

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

No. F.DE.15(621)/PSB/2019/ 13263-13267

Dated: 11.12.2019

Order

WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the 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 etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '**the Rules**').

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 the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 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 above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 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, Directorate 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 19.01.2016 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 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/ land owing agencies.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, 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 the their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to the order dated 27.03.2019 of this Directorate, **N. K. Bagrodia Public school (School ID- 1821139) Sector – 4, Dwarka, New Delhi- 110075**, the school, was supposed to upload its fee hike proposal to seek the approval of director of education, but the school vide resolution passed in the meeting of MC held on 25.03.2019 proceeded to enhance the fee of the students effective from 01.04.2019 without seeking prior permission from the DOE as per the mandate of the Hon'ble Supreme Court in Modern School Vs. Union of India and Others reported as (2004) 5 SCC 583 particularly when the school is running on land granted by the DDA, as the land owing agency, on particular terms and condition of allotment including prior approval of Director of Education before any increase in fee. It is submitted that vide order dated 27.03.2019 issued by the directorate of education, all the private unrecognised school covered by the aforesaid prior approval condition are required to seek prior sanction for increase in fee and for this purpose, submit their proposal for the academic session 2018-19 and 2019-20 online through the website of the Directorate of Education latest by 30.4.2019. The school instead of submitting the proposal online choose to submit a hard copy of the proposal on 29.03.2019 which was returned by the Department on the very next day with an endorsement that the same ought to be uploaded online. However, without uploading the proposal as mandated in the order dated 27.03.2019, the school proceeded to pass a resolution on 25.03.2019 and increased the tuition fee with effect from 01.04.2019, whereas the online proposal was uploaded by it after a month i.e. on 30.04.2019.

AND WHEREAS, it is pertinent to note here that the Management Committee (MC) in its meeting held on 25.03.2019 has proposed to increase the tuition fee by 15% for all classes and annual charges from Rs. 4,950 to Rs. 7,000 i.e., by 41.41% from class I onwards. Even the DE nominees had not given consent for such arbitrary increase in fee and stated that the matter may be submitted to the higher authorities for further approval as it requires approval of Director, Education before any fee hike but, the school implemented the aforesaid increase in fee without any approval from Directorate from 01.04.2019 for session 2019-20. Subsequently, upon receiving the complaint of aggrieved parent, the department show-caused the school and

directed to roll back the increased fee till it is decided by the Directorate of Education as to whether the fee increase is justified/needed or not. But the school continued defying the legal direction of DOE for rolling back of the increased fee. Thus, being left with no other option, the Directorate issued the order dated 27.08.2019 for withdrawal of recognition of the school from 01.04.2020 after following the due process and after providing an opportunity of being heard. Aggrieved with the order, school approached the Hon'ble High Court of Delhi vide WPC 9913/2019.

AND WHEREAS, the DOE in order to dispose of the proposal of fee hike submitted by the school for the academic session 2019-20, called certain documents and clarifications necessary for examination and evaluation of said proposal. But the school, it seems, was deliberately avoiding the submission of documents and clarifications to avoid scrutiny of its fee hike proposal in time bound manner and continue charging increased fee from the students illegally. Accordingly, an email dated 24.08.2019 was sent to the school for submission of some additional documents for evaluation of fee increase proposal for session 2019-20. Since the school was not providing the requisite documents/ clarifications various email reminders were also sent to the school on 18.09.2019, 23.09.2019, 25.09.2019 and 01.10.2019 for submission of the same. The school has deliberately delayed the evaluation and it is evident from these facts that the school is coming again and again either by requesting extension of time for submission of documents or by taking the shield that the matter is sub-judice with the Hon'ble High Court of Delhi and only after continuous follow ups by DOE submitted the records/ documents on 15.10.2019, though in partial manner. In order to keep its examination of fee hike proposal submitted by the school transparent, reasoned and justified the school was also provided an opportunity of being heard on 11.10.2019 at 3:00 p.m. but again the school did not attend the said hearing and submitted a request for extension of hearing on another date. The school was given another opportunity and called for personal hearing on 05.11.2019 at 11:00 a.m. to present its justifications/ clarifications on fee increase proposal including audited financial statements. Though this time the school appeared for the hearing but with incomplete documents/ clarification/ submissions. Hence, the school was further asked to submit necessary remaining documents/clarifications noted by 11.11.2019. On 11.11.2019, following the delay tactics the school again requested for extension of time for submission of records by one week. Though School submitted clarifications/ records on 15.11.2019 but this time also in incomplete manner and therefore, by email dated 23.11.2019 the school was again directed to submit the remaining documents by 25.11.2019. All these proceedings were brought to the notice of the Double bench of Hon'ble High Court of Delhi during proceedings held on 29.11.2019 in LPA 754/2019 filed by the Directorate against the order of Hon'ble Single bench of High Court of Delhi in WPC No. 9913/2019 filed by the school against the order dated 27.08.2019 of withdrawal of recognition by DOE. The double bench of the Hon'ble High Court directed that,

