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

No. F.DE.15 (705)/PSB/2022/ 4305-4309 **Dated:** 07/06/22

Order

WHEREAS, **Yuva Shakti Model School (School ID- 1413248), Sector-3, Rohini New Delhi-110085,** (hereinafter referred to as "**the School**"), run by the Yuva Shakhti Educational 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 22.11.2019 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(667) PSB/2018/30818-30822 dated 24.12.2018 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. The Directorate in its Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, *"the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution"*. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

On review of the audited financial statements of FY 2017-18 & 2018-19, it has been noted the school has given a number of advances/loans to related parties and to schools under the management of the same society, which were not in relation to any expense/service or liability of the School. Further, the audited financial statements of FY 2018-19 also reflected a receivable balance from Yuva Shakti Education Society of INR 88,30,078, which has been carried over from previous financial year. During personal hearing, the school was asked to provide the ledger account of society from its books of account to validate the nature of transactions done with the Society, but the school did not provide the same. As per the audited financial statements, the details of loans and advance given by the school to the various related parties are given below:

Name of the Related Parties	Amount (in INR) Outstanding as on 31.03.2019
Yuva Shakti Educational Society	88,30,078
YSMS Rama Vihar	23,868
V.K Sharma	50,000
Total Recoverable Amount	**89,03,946**

Therefore, the total amount of INR 89,03,946 which has been given by the school to the related parties and society has been considered as fund available with the School and has been included while deriving the fund position of the School. The School is directed to recover this amount from the Society within 30 days from the date of issue of this order.

The Directorate in its order no. F.DE.15(667) PSB/2018/30818-30822 dated 24.12.2018 issued for academic session 2017-18, noted the similar observation wherein the school was directed to the School to recover INR 1,06,98,422 from the related parties and society. However, the school has not yet recovered the full amount.

2. Section 18(4) (A) of the DEA states *"Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed" further 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..... capital expenditure/investments have to come from savings."*

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 Directorate in its order no. F.DE.15(667) PSB/2018/30818-822 dated 24.12.2018 issued for academic session 2017-18, directed the School to recover INR 1,20,39,897 from the Society towards purchase of cars. The car was purchased out of the school fund without complying with the requirement of above-mentioned provisions. However, this recovery is still pending.

Further, on review of the audited financial statements, it has been noted that the School instead of recovering the aforesaid amount, has purchased another Car (XUV 500) for INR 21,65,400 in FY 2017-18 out of School funds. The school has purchased this without complying the requirement of the above-mentioned provisions.

From the available record with the Department, it has been noted that the school was already owning cars such as Honda Civic, Hyundai i20, Maruti Omni, Eco, Pajero, Swift, Toyota Corolla as on 1 April 2014. However, school has purchased multiple high-cost cars from the school funds during FY 2013-2014, FY 2014-2016, FY 2015-2016 and FY 2017-18 including BMW, Mercedes, Ecosport, etc.

By this way, the school is maintaining fleet of cars and need of having more around a dozen of cars as on 31 Mar 2018 by the school is questionable in itself and appears that school fund is not being used for the purpose for which it is being collected. The details of repayment and interest thereon paid by the school during the last two financial years are provided below.

Financial Year	Purchase Price (INR)	Interest on loan (INR)	Total (INR)
2017-18	-	2,57,424	2,57,424
2018-19	21,65,400	1,63,554	23,28,954
Subtotal	**21,65,400**	**4,20,978**	**25,86,378**
As per previous order	1,39,67,190	17,60,665	1,57,27,855
Total	**1,61,32,590**	**21,81,643**	**1,83,14,233**
Less: Outstanding loan Amount as at 31.03.2019			13,85,424
Net Cost of vehicles met out of School Funds			**1,69,28,809**

In response to the previous year's order and during personal hearing, the school mentioned that it is facing though competition from nearby schools and due to this competition, the students and their parents are expecting good facilities, infrastructure and image from the school. Thus, in order to meet these expectations, the school has invested funds to improve the image/brand of the school. The response of the school seems to be illogical. The school while getting recognition from the DoE agreed to the follow the all the provisions of the DSEAR, 1973 including the direction/ circular issued by the Department from time to time. It is also important to mention that the school has not yet fully implemented the recommendation of the 7th CPC while has incurred the expenditure on luxuries items. The reputation of the school cannot be built up only just buying the expensive/imported cars, it can be building up in many other ways such as having quality staff/teachers who can provide quality education to the students.

