

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

No. F.DE.15(279)/PSB/2021/4751-56

Dated: 24/11/21

ORDER

WHEREAS, every school is required to file a statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '**the Act**') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '**the Rules**'). Such estimate will also provision for donation, gratuity, reserve fund and other items under rule 177(2) and savings thereafter, if any, in terms of the proviso to the rule 177(1).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973 responsibility has been conferred upon to the Director (Education) to examine the audited financial accounts and other records maintained by the school at least once in each financial year. Section 18(5) and 24(1) of the Act and Rule 180 (3) 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 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 has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Director of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Jan 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 Director of Education 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, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction of DoE for increase in fee for the session 2018-2019 and 2019-2020.

AND WHEREAS in response to this directorate's circular dated 27 Mar 2019 referred to above, **Bharti Public School (School ID-1002357), Kondli, Mayur Vihar, Phase III, Delhi - 110096** submitted its proposal for enhancement of fee for the academic session 2019-2020 in the prescribed format.

AND WHEREAS, in the process of examination of fee hike proposal filed by **Bharti Public School (School ID-1002357), Kondli, Mayur Vihar, Phase III, Delhi - 110096** for the academic session 2019-2020, necessary records and explanations were called from the school through email. Further, school was also provided an opportunity of being heard on 21 Oct 2019 at 2:30 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 school filed a writ petition (W.P.(C) 11557/2019) in the Hon'ble High Court of Delhi against Directorate's order No. F.DE.15(630)/PSB/2018/30537-30541 dated 14 Dec 2018 issued by the Directorate of Education to the school post evaluation of the fee increase proposal for FY 2017-2018. The Hon'ble High Court in the said WPC instructed the Directorate not to take any coercive action against the petitioner. Thus, no such action has been initiated by the Directorate.



AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and all subsequent documents submitted by the school were thoroughly evaluated and key findings noted are as under:

A. Financial Discrepancies

1. 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 public notice 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 except in compliance with Rule 177 of DSER, 1973.

Further, clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which 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.*"

Directorate Order No. F.DE.15(630)/PSB/2018/30537-30541 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that as per audited financial statements for FY 2014-2015 to FY 2016-2017, the school had made certain additions to the building amounted to INR 98,89,430 (INR 24,15,138 in FY 2014-2015, INR 43,96,863 in FY 2015-2016 and INR 30,77,429 in FY 2016-2017) out of the school funds, which were directed to be recovered from the society. Also, the school was directed to transfer the amount of Building Fund to General Reserve.

From the audited financial statements of the school for FY 2017-2018 and FY 2018-2019, it was noted that the school has continued to incur capital expenditure on building, which was capitalised by the school in its financial statements as Infrastructure Development amounting to INR 1,02,010 and INR 21,58,971 during the FY 2017-2018 and FY 2018-2019 respectively. However, the school in its financial statements presented that this capital expenditure was incurred out of development fund.



While as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and 2004 judgement of Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others, development fund could only be utilized towards purchase, up-gradation and replacement of furniture, fixture and equipment, utilisation of development fund for construction/ development of building is a non-compliance by the school. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

The school submitted its representation that the students of the school have not been charged/burdened by way of collecting "Building Fund" or Development Charges towards Building, therefore, there is no violation of public notice dated 4 May 1997. Further, the school also mentioned that, the saving made by school from income derived by way of fees, after having met the liability of payment of salaries and allowances etc, can legally be utilized for the needed expansion of the School or any expenditure of development nature. With reference to Building Fund presented in its financial statements, the school represented that Building Fund was created in compliance of Rule 177 after fulfilling all the requirements of DSER, 1973.

Based on the fact that the school did not implement the recommendations of 7th CPC till date and did not made any investment in 'plan-assets' such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits. Accordingly, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances; and other benefits admissible to the employees of the school*".

Since the school has not recovered any amount from the Society till date, the above mentioned expenditure on building totalling to INR 1,21,50,411 (i.e. INR 98,89,430 plus INR 1,02,010 plus INR 21,58,971) pertaining to FY 2014-2015 to FY 2018-2019 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 is directed not to incur any expenditure on building unless it ensures compliance with Rule 177.