8.further, taking note of the grievance of the respondent/school that the appellant/DOE has so far not taken a decision on its proposal that has been hanging fire for the past 7 months and in view of the submission of Mr. Ramesh Singh, learned Standing Counsel (Civil), GNCTD, who states that the delay is on account of repeated requests made by the respondent/school for permission to submit additional documents, the last one dated 23.11.2019, now that it is stated that respondent/school does not wish to submit any further documents, an order shall be passed by the DoE on the proposal of the respondent/school within one week from today, under intimation to the school.

AND whereas, in order to ensure that the proposal submitted by the school for fee increase is justified or not, the DoE evaluated the fee increase proposal of the school very carefully in accordance with the provisions of DSEAR, 1973 and other orders/ circulars issued from time to time by this directorate for fee regulation after considering the documents/ clarification submitted by the school till 25th November 2019. After evaluation of fee proposal of the school the key findings were noted as under:

A. Financial Discrepancies

- I. Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 states "development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account". This clause was upheld by the Supreme Court in the matter of Modern School vs Union of India & Ors through its judgement dated 27 April 2004 and was also reiterated by the Directorate in Clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

Further, 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." Further, Para 102 of the abovementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- a) In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
- b) Assets, such as investments, and liabilities belonging to each fund separately
- c) Restrictions, if any, on the utilization of each fund balanced)
- d) Restrictions, if any, on the utilization of specific assets."

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."

The documents submitted by the school has been taken on record and on examination of the Financial Statements, it has been noted that the school has neither created depreciation reserve fund on assets purchased out of development fund nor charged depreciation to income and expenditure account. Rather the school has charged the depreciation from the development utilization fund account and shown the fixed assets at the written down value in its financial statements. As per the aforesaid guidance note, development fund is of the

nature of restricted fund and therefore, school is required to follow para 99 and provisions of clause 7 of the order dated 15.12.1999 and clause 14 of the order dated 11.02.2009. Thus, based on the aforesaid provisions the school has neither created the depreciation reserve fund nor made the accounting treatment in compliance of the aforesaid provisions.

Moreover, it has been noted that the school has for the first time created depreciation reserve fund out of general fund in FY 2018-19 on fixed assets purchased out of general fund and at the same time shown the fixed assets on written down value in the financial statements. This implies that the depreciation has been charged twice in the financial statements i.e., first from the income and expenditure account and secondly, out of the general fund account in FY 2018 -19. The aforesaid accounting practice is not in conformity of the generally accepted accounting principles and aforesaid Guidance Note. Accordingly, the school is directed to make appropriate accounting adjustments in the development fund utilization account, general fund account and depreciation reserve fund account.

Further, it has also been noted that the school has utilized development fund for installation of elevator and erection of shed which is part of the building and not in accordance with the above-mentioned provisions. The summary of misutilization of development fund is given in the table below:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Total
Elevator	8,21,091	1,02,773	-	9,23,864
Shed	4,09,500	-	8,03,598	12,13,098
Total				21,36,962

Further, as per the Clause 2 of Public notice dated May 4th, 1997, "Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society means the trust or institution who has established the school, society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also, clause (vii) 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 financial fee structure.