It has been noted that the School has been purchasing vehicles and submitting proposals for increase of fee from students that translates to constituting capital expenditure as component of the fee structure and hence non-compliance of the provision of DSEAR, 1973. Accordingly, the school is again directed to recover the total amount of INR 1,69,28,809 from the Society within 30 days from the date of issue of this order. Further, the school is directed not to make payment towards repayment of loan taken on vehicles along with interest thereon from the school funds.

Also, the school is instructed to ensure compliance of DSEA & R, 1973 before making any purchase of capital asset from the school funds.

3. The Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded held that "T*uition 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 10.02.2005 issued by this Directorate states "*Capital Expenditure cannot constitute a component of financial fee structure*".

   Further, 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*".

   The Directorate in its order no. F.DE.15(667) PSB/2018/30818-822 dated 24.12.2018 issued for academic session 2017-18, directed to the School to recover INR 1,17,70,479 from the Society for purchase of buses out of the School funds which was not in accordance with above mentioned provisions. However, this amount is still pending for recovery.

   On the review of the audited financial statements of FY 2017-18 and 2018-19, it has been noted that the School has purchased two buses of INR 32,88,827 (i.e., INR 20,47,001 plus INR 12,41,826) in FY 2017-18 out of School funds without complying with the above-mentioned provisions. The income generated by the school from transport service provided to students has been taken into consideration and noted that the income and expense towards transport service was not adequate to cover the operating expenses of transport service. (Refer other observation no. 1 for details).

   The school during personal hearing explained that bus was purchased to meet the needs of the school without bothering the provision of DSEAR, 1973. This indicates, the school has been purchasing vehicles and submitting proposals for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance, while the school has incurred deficit from the transport facility provided to students. Accordingly, the school is again directed to recover the total amount of INR 1,50,59,306 (INR 1,17,70,479 plus INR 32,88,827) from the Society within 30 days from the date of issue of this order. The school is further directed not to utilise School funds for purchase of buses unless the School complies with the Rule 177 of DSER' 1973.

4. The Directorate in its Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, "*the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution*". The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

Clause 2 of Public notice dated 04.05.1997 states *"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. The 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"*.

The Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded held that "T*uition 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 10.02.2005 issued by this Directorate states *"Capital Expenditure cannot constitute a component of financial fee structure.*

Accordingly, based on the abovementioned provisions and pronouncement of court's 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.

The Directorate in its order no. F.DE.15(667) PSB/2018/30818-822 dated 24.12.2018 issued for academic session 2017-18, directed the School to recover INR 3,39,00,000 from the Society. This was reflected as receivable from the Society which was given to the society for purchase of a land situated in Kotputli, Jaipur, Rajasthan. Further, it was also directed to recover INR 25,00,000 given as advance to Sunil Chaudhary (advance for building construction) for the construction of building as the amount given out of school funds in contravention of the above-mentioned provisions which is still pending for recovery.

On review of the audited financial statements for the FY 2018-19, it has been noted that a receivable balance of INR 3,39,00,000 towards advance given for purchase of land and INR 25,00,000 given as advance to the Sunil Chaudhary for the construction of building is still reflected under Loans and advances in the audited financial statements as on 31.03.2019.

Therefore, the total amount of INR 3,64,00,000 (INR 3,39,00,000 plus INR 25,00,000) has been considered as fund available and has been included while deriving the fund position of the School. The School is directed to recover this amount from the Society within 30 days from the date of issue of this order. Further, non-compliance of this direction will be viewed seriously by the DoE and appropriate action would be taken as per DSEAR'1973.

5. 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 19,81,958 as per audited financial statements for the FY 2018-19 and has been considered while deriving the fund position of the School.

6. 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.