2. As per Rule 172 of DSER, 1973, "*(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."

Directorate Order No. F.DE.15(630)/PSB/2018/30537-30541 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that as per audited financial statements for the FY 2014-2015 to FY 2016-2017, the school had donated INR 6,72,732 to Smile Foundation out of school funds and charged the same to

Income & Expenditure account. The school has continued to donate funds amounting to INR 1,48,400 during the FY 2017-2018 and FY 2018-2019.

Therefore, the above expenditure was done by the school without complying the Rule 172 of DSER, 1973.

The school represented that the donation to smile foundation was made by collecting funds from the school students as voluntary contribution.

Further, during discussion, the school had clarified that this amount was collected from the student as voluntary contribution and then donated to Smile Foundation. As per the DSER, 1973 any amount collected by the school should be utilised for imparting better education to the students and not for any other purposes or donation. Further, the school did not reflect the amount collected by it as voluntary contribution from students in its financial statements, while it reported the amount paid to Smile Foundation indicating that the school diverted the amount collected from the students without accounting the funds collected from students in its books of account and manipulated its financial statements.

Since the school has not recovered any amount from the Society till date with respect to the payments made to Smile Foundation in non-compliance DSER, 1973, the above mentioned expenditure of INR 8,21,132 (INR 6,72,732 plus INR 1,48,400) pertaining to FY 2014-2015 to FY 2018-2019 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 must also account for the funds collected from the students and recover that amount from concerned person/ Society within 30 days from the date of this order. Accordingly, the amount collected from students, which has been considered equivalent to the amount paid to Smile Foundation i.e. INR 8,21,132 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. Also, the school is directed not to collect any funds from students beyond the fee prescribed in its fee structure.

Based on same rationale, the amount budgeted by the school as charity/donation has not been considered as part of the budgeted expenses for FY 2019-2020 (enclosed in the later part of this order).

3. 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 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.” Further, according to para 7.14 of the Accounting Standard 15, “Plan assets comprise:

- (a) assets held by a long-term employee benefit fund; and
- (b) qualifying insurance policies.”



On review of the audited financial statements for FY 2017-2018 and FY 2018-2019 and submissions of the school, it was noted that the school has created the provision for liability towards gratuity and leave encashment in its financial statements in accordance with the actuarial valuation reflecting the actuary determined liability towards Gratuity and Leave Encashment as on 31 Mar 2019 of INR 1,59,20,980 and INR 29,69,531 respectively.

During personal hearing, school mentioned that it has earmarked fixed deposit with bank for meeting its liability towards gratuity and leave encashment. The actuarial report for FY 2018-2019 indicated that investment in fixed deposit with bank for meeting its liability towards gratuity and leave encashment made by school has not been considered by the actuary as plan assets, since the fixed deposits are like free funds available at the disposal of the school. Accordingly, in absence of investments in the form of group gratuity scheme and group leave encashment scheme of LIC or other insurer, the funds have not been appropriately earmarked by the school. Thus, no amount has been considered towards gratuity and leave encashment provision budgeted by the school except the amount of gratuity actually paid by the school to its staff of INR 2,29,710 during FY 2018-2019, which has been separately considered while deriving the fund position of the school for FY 2019-2020 (enclosed in the later part of the order).

The school is directed to make investments in group gratuity scheme and group leave encashment scheme of LIC or other insurer so as to create a fund equivalent to the amount of liability determined by the actuary towards gratuity and leave encashment to protect against its statutory liabilities towards staff.

4. On review of Invoices and other supporting documents submitted by the school during the course of evaluation of the fee increase proposal. We have noted the following points:

- School has procured the manpower service (like driver, helper and supervisor etc) from different vendor's such as Sharp Protective Service Private Limited, Gulzar Enterprises and Bera House Keeping. However, the school did not provide documentation for any procurement process followed for selection of the aforementioned vendors including documents such as request for quotations/proposals, quotations, comparative statements, approval of procurement committee, etc.; only invoices were provided by the school. This has resulted in weak internal control over selection of vendor and determination of prices for goods and services. Further, no minutes for negotiation discussions with vendors were prepared for documenting the negotiated prices.
- During the FY 2017-2018 and FY 2018-2019, school has paid INR 50,86,880, INR 49,67,440 and INR 4,06,000 to Sharp Protective Service Private Limited, Gulzar Enterprises and Bera House Keeping respectively for hiring of manpower service (such as driver, peon, helper and supervisor etc.). On review of certain invoices of aforementioned vendors, we noted that the hiring charges paid to such vendor appeared excessive in comparison of salary paid to the regular driver and support staff.

Thus, genuineness of the expense recorded based on the invoices of Sharp Protective Service Private Limited, Gulzar Enterprises and Bera House Keeping could not be evaluated. Thus, expenses of INR 1,04,60,320 recorded during FY 2017-2018 and FY 2018-2019 has been adjusted in the fund position of the school (enclosed in the later part



of this order) with the direction to the school to recover this amount from the person concerned for incurring the expense or the Society within 30 days from the date of this order. Further, the school is directed to strengthen its internal controls for ensuring value for money through appropriate procurement procedures and thorough check on the invoices submitted by the vendors.

5. 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

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.

Clause 17 of Order No. F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 issued by this Directorate states "*No admission Fee of more than two hundred rupees per student, at the time of admission shall be charged. Admission Fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school.*"

On review of audited financial statements for the FY 2017-2018 to FY 2018-2019 and sample of fee receipts submitted by the school, it was observed that the school is collecting one-time activity charges of INR 30,000 from students at the time of admission. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. No private recognised school can collect fee other than those prescribed in aforementioned order dated 15 Dec 1999. Further, collecting one-time charge from students at the time of admission of students takes the form of admission fee, which can be collected only upto an amount of INR 200. Thus, collection of one-time fee from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education in contravention of the aforementioned clause.

The school was directed to stop the collection of one-time activity charges from students through directorate's order no. F.DE.15(630)/PSB/2018/30537-30541 dated 14 Dec 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018, but the school has not stopped collecting the one time activity charges.

On review of the audited financial statements of school for FY 2018-2019, it was noticed that the school collected a total sum of INR 45,86,000 from students at the time of

admission in contravention to the direction mentioned above. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fee has been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected during FY 2019-2020 from students in respect of one-time charge within 30 days from the date of this order.

Since one-time activity charge is collected by the school in contravention of the above mentioned clause and the directions given by the Directorate in its order dated 14 Dec 2018 has been ignored by the school, which resulted in profiteering and commercialization of education, the school is directed again to not to collect any one-time charge from the students at the time of admission and adjust/refund to students any one-time charge collected from the students.

6. On review of salary statement for the month of Mar 2019 submitted by the school, it was noted that school had incurred certain expenses on the payment of salaries of certain staff such as Ms. Bharti Batra, Ms. Anchal Batra and Mr. Mridul Batra which are seems to be relative of Secretary (H.C. Batra) based on same surname. Further, it was also noted that the salary being paid to Mr. Mridul Batra (Admin Officer) and Ms. Bharti Batra are excessive in nature, which may be an undue favour to relatives. In the absence sufficient documents to substantiate that the appointment and fixation of salary of aforementioned person was made in accordance with Recruitment Rules, the school is directed to determine the amount of excessive salary paid to such person from the date of appointment till date and recover the same either from the concerned person or society within 30 days from the date of this order.

Compliance of direction mentioned above will be examined at the time of evaluation of subsequent fee increase proposal of the school.

7. Incomes (fee collected from students) reported in the Income and Expenditure Account/ Receipt and Payment Account for FY 2018-2019 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2018-2019 in its Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school.

Following differences were derived based on the computation of FY 2018-2019:

Particulars	Income reported in Income & Expenditure Account (A)	Fee computed based on details no. of students provided by the school (B)	Derived Difference (C)= (A-B)	Derived % Difference (D)=(C/B* 100)
Tuition fee	4,90,16,300	4,54,95,120	35,21,180	7.74%
Development fee	72,78,900	68,27,700	4,51,200	6.61%
Annual fee	62,49,470	58,46,400	4,03,070	6.89%

The school should perform a detailed reconciliation of the amount collected from students and income to be recognised based on the fee structure and number of students enrolled by the school. Since the school is required to prepare and submit the reconciliation, no adjustment has been made in the fund position of the school (enclosed is the later part of the order).

8. On examination of the audited financial statements of the school for FY 2018-2019, it was noted that the school had reported certain income in the Receipt and Payment Account but such incomes were not reported in the Income and Expenditure Account. The details of incomes not reported in the Income and Expenditure Account are as under:

Particulars	Amount (INR)
Late Fees	94,325
Examination Fees	67,625
External Examination	5,24,481
EWS Grant	4,80,600
Total Income that could be traced in the Income and Expenditure Account	11,67,031

The reason for such discrepancy could not be ascertained. Also, it could not be verified if these incomes were clubbed with other heads of incomes in the Income and Expenditure Account.

Accordingly, the school is directed to submit its justification and explanation regarding non-reporting of the above incomes in the Income and Expenditure Account. Further, the school should submit a reconciliation of the income reported in the Income and Expenditure Account and that reported as receipts in the Receipt and Payment Account. Compliance of the same shall be verified at the time of evaluation of subsequent fee increase proposal.

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, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrance 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, Digital Learning Fees, Accidental Insurance and Practical Fees from students. However, the school has not maintained separate fund accounts for these earmarked levies separately except transport fee and the school has been generating surplus or 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, which was also mentioned in Directorate's order F.DE.-15/630/PSB/2018/30537-30541 dated 14 December 2018 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. Details of calculation of surplus or deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Transportation Charges [^]	44,57,200	34,91,477	9,65,723
Accidental Insurance	5,15,780	5,12,820	2,960
Digital Learning Fee	19,07,245	27,61,200	(8,53,955)
Practical Fees	14,72,460	3,11,982	11,60,478

[^] 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 over the life of the

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.

It was noted that the school failed to disclose transport fees in the Income and Expenditure Account rather it was presented directly in the designated fund maintained by the school as Transport Fund on the liability side of the Balance Sheet. While this is revenue receipt collected by school from the students, the school did not route the incomes and expenses in relation to transport facility through Income and Expenditure Account, which is not in accordance with the Generally Accepted Accounting Principles. Further, the school reported positive balance of transport fund in its financial statements as on 31 Mar 2019 of INR 9,65,723, which has been considered while deriving the fund position of the school (enclosed in later part of this order).

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 charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. The school is charging digital learning fee and accidental insurance Fee 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 digital learning fee and accidental insurance fee and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges, as applicable collected from the students. The school explained that annual fee collected from students is not sufficient to meet the revenue expenses of the school.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies 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. Also, the school is directed to disclose all incomes and expenses in its financial statements and submit details of all earmarked levies collected from students in the proposal/fee structure submitted to the Directorate. The school is also directed not to include fee collected from all students as earmarked levies and stop collecting digital learning and accidental insurance Fee from students.

Also, the school is directed to disclose all revenue incomes and expenses in its Income and Expenditure Account including earmarked levies collected from students and related expenses.



2. The School was directed through the Directorate's order F.DE.-15/630/PSB/2018/30537-30541 dated 14 December 2018 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 in respect of creation and submission of fixed deposit in the joint names of Deputy Director of Education and the Manager of the School equivalent to the amount of 4 months' salary reserve in accordance with the provisions of the Right to Education Act, 2009.

The school had accounted for a provision of INR 1,60,41,113 for salary reserve equivalent to 4 months' of salary as on 31 March 2019 in the books of accounts and invested INR 56,84,510 in the form of FDR against these provisions. However, this investment was not in the joint names of Deputy Director of Education and the Manager of the school. Therefore, these FDR's have been considered as free reserve while deriving the fund position of the school for FY 2019-2020 (enclosed in the later part of the order).

Thus, the school is directed again to create a fixed deposit with a bank in the joint names of Deputy Director of Education and the Manager of the School.

3. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which 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 out of this fund, will be kept in a separately maintained Development Fund Account.*"

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 the FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from development fund to "Development Fund Utilised" account and did not treat the same as deferred income. Also, school was not transferring amount equivalent to the amount of depreciation from "Development Fund Utilised" account to the Income and Expenditure Account as indicated in the guidance note cited above.

Also, based on the presentation made in the audited financial statements for FY 2018-2019 submitted by the school, it was noted that the school has not reported depreciation



reserve as on 31 Mar 2019 equivalent to the amount of accumulated depreciation reported in the fixed assets schedule annexed to the audited financial statements for FY 2018-2019.

It was further observed that, the school has not transferred the interest income generated from the investment made out of development fee or funds lying in the specific development bank account to the development fund account which is in contravention of the aforesaid clause.

While the direction for following the accounting treatment as indicated in the guidance note cited above issued vide Order no. F.DE.-15/630/PSB/2018/30537-30541 dated 14 December 2018 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-2018. The school did not follow the accounting treatment as indicated in the guidance note cited above.

The school is directed to transfer an amount equivalent to the amount of depreciation from "Development Fund Utilised against Fixed Assets" account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note. The school is also directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments made from development fund to the development fund account and complying with the accounting and disclosure requirement of Guidance Note 21.

4. On review of proposal for enhancement of Fee for the academic session 2019-2020 submitted by school, we noted that school is collecting earmarked levies in the form of Transport Fees and Accidental Insurance from students but the same has not been disclosed in the proposal for enhancement of fee submitted by the school.

The school is directed to disclose all types of earmarked levies in the proposal for enhancement of fee. Also, the school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

5. As per Appendix II to Rule 180(1) of DSER, 1973, the school is required to submit final accounts i.e. receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

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."

On review of the audited final accounts for FY 2018-2019 submitted by the school, it was noted that though the Receipt and Payment Account for FY 2018-2019 was duly signed by the auditor with reference thereon to the audit report of even date, but in its audit report, the auditor only gave his opinion on the true and fair view on:



- In the case of balance sheet of the state of affairs as at 31 March and
- In the case of Income and Expenditure account of the Deficit for the accounting year.

Thus, the auditor did not give his opinion on the receipt and payment account. The school did not provide reasonable justification for auditor's non-inclusion of receipt and payment account in his audit opinion. Further, the auditor had signed the audit report and financial accounts for FY 2018-2019 on 14 Sep 2019. Thus, the school did not comply with the requirement of submission of audited final accounts in accordance with the timeline of 31 July prescribed in Rule 180(1).

Accordingly, the school is directed to ensure the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted within the prescribed timeline to the Directorate. The school is also directed to ensure that the audit opinion is issued by the auditor on Balance Sheet, Income & Expenditure Account and Receipt & Payment Account.

6. On examination of the financial statements for FY 2016-2017 to FY 2018-2019, it was noted the financial statements were not appropriately authenticated by the representatives of the school, since only the Principal signed the Balance Sheet, Income and Expenditure Account and Receipt and Payment Account. Also, the schedules annexed to the financial statements were not signed or initialled by any of the officials of the school. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

The school is directed to ensure that the entire set of financial statements (all pages, schedules including Notes to Account) must be appropriately signed or initialled by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

7. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. of Students	1,598	1,586	1,584
Total No. of EWS students	228	266	275
% of EWS students to total students	14.27%	16.77%	17.36%

The school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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

- i. The total funds available for the year 2019-2020 amounting to INR 14,22,77,440 out of which cash outflow in the year 2019-2020 is estimated to be INR 12,36,30,409. This results in net surplus of INR 1,86,47,032. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	1,08,51,567
Investments (Fixed Deposits) as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	3,64,69,691
Total Liquid Funds Available with the School as on 31 Mar 2019	4,73,21,258
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2018-2019) [Refer Note 1]	7,39,23,574
Add: Amount recoverable from Society on account of addition made in the building (FY 2014-2015 to 2018-2019) [Refer Financial Discrepancy No. 1]	1,21,50,411
Add: Amount recoverable from Society on account of donation given to Smile Foundation in non-compliance of DSER, 1973 (during FY 2014-2015 to 2018-2019) [Refer Financial Discrepancy No. 2]	8,21,132
Add: Amount recoverable from concerned person/ Society towards unaccounted funds collected from students during FY 2014-2015 to 2018-2019 [Refer Financial Discrepancy No. 2]	8,21,132
Add: Amount recoverable from Society on account of doubt on genuineness of the expenses (From FY 2017-2018 to 2018-2019) [Refer Financial Discrepancy No. 4]	1,04,60,320
Gross Estimated Available Funds for FY 2019-2020	14,54,97,827
Less: FDR submitted with DoE (as per audited financial statements of FY 2018-2019)	2,61,191
Less: Staff retirement benefits [Refer Financial Discrepancy No. 3]	2,29,710
Less: Depreciation Reserve [Refer Other Discrepancy No. 3 and Note 2]	-
Less: Salary Reserve [Refer Other Discrepancy No. 2]	-
Less: Development Fund (as per audited financial statements of FY 2018-2019)	17,63,763
Less: Transport Fund balance as on 31 Mar 2019 [Refer Other Discrepancy No. 1]	9,65,723
Net Estimated Available Funds for FY 2019-2020	14,22,77,440
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 3]	9,66,36,304
Less: Arrears of salary as per 7th CPC for the period Jan 2016 to Mar 2019 (as per the computation of 7th CPC submitted by the school) [Refer Note 3]	2,69,94,105
Estimated Surplus as on 31 Mar 2020	1,86,47,032

Notes:

1. Fees and incomes (other than adjustment of leave encashment provision, being non-cash income) as per audited financial statements of FY 2018-2019 have been considered with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020 with an adjustment of INR 45,86,000 towards one time activity charges (Refer Financial Discrepancy No. 5) to be adjusted/ refunded to students (included as income in the audited financial statements of FY 2018-2019), which would not accrue during FY 2019-2020.
2. The school has charged depreciation on fixed assets purchased from school funds and development funds. The school has created depreciation reserve on assets purchased from development funds and school funds. Depreciation reserve fund has been reflected by the school on liabilities side of the Balance Sheet of the school, which does not reconcile with the amount of accumulated depreciation as on 31 Mar 2019 (Refer Other Discrepancy No. 3). While development fund as per audited financial statements for FY 2018-2019 has been adjusted while deriving the fund position of the school, depreciation reserve is more of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it has not been considered in table above.
3. Per the Budget Estimate for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2019-2020 of INR 13,74,63,849 (including arrears of salary towards implementation of 7th CPC for the period Jan 2016 to Mar 2019 of INR 3,64,60,036, which has been considered separately in table above based on computation submitted by the school), 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 expenses heads as budgeted were considered. Further, during review of budgeted expenses, certain discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2019-2020;

Particulars	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Accounting Charges	4,80,000	6,00,000	5,28,000	72,000	No reasonable justification/
Computer Education/ Smart Class	27,61,200	34,00,000	30,37,320	3,62,680	explanation provided by the school for such increase in expense as compared with FY 2018-2019.
Science Laboratory Expenses	45,245	1,35,000	49,770	85,231	Accordingly, budgeted expenses for FY 2019-2020 have been restricted to 110% of the expense incurred during FY 2018-2019.
Seminar & Counselling (Students)	1,18,200	3,10,000	1,30,020	1,79,980	
Teacher Training Workshops	2,12,150	4,60,000	2,33,365	2,26,635	
Gratuity-Provision	20,62,347	34,00,984	-	34,00,984	Refer Financial Discrepancy No. 3

Particulars	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Leave Encashment - Provision	-				
Charity & Donation	40,000	40,000	-	40,000	Refer Financial Discrepancy No. 2
Total	57,19,142	83,45,984	39,78,475	43,67,510	

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 2019-2020.

- 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 2019-2020 on the basis of existing fees structure and after considering existing funds/reserves.

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, 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 were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2019-2020 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, 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.

And whereas, the 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 expenses for the financial year 2019-2020. Since the school has accumulated surplus funds, increasing fee from students would result in profiteering and commercialisation of education. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2019-2020.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2019-2020 of **Bharti Public School (School ID-1002357), Kondli, Mayur Vihar, Phase-III, Delhi – 110096** 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/charges during FY 2019-2020. In case, the school has already charged increased fee during FY 2019-2020, 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 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 ensure that salaries and benefits are paid to the staff in accordance with section 10(1) of DSEA, 1973 and Directorate's order dated 25 Aug 2017.
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 India in its Judgment of Modern School vs Union of India and Others. Therefore, school must not 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. To remove all 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).
7. 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 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
Bharti Public School
School ID-1002357
Kondli, Mayur Vihar, Phase III

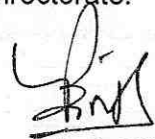
Delhi – 110096

No. F.DE.15(279)/PSB/2021/ 4751-56

Dated: 24/11/21

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 (East) 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