In view of the above, the expenses incurred by the school for installation of elevator and erection of shed are considered as part of the building and incurred without complying the requirements of Rules 177 of DSER 1973. As per Rule 177 of DSER, 1973, fee shall on first instance be used for payments to staff including salaries, arrears, allowances, gratuity and leave encashment, etc. Accordingly, the amount incurred by the school 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.

II.

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."

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 form of restricted funds, which, according to Guidance Note -21 '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.

Additionally, the above-mentioned Guidance Note also 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).

On review of financial statements of FY 2016-17 to 2018-19, it has been observed that the school was collecting earmarked levies namely Computer fee, Smart Class fee, Orientation Charges, ERP Charges and Transport Fee from the students but these fees were not charged on 'no profit no loss' basis because school has either earned surplus or incurred deficit from these earmarked levies. During the period under evaluation, school submitted that it has earned surplus on smart class, ERP charges and Transport fee and incurred deficit on computer fee and orientation fee. Further, school is not following fund-based accounting for these earmarked levies and therefore, fund balance of respective earmarked levies cannot be determined. Therefore, the school is directed to follow fund-based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance. The summary of surplus and deficit with respect to earmarked levies is as under:

Particular	Surplus/ Deficit in FY 2016-17	Surplus/ Deficit in FY 2017-18	Surplus/ Deficit in FY 2018-19	Total Surplus/Deficit
Computer Fee	(58,391)	(76,647)	(1,83,604)	(3,18,642)
Smart Class Fee	15,12,197	20,53,978	10,75,375	46,41,550
Orientation Fee	-	(86,270)	51,668	(34,602)
ERF Charges	-	(15,429)	22,702	7,273
Transport Fee	4,95,289	2,27,444	5,30,819	12,53,552
Grand Total	19,49,095	21,03,076	14,96,960	55,49,131

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and Science and Computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the fourth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop collecting separate charges in the name of the "ERP Charges and Smart Class Expenses".

- III. As per section 13 of RTE Act, 2009, the school should not charge capitation fee from the students at the time of admission. On examination the record submitted by the school it is noted that the school collected Orientation fee of Rs. 5,000 from the student at the time of admission. Thus, this collection is tantamount as capitation fee which is in contravention of the aforesaid provision. Accordingly, the school is directed to stop the collection of capitation fee in the name of orientation fee from the students with immediate effect.
- IV. The school has created a provision of Rs.1,60,00,000 in FY 2018-19 out of General Fund as per the direction given by JADSC. As per the JADSC report, the committee has recommended refund of excess fee charged by the school along with interest. This refund was directed by the committee against the noncompliance noted after examination of school's records. Against this direction of the committee the school has made separate FDR which has not been considered while deriving the fund position of the school because the school had already collected this amount from the students and utilised in contravention of the direction given in order dated 11.02.2009. Thus, the school is directed to reverse this provision within 30 days from the date of issue of this order and ensure any payment for this refund should either borne by the society or school management whosoever was responsible for this non-compliance.
- V. Rule 177 of DSER, 1973 states "Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilised by its 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.

Further, the aforesaid 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.

However, on review of financial statements submitted by the school, it has been noted that the school has purchased buses during FY 2016-17 and 2018-19 for Rs.43,09,275 and Rs.51,60,200 respectively without complying Rule 177 of DSER, 1973 for instances without making appropriate investments in plan assets as required by AS-15 "Employees Benefits" issued by the Institute of Chartered Accountant of India. Thus, the amount incurred by the school of Rs. 94,69,475 purchase of buses is not in accordance with the aforesaid provisions, accordingly, it 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.

- VI. As per form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3 months' salary and this amount should be invested in joint name of Dy. Director (Education) and manager of the school. On review of the financial statement it has been noted that the school has for the first time appropriated Rs.3,50,0000 towards salary reserve in its financial statement FY 2018-19 out of the general fund and the school has made investment of Rs. 3,58,07,565, which is not in the joint name of the Dy. Director and Manager of the school. Hence, this has not been considered as earmarked investment while calculating the fund position of the school.

B. Other Discrepancies

- I. As per AS-15 'Employee Benefit' issued by ICAI, "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date". On review of financial statements of FY 2018-19 and record submitted by the school, it has been noted that the school has made provision on account of gratuity and leave encashment of Rs.3,96,44,266 on the basis of Actuarial Valuation Report and has made an investment in the form of FDR of Rs.3,97,34,594 against this liability. Though, the school is claiming that it has made fixed deposit with bank for meeting liability towards gratuity and leave encasement, but this amount is not reflecting as a 'plan assets' in the actuarial valuation report submitted by the school. Thus, mere creation of FDR is not sufficient to consider it as plan assets as required by AS-15 "Employees Benefits. Accordingly, the claim of the school has not been considered while deriving the

fund position of the school. Further, the school is directed to make an investment in plan assets as defined in AS- 15 within 30 days from the date of issue of this order.

- II. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be charged. The Caution Money thus collected shall be kept deposited in a schedule bank in the name of 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 request for a refund. However, on review of audited financial statement for the FY 2016-17 to 2018-19, it has been observed that the School is being refunding only the principal amount of caution money without any interest thereon to the students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. Thus, the school directed to comply with the aforesaid provisions.
- III. On review of the financial statement it has been noted the school has not prepared Receipts and Payment Account in the format prescribed by DoE in Appendix-II of the order dated 16.04.2016. Therefore, the school is directed to prepare receipts and payment accounts in the prescribed format.

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

- i. The total funds available for the FY 2019-20 amounting to Rs. **32,78,20,616** out of which cash outflow in the FY 2019-20 is estimated to be Rs. **15,25,35,891**. This results in net balance of Surplus amounting to Rs. **17,52,84,725** for FY 2019-20 after all payments. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements	1,05,06,438
Investments as on 31.03.19 as per Audited Financial Statements	21,91,72,809
Add: Additions to building in contravention of Clause 2 of Public notice dated May 4th, 1997 in the FY 2016-17, FY 2017-18 and FY 2018-19 should be recoverable from the society (refer point no. I of financial observation)	21,36,962
Add: Addition to Vehicles in contravention of Rule 177 of DSEAR Act during FY 2016-17 and FY 2018-19 (refer point no. V of financial observation)	94,69,475
Less: 7 th CPC Salary Arrear payable as per audited financial statements for FY 2018-19 (refer note 1 below)	3,55,03,554
Less: FDR in name of DY. Director of Education and Manager of school (refer note 2 below)	7,34,893
Less: Development Fund balance (refer note 3 below)	1,03,15,810
Less: Caution money as on 31.03.2019 (as per audited financial statements for FY 2018-19)	1,92,488
Total	19,45,38,939
Add: Fees for FY 2018-19 as per Audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	11,71,18,420
Add: Other income for FY 2018-19 as per audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	1,61,63,257

Particulars	Amount
Estimated availability of funds for FY 2019-20	32,78,20,616
Less: Budgeted expenses for the session 2019-20 after making all adjustments (refer note 4 below)	15,25,35,891
Net Surplus	17,52,84,725

Note-1: The amount of liability in respect of salary arrears of 7th CPC has been considered in calculation of fund availability of the school with the direction to the school to pay the arrears salary to the staff within 30 days from the date of this order.

Note 2: Earmarked investment in the form of FDR made in name of DY. Director of Education and Manager of school has been excluded from the calculation of fund position of the school.

Note 3: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 April 2010 states "All schools must, first of all, explore and exhaust the possibility of utilizing 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 utilized for years together may also be used to meet the shortfall before proposing a fee increase." Over the number of years, the school has accumulated development fund and has reflected the closing balance of Rs 5,76,20,595 in its audited financial statements of FY 2018-19. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school. However, development fund equivalent to amount collected during financial year 2018-19 for Rs. 1,03,15,810 has been left with the school to meet its future requirements.

Note 4: All expenditures proposed by the school for the academic session 2019-20 has been considered in the calculation of fund availability of the school except amount proposed for shed of Rs. 10,00,000 being part of the building and depreciation of Rs. 42,00,000 being non cash item.

- ii. The School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on 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, it is relevant to mention that school has claimed that it has not made any increase in its fee structure from the academic session 2015-16 onwards. Since then three years (i.e. 2016-17, 2017-18 and 2018-19) have already passed and the school has been able

to manage all its operational expenditures during these years with the existing fee structure of FY 2015-16. Even for the current academic session 2019-20, after evaluation of the fee increase proposal submitted by the school, it has been found that the school is having surplus funds to the tune of Rs. 17.52 cores, which is derived without considering the fee increase made by the school for the FY 2019-20 but after considering the impact of all budgeted expenditures proposed by the school [except Rs. 10,00,000 proposed for shed (being part of the building) and depreciation (being non-cash item)] for the FY 2019-20 including the impact of 7th CPC along with 7th CPC arrears w.e.f. 01.01.2016. It has also been noted that the school withheld the pay scales and benefits of 7th CPC to its staff in the previous financial years in the garb of no fee increase done by the school in the last three financial years, while as per the its financial statements there was no need for any increase in the existing fee for extending the benefit of 7th CPC to its staff including payment of arrears along with managing other operational expenses. Thus, the above indicates that the school has devised its fee structure in such a manner that it is able to absorb all the expenditures without any requirement to increase the fee and resulted in unreasonable surplus, which is a clear indicator of profiteering and commercialisation of education by the school.

AND WHEREAS in view of above, not only the fee increase done by the school from 01.04.2019 is unwarranted, unjustified or to say in other words illegal, the existing fee structure of the school is required to be revised on the lower side or say "Reduced". It is clear that the existing fee structure is excessive, and thus, undoubtedly, needs to be revised by the school management. In this regard, the school is required to have the school management committee meeting to revisit its existing fee structure and submit the revised fee structure lowering the existing one within 30 days from the date of this order. In case, the school management fails to comply with this direction, the Department shall take appropriate steps to determine its fee structure on its own as per the material and submissions/ clarifications available on record at present.

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 has been noted that prima facie there are financial and other discrepancies in the school, and that sufficient funds are available with the school to carry out its operations for the academic session 2019-20, accordingly the fee increase proposal of the school may be rejected.

AND WHEREAS, it is also noticed that the School has incurred Rs. 21,36,962 for addition to building and Rs. 94,69,475 for purchase of vehicles out of the school fund which is not in accordance with clause 2 of public notice dated 04-05-1997 and Rule 177 of DSEA & R, 1973. Thus, the school is directed to recover Rs. 1,16,06,437 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted to 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, there are sufficient funds available with the school and so in order to protect the interests of the staff the school is directed to deposit with LIC (or similar agency) amount equivalent to the liabilities for gratuity and leave encashment. Additionally, the school is also directed to make an investment in the joint name of Dy. Director Education (District) and the Manager, School equivalent to the 3 months' salary as salary reserve out of the available surplus.

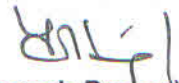
AND WHEREAS, all relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 found it appropriate that the increase in fee in session 2019-20 by the school is not required and is unjustified.

Accordingly, it is hereby conveyed that the proposal of fee increase **N.K. Bagrodia Public School, Sector- IV, Dwarka, New Delhi- 110078 (School Id: 1821139)** is 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 and increased fee already charged by the school for FY 2019-20 without prior approval of the Directorate of Education needs to be refunded or adjusted from future fee, as per the convenience of the parents within 30 days from the date of this order.
2. Since sufficient funds are available with the school, the school shall call the school management committee meeting to review and reduce its fee structure and submit the revised fee structure within 30 days from the date of this order.
3. To communicate with the parents through its website, notice board and circular about the roll back of increase fee for the academic session 2019-20 as per the direction issued by the Directorate of Education and not to increase fee for the subsequent academic session without prior approval from the Directorate of Education.
4. To rectify all the financial and other discrepancies as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
5. 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.
6. 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.
7. The Compliance Report detailing rectification of the above listed discrepancies/ violations must also be attached with the proposal for enhancement of fee submitted by the school for the subsequent academic session.
8. Not to increase any fee in subsequent sessions without rectification of above listed discrepancies.

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

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


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

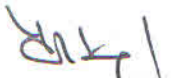
To
The Manager/ HoS
N.K. Bagrodia Public School,
Sector- IV, Dwarka, New Delhi- 110078 (School Id: 1821139)

No. F.DE.15 (62 ()/PSB/2019 / 13263-67

Dated: 11.12.2019.

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 Addl. 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