On review of audited financial statements for the FY 2018-19, the school has reported total provision towards gratuity and leave encashment of INR 63,52,582 based on the management estimates basis. The school has not obtained actuarial valuation report of its obligation towards retirement benefits and has not deposited any amount in plan assets as defined in Accounting standard 15 "Employee Benefits". Accordingly, the school is directed to get the actuarial valuation report towards its retirement benefit obligations and create a provision for the corresponding amount in its books of account and invest an equivalent to the amount determine by the actuary in 'Plan Assets'. Therefore, no amount has been considered while deriving the fund position of the School. Further, from the calculated fund position of the school, the school is having adequate surplus after meeting all its routine expenditure. Therefore, the school is directed to invest the amount in plan assets as per requirements of AS-15 and the status of compliance 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 based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it has been noted that the school has charging earmarked levies in the form of Smart Class Fees, Computer Fees, Activity Fees, I-Card Fees and Transport Fees from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus 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. The details of funds position for the three financial years as follows.

Particulars	Transport Fees	Activity Fees	Smart Class Fees	Id Card Fees	Magazine Fees	Computer Fees
For the year 2016-17						
Fee Collected during the year (A)	66,04,773	14,05,115	62,57,984	1,64,500	5,79,420	3,02,950
Expenses during the year (B)	77,23,465	1,24,300	14,92,361	63,694		

Particulars	Transport Fees	Activity Fees	Smart Class Fees	Id Card Fees	Magazine Fees	Compute r Fees
Difference for the year (A-B)	**(11,18,692)**	**12,80,815**	**47,65,623**	**1,00,806**	**5,79,420**	**3,02,950**
For the year 2017-18						
Fee Collected during the year (A)	61,28,401	13,72,910	60,91,590	1,35,900	5,79,655	3,05,520
Expenses during the year (B)	86,82,343	-	13,61,811	56,579	1,46,335	
Difference for the year (A-B)	**(25,53,942)**	**13,72,910**	**47,29,779**	**79,321**	**4,33,320**	**3,05,520**
For the year 2018-19						
Fee Collected during the year (A)	55,76,489	21,39,900	26,42,186	1,47,506	6,24,850	34,89,764
Expenses during the year (B)	91,42,416	-	14,92,839	1,46,335	-	
Difference for the year (A-B)	**(35,65,927)**	**21,39,900**	**11,49,347**	**1,171**	**6,24,850**	**34,89,764**
Total	**(72,38,561)**	**47,93,625**	**1,06,44,749**	**1,81,298**	**16,37,590**	**40,98,234**

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 form the Tuition Fee or from Annual Charges. It has been noted that the School has been collecting "ID Card Fees" from all the Students of the School therefore, the school is directed to stop collecting separate charges in the name of the "ID Card Fees.

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.*"

As per Clause 14 of this Directorate's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.*"

On review of audited financial statements for the FY 2017-18 and FY 2018-19, the value reported on the face of balance sheet do not reconcile with the fixed assets schedule annexed to it. Further, the amount of additions to fixed assets included in the schedule did not reconcile with the amount reflected as utilization of development fund. Hence the school might have utilised development fund for revenue expenses in contravention of clause 14 of order dated 11.02.2009. Further, depreciation on assets purchased out of development fund has not charged to income and expenditure account and it has been directly reduced from the development fund. During the FY 2018-19, the depreciation charged in the income and expenditure does not match with the depreciation as per fixed assets schedule. Further, the school has shown utilisation of INR 43,89,451 out of depreciation reserve, for which the school has not provided any justification. Accordingly, the accounting treatment followed by the school does not fulfil with requirements of the aforesaid clause 14 of the order dated 11.02.2009 and GN-21 issued by the Institute of Chartered Accountant of India. Thus, the school is required to make necessary rectification entries relating to development collection and utilisation and depreciation reserve to comply with statutory and accounting treatment indicated in clause 14 of the order dated 11.02.2009 and the Guidance Note-21.

3. The school was asked to submit its procurement policy and documentation in relation to carrying out procurement processes by the school for selection and contracting with different agencies and parties. However, no documentation was provided by the school in relation to the same. Accordingly, it has been derived that the school does not have any procurement policy and that it has been awarding contracts on discretionary basis to the particular contractors without inviting quotations/bids from other parties.

