

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

No. F.DE.15(671) / PSB / 2022 / 4150-4154

Dated: 03/06/22

ORDER

WHEREAS, **Prabhu Dayal Public school (School ID-1309194), Dakshini Block-A, Shalimar Bagh, Delhi- 110088**, (hereinafter referred to as "**the School**"), run by the Roopnagar Public School Society (hereinafter referred to as "**Society**"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

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

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

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

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

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

AND WHEREAS, in order to examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 02.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. F.DE.15(95) PSB/2019/1448-1452 dated 07.02.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations noted are as under:



A. Financial observations

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

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

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

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

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

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

Further, Clause 7.24 of Duggal committee states that *"Simultaneously, it is also to be ensured that the Schools, do not discharge any of the functions, which rightly in the domain of the Society out of the fees or other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been*



given to the Society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then the contribution of the Society that professes to run the School"

Based on the aforesaid Public Notice and Judgement of the Hon'ble High Court, the cost relating to construction of Building has to be met by the Society, being the property of the society and not from the funds of the school.

The Directorate in its Order no. F.DE-15/ (95)/PSB/2019/1448-1452 dated 07.02.2019 issued to the academic session of FY 2017-18, stated that the school in FY 2016-17 incurred expenditure on construction of the basket-ball court amounting to INR 13,73,602 out of school funds which was not in accordance with the above-mentioned provisions, and it was directed to recover this amount from the Society. However, this amount is still pending for recovery.

In response to the aforesaid order, the School submitted its reply and explained that, "The society has bought Land and built the infrastructure (School Building) required for running the school and handed it to the school management. Further, what is required for the benefit and welfare of the school children is the duty of the school management to provide out of the school funds. Basket ball court is not an additional infrastructure, it is a facility for the overall development of school children for them to excel in Games. It can be best treated as a tool (Equipment) for the students to play basketball and was purchased utilizing development fund receipts and depreciation was charged."

The contention of the School is not correct because the Development fund can only be utilised for purchase, upgradation and replacement of furniture, fixture and equipment. Thus, based on above-mentioned provisions, the capital expenditure related to an immovable property should be the responsibility of the Society and the school funds should not be utilised for construction of an immovable property. In addition to this, the school was well aware about the implementation of the recommendation of the 7th CPC and its statutory liability towards retirement benefits and investment of the same in plan assets. However, the school instead of paying salary to its staff in accordance with the recommendation of 7th CPC preferred to incur expenditure of capital nature (which would otherwise is the responsibility of the society) and submitted the fee increase proposal with the expectation to get a fee hike from the DoE.

Further, on review of audited financial statements of FY 2017-18 and FY 2018-19, it has been noted that school has incurred capital expenditure on construction of Music room and Science lab amounting to INR 13,86,144 (INR 8,79,332 plus INR 5,06,812), which is also not in accordance with the above-mentioned provisions.

Therefore, total amount of INR 27,59,746 (INR 1386144 plus INR 1373602) incurred by the school towards construction of basketball court, Music Room and Science Lab has been considered as fund available with School and has been included while deriving the fund position of the School with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order.

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"



Moreover, Rule 177 of DSER, 1973 states that *"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. And 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.*

On review of the audited financial statements of FY 2017-18 and 2018-19, it has been noted that school has purchase a car (Honda City) for INR 12,14,342 in FY 2017-18 out of school funds without complying with the requirements of Rule 177 of DSER' 1973. It is also pertinent to note that the School already has a van for the transportation of the teachers and students even then, the School has purchased another car without providing any further justification or requirement of this additional car.

Hence, total amount of INR 12,14,342 spent by the School is recoverable from the Society and has been considered as fund available with the School and has been included while deriving the fund position of the School with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

Further, the school is directed to ensure that capital assets are not procured from the school funds unless savings are derived in accordance with Rule 177 of DSER' 1973.

3. Recruitment Rules prescribed under DSEA, 1973 defines various posts in the school, but does not include any position for Manager/ Director. Further, Section 2(m) of DSEA, 1973 states *"Manager/Director in relation to a school, means the person, by whatever name called who is entrusted, either on the date on which this Act comes into force, or as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school."*

The Directorate in its Order no. F.DE-15/ (95)/PSB/2019/1448-1452 dated 07.02.2019 issued to the school for the academic session of FY 2017-18 noted that the school had paid honorarium of INR 9,63,120 to the Manager during FY 2016-17 which was in contravention of the above-mentioned provision. Accordingly, school was directed to recover this amount of INR 9,63,120 from the



manager/Society. However, the school has not complied with the above directions and this amount is still pending for recovery.

In response to the aforesaid order, the School submitted its reply and explained that, *"the Manager of the School work full time for the School and has long and sufficient experience of more than fifty years of School administration and is responsible for overall financial as well as administrative matters of the School. The Manager has to deal with lots of department in running the School smoothly and effectively. In addition to above, Manager has the responsibility of safety, security of students and staff, etc"*.

The contention of the School is not correct because the post of the Manager is an honorary post. The Manager of the school cannot be treated as an employee of the school under scheme of the management and not entitled for any salary/allowances as per the provisions of the DSEAR, 1973. Accordingly, the Manager of the school shall not be paid any payment whatsoever from the school funds.

On review of the audited financial statements and related documents, it has been noted that the School has been paying salary to the Manager. The school has paid INR 12,18,360 in FY 2017-18 and INR 13,40,196 in FY2018-19 which in the contravention of the above-mentioned provision.

Therefore, the total amount of INR 35,21,676 (INR 9,63,120 plus INR 12,18,360 plus INR 13,40,196) is hereby added to the fund position of the school considering the same as funds available with the school and the school is directed to recover this amount from the Manager/Society within 30 days from the date of issue of this order. Further, the School is also directed to stop making any further payment to the Manager with immediate effect.

Further, it is assumed that the total salary expenditure is inclusive of salary paid to the Manager. Therefore, salary paid to the Manager in FY 2018-19 of INR 13,40,196 has been excluded from the total budgeted expenditure of FY 2019-20 while calculating the fund position of the School.

4. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."*

Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

1. Assets held by a long-term employee benefit fund; and
2. Qualifying insurance policies.

Further, Para 57 of AS-15 states that *"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, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than twenty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"plan assets"* as per AS-15 issued by ICAI.

The actuarial valuation report is not provided by the School for the FY 2018-19, the total liability for retirement benefit was INR 12,32,24,885 as on 31.03.2019 which has been reported by the School in its audited financial statements based upon management estimates. However, the School has not made any investments in 'Plan Assets' against these liabilities. Since, the School has not invested any amount in 'Plan Assets' as per the requirements of AS-15 issued by the ICAI. Therefore, no amount has been considered while deriving the fund position of the School.

Accordingly, the provision proposed of INR 50,00,000 for retirement benefits in the budgeted expenditure of FY 2019-20 has been excluded from the total budgeted expenditure of the School while deriving the fund position of the School and the School is directed to invest an amount equivalent to the amount determined in the actuarial valuation report in plan assets as per the requirement of AS-15 within 30 days from the date of issue of this order.

B. Other observations

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

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

Sub-rule 3 of Rule 177 of DSER, 1973 states *"Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)."* Further, Sub-rule 4 of the said rule states *"The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."*

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are



required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund base accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Smart class fee and Transportation fee. However, the school has been generating surplus from earmarked levies that has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. The details of funds position for the three financial years as follows:

Particulars	Smart Class	Transport Fee [^]
For the year 2016-17		
Fee Collected during the year (A)	36,94,950	90,35,520
Expenses during the year (B)	36,72,999	82,29,892
1) Difference for the year (A-B)	21,951	8,05,628
For the year 2017-18		
Fee Collected during the year (A)	38,33,550	85,57,350
Expenses during the year (B)	39,76,326	86,39,921
2) Difference for the year (A-B)	-1,42,776	-82,571
For the year 2018-19		
Fee Collected during the year (A)	37,22,150	80,90,550
Expenses during the year (B)	42,23,858	1,02,13,399
3) Difference for the year (A-B)	-5,01,708	-21,22,849
Total Surplus/(Deficit)= 1+2+3	-6,22,533	-13,99,792

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

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. It has been noted that the School has been collecting "Smart Class fee" from all the Students of the School therefore, the school is directed to stop collecting separate charges in the name of the "Smart Class fee".

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. Further, the school is also directed to determine its fee structure in accordance with above mentioned provisions.

2. 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."*

On review of the audited financial statements, it has been noted that school has not been maintaining depreciation reserve fund equal to accumulated depreciation as per fixed asset schedule. In addition to that, the school instead of maintaining development fund utilization fund and crediting deferred income in income & Expenditure account to the extent of the cost of the asset in proportion to the depreciation charged every year as required by para 99 of guidance note mentioned above, transferred amount equivalent to the cost of assets purchased out of development fund to general fund which results in overstatement of general fund with notional amount.

Similar observations were also noted in Order No. F.DE-15/(95)/PSB/2019/1448-1452 dated 07.02.2019 issued to the school for academic session of FY 2017-18, wherein the School was directed to pass the necessary accounting entries in accordance with para 99 which is still pending.

Therefore, the school is again directed to follow above mentioned directions and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment and depreciation reserve is maintained equivalent to the amount of depreciation charged in the revenue accounts. Also, the school should prepare separate fixed assets schedule for assets purchased against



development fund and other assets purchased against general reserve fund, which has to be annexed with the audited financial statements along with the requisite disclosures as per the guidance note.

3. On review of submission of documents made against proposal for enhancement of fee for FY 2018-19, it has been noted that school has not submitted Fixed Asset Register (FAR). An ideal Fixed asset register should not only captures asset name, date and quantity but should also include details such as supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

Hence, the school is directed to prepare and submit FAR with relevant details mentioned above according to the process for periodic physical verification of assets and document the results of physical verification of assets. This being a procedural finding, no financial impact is warranted in the fund position of the school.

4. As per clause no. 3 of the public notice dated 04.05.1997 published in the Times of India "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

However, on review of audited financial statement for the FY 2017-18 and 2018-19, it has been observed that the School is refunding only the principal amount to the student at the time of leaving the School, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009.

Accordingly, the School is again directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009. The balance of caution money as on 31/03/2019 is INR 6,00,500 as per audited financial statements for the FY 2018-19 has been considered while deriving the fund position of the School.

5. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related

parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

6. 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.

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practicing Chartered Accountants from 1 July 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated *"With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing."*

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states *"The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

- i. *All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- ii. *Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*



The financial statements for FY 2018-2019 submitted by the School along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were signed on 30.10.2019. Further, the audit report issued by the auditor is not in accordance in the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the school, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the School could not be verified.

While the School has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the School for the academic session 2019-20 assuming the same as unauthentic financial statements.

The School is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the School for FY 2018-2019. If it was generated, the same should be mentioned by the School in its compliance report. In case, UDIN was not generated by the auditor, the School is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The School is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

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 Academic session 2019-20 amounting to INR **23,95,26,793** out of which cash outflow in the academic session 2019-20 is estimated to be INR **18,46,76,565**. This results in net surplus of INR **5,48,50,228**. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.19 as per audited financial statement of FY 2018-19	37,83,471
Investments as on 31.03.19 as per audited financial statements of FY 2018-19	8,34,39,345
Liquid funds as on 31.03.19	8,72,22,816
Add: Recoverable from the society for amount spent on construction of building (Refer Financial observation No. 1)	27,59,746



Add: Recovery from the society towards amount spent on purchase of car (Refer Financial observation No. 2)	12,14,342
Add: Recovery of Salary paid to the Manager of the School (Refer Financial observation No. 3)	35,21,676
Add: Fees for FY 2018-19 as per Audited Financial Statements (Refer Note 1 below)	13,47,98,113
Add: Other income for FY 2018-19 as per audited Financial Statements (Refer Note 1 below)	1,04,48,403
Total Available funds for FY 2019-20	23,99,65,096
Less: Investments with CBSE (As per School's Submission)	4,38,303
Less Caution money as on 31.03.2019 (refer other observation no.4)	6,00,500
Less: Development fund as on 31.03.2019	2,49,55,225
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial observation No. 4)	-
Less: Depreciation reserve fund as on 31.03.2019 (refer note no.2 below)	-
Estimated Available funds for FY 2019-20	23,95,26,793
Less: Budgeted expenses for the session 2019-20 after making adjustment (Refer Note 3 below)	18,46,76,565
Estimated Surplus	5,48,50,228

Note 1: Fee and income as per audited financial statements of FY 2018-19 has been considered assuming that amount accrued in FY 2018-19 will be the least amount accrue in FY 2019-20.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, 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 consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "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, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the 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". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' 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."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of INR 4,27,29,945 as reported by the School in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the School.

Note 3: All expenditure incurred by the school has been considered in the above table except the following:

Particulars	Amount in INR	Remarks
Provision for Gratuity and Leave encashment	50,00,000	Refer financial observation no.4
Manager Salary	13,40,196	Refer financial observation no.3

Note 4: The Directorate vide Order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/(318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.



Further, section 10 of DSEA states *"the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority"*. Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

The School does not provide any details of impact of 7th CPC recommendations. Therefore no amount has been considered for 7th CPC arrears in fund position table mentioned above. Further, the School is directed to implement the recommendation of 7th CPC in full within 30 days from the date of issue of this order.

- ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2019-20 on the existing fees structure. In this regard, the Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that:

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other discrepancies, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20 therefore, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is also noticed that the School has incurred INR 74,95,764 for addition to building, purchase of car, Manager salary, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 74,95,764 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA & R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of sections 17 (3), 18(5), 24(1) of the DSEA, 1973 read with rules 172, 173, 175 and 177 of the DSER, 1973 has found that the funds are available with the School for meeting its financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.



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

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2019-20 of **Prabhu Dayal Public school (School ID-1309194), Dakshini Block-A, Shalimar Bagh, Delhi-110088**, has been rejected by the Director of Education.

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

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, 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 ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time..

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

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



(Yogesh Pal Singh)

**Deputy Director of Education
(Private School Branch)**

Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Prabhu Dayal Public school
School ID-1309194
Dakshini Block -A, Shalimar Bagh,
New Delhi- 110088

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-A) to 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