science Fee
Total	3,09,306	5,05,457

Therefore, the school is hereby directed to follow the fund-based accounting in accordance with the guidance note-21 issued by the ICAI and make necessary corrections in its books of accounts within 30 days from the date of issue of this order.

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

2. The school has not prepared Fixed Assets Register (FAR) for keeping track of fixed assets purchased by it. The school should prepare a FAR, which should include details such as asset description, purchase 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 complete details of assets at one place.

During the personal hearing, school mentioned that it will start preparing FAR from FY 2019-20 onwards. The school is directed to prepare the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

3. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in the matter. The admission allowed under EWS category during the FY 2016-17, FY 2017-18 and FY 2018-19 is as under:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Total strength	1,087	1,126	1,116
EWS	126	139	133
% EWS students to total students	12%	12%	12%

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 available funds for the year 2018-19 amounting to INR **4,30,68,971** out of which cash outflow in the year 2018-19 is estimated to be INR **4,02,84,801**. This results in net surplus amounting to INR **27,84,463**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.18 as per Audited Financial Statements for the FY 2017-18	11,03,102
Liquid Fund as on 31.03.2018	11,03,102
Add: Additions to building in contravention of Clause 2 of Public notice dated May 4th, 1997 in the FY 2017-18 should be recoverable from the society [Refer Financial Observations No. 1]	6,89,096

Particulars	Amount in INR
Add: Amount recoverable from society as school funds have been utilised for repayment of vehicle loan and interest thereon during the FY 2017-18 and FY 2018-19 [Refer Financial Observations No. 2]	8,49,389
Add: Fees for FY 2018-19 as per Audited Financial Statements (Refer Note 1 below)	4,02,56,921
Add: Other income for FY 2018-19 as per audited Financial Statements (Refer Note 1 below)	1,70,463
Total Available Funds for FY 2018-19	4,30,68,971
Less: Development Fund as on 31.03.2018 (Refer Note 2 below)	-
Net Available Funds for FY 2018-19	4,30,68,971
Less: Actual Expenses for the FY 2018-19 (Refer Note 3 below)	4,02,84,801
Less: Arrears of salary to be paid to the staff as per VII pay commission (Refer Note 4 below)	-
Net Surplus	27,84,170

Note 1: Fee and income as per audited financial statements FY 2018-19 has been considered except profit on sale of assets amounting to INR 43,253.

Note 2: Order no. F.DE.15(251) PSB/2019/1325-1329 dated 29.03.2019 issued for academic session 2017-18 post evaluation of fee increase proposal for the financial year 2017-18 it was noted that the school has treated development fee as revenue receipts in FY 2015-16 and FY 2016-17 in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Accordingly, the school has treated development fee as capital receipt from FY 2017-18 onwards. Thus, the incorrect accounting treatment followed resulting in incorrect representation of accumulated development fund balance in the financial statement.

Note 3: Depreciation being non-cash expense, it would not result in cash outflow. Thus, it has not been considered in the determination of fee increase for the FY 2018-19.

Note 4: As per the submission, school has implemented 7th CPC with effect from 1st April 2019 and declaration in this respect is attached in the records submitted by the school. Actual expenses paid in FY 2018-19 have been considered in the fund availability calculation as no information is provided by the school regarding the total amount of arrears of salary to be paid to the staff as per VII pay commission. Therefore, such arrears have not been considered in the fund available calculation.

- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2018-19 at the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this

Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural observations which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are available with the school to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has utilised INR 15,38,485 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover INR 15,38,485 from the society. The amount of above receipt along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2018-19 of **Prestige Convent Sr Sec School (School ID-1413260), Sector-08, Rohini, Delhi-110085**, has been rejected by the Director of Education.

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

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2018-19 and if the fee is already increased and charged for the academic session 2018-19, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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



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

To:

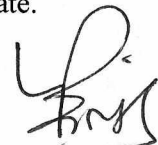
The Manager/ HoS
Prestige Convent Sr Sec School (School ID-1413260),
Sector-08, Rohini,
Delhi-110085,

No. F.DE.15(523)/PSB/2022/ 3043-3047

Dated: 17/05/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West B) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



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