The school is directed to implement proper internal control system in relation to procurement of goods and services so as to ensure that contracts are awarded on arms' length and competitive prices only.

4. The Directorate in its order no. F.DE.15(667) PSB/2018/30818-822 dated 24.12.2018 issued for academic session 2017-18, it was noted that the school is irregular in depositing statutory dues of tax deducted at source (TDS) in accordance with the provisions the Income Tax Act, 1961 instances of delays (4 out of 12 months) were also noted during FY 2016-2017.

During the FY 2017-18, it has been noted that the school has also paid penalty of INR 15,000 due to irregularity in statutory compliances. Therefore, the school is once again directed to adhere to all statutory compliances including timely payment of statutory dues.

5. 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.

6. 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.

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 INR **17,89,74,606** out of which cash outflow in the FY 2019-20 is estimated to be INR 11,09,75,905. This results in net balance of Surplus amounting to INR **6,79,98,701** for FY 2019-20 after all payments. The details are as follows:

Particulars	**Amount in INR**
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements of FY 2018-19	52,37,916
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19	1,96,48,466
Liquid Fund as on 31.03.2019	**2,48,86,382**
Add: Recovery of advances given to the Society and Related Parties (Refer financial observation no.1)	89,03,946
Add: Recovery from the society for purchase of car in contravention of rule 177 of DSER'1973 (refer financial observation no.2)	1,69,28,809
Add: Recovery from the society for purchase of buses in contravention of rule 177 of DSER'1973 (refer financial observation no.3)	1,50,59,306

Particulars	Amount in INR
Add: Recovery from society for advance given for purchase of land (refer financial observation no.4)	3,64,00,000
Add: Fees for FY 2018-19 as per Audited Financial Statements (refer note no.1 below)	8,63,36,582
Add: Other income for FY 2018-19 as per Audited Financial Statements (refer note no.1 below)	11,30,592
Total Available Funds for FY 2019-20	**18,96,45,617**
Less: Caution money as on 31.03.2019 (refer financial observation no.5)	19,81,958
Less: Development Fund (refer note no.2 below)	86,89,053
Less: Depreciation reserve fund (refer note no.3 below)	
Less: Staff retirement benefits- Gratuity (refer financial observation no.6)	-
Net Available Funds for FY 2019-20	**17,89,74,606**
Less: Budgeted expenses for the FY 2019-20	**9,49,14,561**
Less: Arrears of salary on account of implementation of 7th CPC as per previous order (refer note no.4 below)	**1,60,61,344**
Net Surplus	**6,79,98,701**

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: 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 by 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 16.04.2010 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.*" Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 2,74,22,116 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 for meeting the financial implication of salary. However, development fund equivalent to amount collected in one year (FY 2018-19 i.e. INR 86,89,053) from students has been considered for deriving the fund position of the school, which is considered sufficient on basis of the spending pattern of the school in past.

Note 3: 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 1,19,96,044 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 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 amount proposed by the school towards the impact of salary arrear from April' 2018 to March'2020 has been considered in the total budgeted expenditure of the school and salary arrears from January 2016 to 31 March 2018 of INR 1,60,61,344 as per previous year order, which is still pending has also been considered in the total expenditure of the school. The school is hereby directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the School would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

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 has also been noted that the school has a recoverable balance of INR 1,13,53,946 towards advance given to society and related parties, which is not in accordance with order dated 15.12.1999. Further, the School incurred INR 1,69,28,809 on purchase of luxury cars and INR 1,50,59,306 on purchase of buses out of school funds which was not in accordance with Rule 177 of

DSER, 1973. Further, the school has given advances of INR 3,39,00,000 for acquisition of land on behalf of the society which was not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Therefore, the school is directed to recover INR 7,72,42,061 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 thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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 of fee increase for the academic session 2019-20 of **Yuva Shakti Model School (School ID- 1413248), Sector-3, Rohini New Delhi-110085** has been rejected by the Director (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 is issued with the prior approval of the Competent Authority.

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

To:

The Manager/ HoS
Yuvashakti Model School
School ID- 1413248,
Sector-3, Rohini
New Delhi-110085

No. F.DE.15(705)/PSB/2022/ 4305-4309 Dated: 07/06/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-B) 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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi