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

No. F.DE.15 (1011)/PSB/2022/ 8581-8585 **Dated:** 25/10/22

Order

WHEREAS, **DAV Public School (School ID - 1001175), Shreshtha Vihar Delhi - 110092** (hereinafter referred to as "**the School**"), run by the DAV College Managing Committee (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.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as **'*the Act*'**) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as **'*the Rules*'**).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

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

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

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

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

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at 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 academic session 2022-23

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

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

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 05.08.2022. The school was also provided an opportunity to be heard on 08.08.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/(809)/PSB/2022/5231-5235 dated 29.06.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. **Financial Suggestion for Improvements**

1. Clause No. 2 of 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 titled Delhi Abibhavak Mahasangh concluded states "T*he 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.*"

   As per Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 stated "*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 income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

   Based on the aforementioned-provisions, cost relating to land and construction of school building should be met by the society, being the property of the society and the school funds i.e., the fee collected from the students should not be used for such purpose.

   On review of audited financial statements, it has been noted that the school has incurred INR 14,00,000 for construction of school building in FY 2020-21. This expenditure was incurred by the school without complying with the provisions of Rule 177 of DSER, 1973. Given the fact that the school did not implement the recommendation of the 7th CPC fully and has not invested the amount in qualify assets for payment of retirement benefits in accordance with AS-15. Accordingly, the total amount of INR 14,00,000 incurred by the school under the head of building as per the audited financial statements of FY 2020-21, has been included while deriving the fund position of the school with the directions to the school to recover this amount from society within 30 days from the date of issue of this order.

2. 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, fixtures and equipment.*" Thus, the development fee/funds should not be utilized for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

From a review of the audited financial statements of FY 2021-22, it has been noted that the school has transferred development fund balance of INR 7,88,63,971 to general funds leaving the closing balance of development funds Nil as on 31.03.2022. During the personal hearing, the school explained that due to paucity of funds, the school was left with no other option except to utilize the development funds for payment of salary and salary related cost. The school also mentioned that the financial conditions of the school in last two years were so sever due to which, it had to take loan from other associate school. The school was asked to provide the complete details of development funds utilized towards the payment of salary and other expenditure, but the school has not provided these details for examination. In the absence of necessary information, an analysis of development funds/ fee used by the school for payment of salary and other related cost in last two years has been carried out based on the available documents on record.

From the below table it can be seen, the school had sufficient funds to meet establishment expenditure even without using the development funds/fee.

Particulars	FY 2020-21	FY 2021-22	Total Amount (INR)
Salary & Allowance as per I&E account*	18,47,84,221	22,69,84,866	41,17,69,087
Employees Welfare including retirement benefits as per I&E account*	2,44,29,470	2,53,57,265	4,97,86,735
Establishment Expenditures	**20,92,13,691**	**25,23,42,131**	**46,15,55,822**
Less: Amount pending for payment as per audited financial statements	-	-	12,91,73,753
Net payment of salary in last two years including retirement benefits (A)	-	-	**33,23,82,069**
Available of Funds with the School			
Fee received by the school other than annual charges and development fund	17,38,48,285	18,34,60,149	35,73,08,434
Balance of development utilized by the school for payment of salary	-	-	7,88,63,971
Development fee treated as revenue receipts	-	-	2,42,93,791
Total Funds available with the school for payment of salary (B)			**46,04,66,196**
Surplus funds (B-A)			**12,80,84,127**

*The school is not correctly preparing receipts and payment account. Therefore, actual cash and bank movement cannot be ascertained. During, the personal hearing the school accepted this fact and submitted that going forward it will ensure that receipts and payment account are prepared correctly.

In view of the above it can be seen that the school could have met its establishment expenditure without utilizing the development funds/ fee. This indicates the school has used the development funds/ fee for other day to day expenditure of the school other than payment of establishment expenditure. Therefore, the amount of development fee collected in last three financial years minus capital expenditure incurred by the school is considered as misutilization of development funds/ fee and liable to be recovered from society/school management. Accordingly, amount of INR 4,00,87,605 as provided in the table below has been included while deriving the fund position of the school with the direction to the school to recover this amount from society/ school management within 30 days from the date of issue of this order.

Particulars	Amount (INR)
Development fee collected in last three financial years*	4,38,80,208
Less: Capital expenditures incurred in last three financial years	37,92,603
Development fee utilized school for revenue expenditure	4,00,87,605

**The school has not reported development fee collected FY 2019-20 separately.*

3. 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 this Directorate'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, upgradation and replacement of furniture, fixtures and equipment.*"

The DoE in the Order No.15/ (809)/PSB/2022/5231-5235 dated 29.06.2022 issued to the school, post evaluation of fee hike proposal for FY 2019-20, noted that the school incurred capital expenditure on purchase of car of INR 8,69,016 in FY 2017-18 out of the development funds and INR 8,34,746 in 2018-19. The school incurred the above expenditure without complying with the provision of the Rule 177 of DSER, 1973 and clause 14 of the order dated 11.02.2009. While evaluating the fee increase proposal of FY 2019-20, the school represented these cars are being used for transporting students and staff for various activities, events, seminars and also for picking and dropping at their residences as per their need. Since the cars are used for students and staff, the purchase cost has to be met out of the income of the school and cannot be passed on to the society which was not accepted on the grounds that the above expenditure was not incurred in accordance with Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 17,03,032 which is still pending for recovery.

During, the personal hearing, the school explained that due to paucity of funds with the society, the above amount could not be recovered. Therefore, it has been included while deriving the fund position of the school with the direction to the school to recover this amount within 30 days from the date of issue of this order. The school is further directed to ensure that the development fund is utilized only towards purchase, upgradation and replacement of furniture, fixture, and equipment. Any other capital expenditure should be done out of the savings computed in accordance with Rule 177 of DSER, 1973.

4. Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible*

to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:

a) *award of scholarships to students,*
b) *establishment of any other recognized school,*
c) *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.*

Sub Rule 2 of 177 states *"the savings referred to sub-rule (1) shall be arrived at after providing for the following, namely pension:*

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

Further, Sub Rule 3 of 177 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). 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."*

While evaluating the fee hike proposal for academic session 2019-20, the DoE, noted that the school spent INR 1,17,500 on repair and maintenance of walls of CL Bhalla Model School, Jhandewalan on 19.05.2017 and reported that as an expense in its books of account for FY 2017-18 as its own expense.

During the personal hearing, the school explained CL Bhalla Model School did not have the sufficient funds. However, considering the security of the students' help was decided by the school management. As the above expenditure was incurred without complying with the provision of Rule 177 of DSER, 1973. The school is hereby again directed the recover INR 1,17,500 from society. Similar direction was given to the school by through DoE Order No. 15/ (809)/PSB/2022/5231-5235 dated 29.06.2022 issued to the school, post evaluation of fee hike proposal for FY 2019-20.

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

Para 99 of Guidance Note-21 '*Accounting by school*' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, *"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*". Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an accounting head and school do not require creation of equivalent investments against the depreciation reserve.

The presentation of audited financial statements of FY 2021-22 revealed the closing balance of development funds balance is zero as on 31.03.2022. However, the school has been maintaining separate bank account for collection of development fee whose outstanding balance is INR 45,325. Thus, it indicates that the school is not following correct accounting treatment with respect to the collection and utilization of development fund/fee.

Moreover, the audited financial statements of the school revealed that the school has not been following para 99 of the GN 21. Because upon incurrence of the capital expenditure out of the development fund, the school has not created any deferred income account and has not transferred any amount from deferred income to the credit of income and expenditure account. Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account.

Therefore, the School is hereby directed to maintain separate bank account and made earmarked investment against the outstanding balance of the development funds, and it is also directed to treat development fund as a capital receipt and follow para 99 of the GN 21. The School is directed to comply with the direction within 30 days from the date of issue of this order.

6. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:
   a. assets held by a long-term employee benefit fund; and
   b. qualifying insurance policies."

Further, the para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

Review of the audited financial statements of FY 2021-22 revealed that the school recorded total liability of INR 10,61,99,623 for retirement benefit as on 31.03.2022 based on the actuarial valuation report and has invested INR 10,61,99,623 with LIC. The investment with LIC is qualify as plan asset as AS-15. Therefore, the amount deposited by the school in plan assets has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets.

7. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15.12.1999, 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.

   Directorate's Order No. 15/ (809)/PSB/2022/5231-5235 dated 29.06.2022 directed the school to recover the receivable balance (of Reserve Fund) from DAV CMC (Society). during the personal hearing the school explained that the amount has been recovered from society during FY 2022-23.

8. The submissions of the school regarding payment of administrative charges @ 4% of basic pay (as per 6th CPC) of staff were taken on record and included in Directorate's order no. F.DE-15/ACT-I/WPC-4109/PART/13/ 958 dated 13.10.2017. However, while evaluating the fee hike proposal for academic session 2019-20, it was noted that the school had paid administrative charges to DAV CMC @ 7% on salary (Basic pay + Grade pay). Therefore, the administrative charges payable to DAV CMC should have been 4% of basic pay (as per 6th CPC) of INR 48,0,51,084, which arrive as INR 19,22,043 against INR 40,33,807 recorded as expense by the school.

   Further, the school was directed vide order No. F.DE.15 (29)/PSB/2019/2694 dated 27.03.2019 that post implementation of the recommendations of 7th CPC, the school should not incur administrative charges beyond 2% of the basic salary. The school has started following the same.

   However, the excess administrative expense paid by the school to DAV CMC of INR 21,11,764 as per the Order No. 15/ (809)/PSB/2022/5231-5235 dated 29.06.2022 which is still pending for recovery has been included while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

1. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

   Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

   a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
   b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

   And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern *'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]'* held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that "*though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,*"

Further, the Hon'ble High Court in LPA 196/2004 in the matter of *'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009'* states "*no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged*".

Further, The Directorate of Education, vide Order No. DE15/ 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, indicated the following types of Fee that a recognised private unaided school can collect from the students/ parents:

a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.

b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states, admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage.

c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 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 he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.

d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.

e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.

f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.

g. **Development Fee**: It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'Pupil Fund, IT, Insurance, Magazine and Insurance Fees' from the students of the nursery class is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of Pupil Fund, IT, Insurance, Magazine and Insurance Fees indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and recover this amount from the manager/ principal of the school along with the penalty of 10 times and refund/ adjust the same against the subsequent installment of fee by the students. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

2. Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed" Further, Rule 180 (1) of DSER, 1973 states that "every recognized private school shall submit returns and documents in accordance with Appendix-II". Point no. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, the DoE through vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, specified the format of returns and documents submitted to be submitted by the private unaided recognized schools. As per this order that format of the financial statements shall be such as specified by the Institute of Chartered Accountants of India, established under Chartered

Accountants Act, 1949 (38 of 1949) in Guidance Note-21 on Accounting by Schools (2005) or as amended from time to time by this Institute.

Based on the abovementioned provisions, every private unaided recognized school is required to the get its accounts audited by the Chartered Accountant before submission of return under Rule 180(1) of DSER, 1973.

The documents submitted by the school were taken on record, on review of the audited financial statements and the independent auditors report, it appears that the school did not get its account in accordance with the above-mentioned provisions. The Independent Auditors Report issued by the school indicates that:

"We have audited the accompanying financial statements of DAV Public School, Srestha Vihar, NEW DELHI, which comprises the balance sheet as at 31st March 2022, the income and expenditure account for the year… … "

"This Audit Report has been issued in accordance with requirement of DoE"

In view of the above comments given by the Independent Auditors, it cannot be concluded whether the schools' account was duly audited by the auditor or not. As the audit report states that audit has been performed for Balance sheet and Income & Expenditure statement, no reference has been given for "Receipt & Payment statement". In the absence of the proper auditor report, the financial statements provided by the school is questionable and cannot be considered as complete.

Therefore, the school is hereby directed to get the accounts of the school audited in accordance with the above-mentioned provisions and submit the compliance report within 30 days from the date of issue of this order. However, for the purposes of evaluation of fee hike proposal, balance sheet and income and expenditure and receipt and payment accounts submitted by the school has been considered.

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 2022-23 amounting to **INR 32,37,79,696** out of which cash outflow for the FY 2022-23 is estimated to be **INR 35,72,86,552.** This results in deficit of **INR 3,35,06,857** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement	3,76,83,277
Investments as on 31.03.2022 as per Audited Financial Statement	11,52,80,374
Current Account with DAV CMC	23,24,417
Capital Fund with DAV CMC	4,80,373
Liquid fund as on 31.03.2022	**15,57,68,441**
Add: Recovery from Society for construction of school building **(Refer Financial Suggestion No. 1)**	14,00,000

Particulars	Amount (INR)
Add: Utilization of development funds/ fee in contravention of Clause 14 of Order dated 11.02.2009 **(Refer Financial Suggestion No. 2)**	4,00,87,605
Add: Recovery from society for purchase of Cars **(Refer Financial Suggestion No. 3)**	17,03,032
Add: Recovery from society for construction of Boundary wall of CL Bhalla Model School **(Refer Financial Suggestion No. 4)**	1,17,500
Add: Recovery from society towards excess administrative charge **(Refer Financial Suggestion No. 8)**	21,11,764
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note No. 1 Below)**	22,07,55,669
Add: Other income for FY 2021-22 as per audited Financial Statements **(Refer Note No. 1 Below)**	71,05,764
Add: Excess Fee Collected **(Refer Note No. 1 Below)**	91,68,386
Total available funds for FY 2022-23	**43,82,18,161**
Less: FDR on joint name with DOE	-
Less: FDR deposited with the High Court	64,67,957
Less: Student Security Deposit	17,70,885
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022	-
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Suggestion No. 6)**	10,61,99,623
Estimated Available Funds for FY 2022-23	**32,37,79,696**
Less: Budgeted Expenditure as provided by the school **(Refer Note No. 2,3 and 4 Below)**	27,66,37,627
Less: Arrears of 7th CPC as pe the budget	8,06,48,925
Estimated Deficit	**3,35,06,857**

Note 1: The Department vide its order No.F.No.PS/DE/2020/55 dated 18.04.2020 and order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, the department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialisation, directed to the management of all the petitioners private unaided recognised schools through its order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021:

(i) *"to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21"*. And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements of FY 2021-22 and based on the information provided by the school, it has been noted that income recorded in the financial year 2021-22 includes the income related to previous year 2020-21. However, the school has not specific details regarding income recorded in FY 2021-22 related to FY 2020-2. In the absence of the required information the whole income recorded by the school during FY 2021-22 has been considered while deriving the fund position of the school. Further, the school has been reporting (as liability) in the audited financial statements towards fee refundable which was collected by the school in previous years. The school was directed in the previous years to refund/adjust this fee which the school has complied with. Therefore, the total fee refundable of INR 91,68,386 has been considered as available funds with the school.

Note 2: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Actual Expenses as per AFS of FY 2021-22	Budgeted Expenses for FY 2022-23	Amount Disallowed (INR)	Remarks
Salaries and wages (Transport Allowance, Bonus	28,09,926	1,59,47,356	1,28,57,427	Restricted up to 110% of the expenses incurred in PY
Gratuity & Leave Encashment	5,30,14,266	2,26,69,319	2,26,69,319	Refer Point 6 of financial suggestion
Salary Arrears	-	8,06,48,925	-	Considered Separately
Car/vehicle maintenance	2,41,203	7,00,000	4,34,677	Restricted up to 110% of the expenses incurred in PY
Electricity & Water Charges	27,83,659	55,00,000	24,37,975	
Telephone Expense	64,915	1,50,000	78,594	
Postage and telegram	1,742	20,000	18,084	
Travelling expense	1,40,400	3,50,000	1,95,560	
Uniform expense	-	1,50,000	1,50,000	
Staff welfare	1,400	25,000	23,460	
Co-curriculum activities	1,11,201	6,00,000	4,77,679	
In-service education	14,588	4,00,000	3,83,953	
Printing and stationery	2,07,607	10,00,000	7,71,632	

Newspaper and periodicals	5,695	1,00,000	93,736	
Advertisement	6,167	50,000	43,216	
Insurance-Building	2,06,334	8,00,000	5,73,033	
Lab expense	14,487	2,00,000	1,84,064	
Legal and professional charges	6,92,326	10,00,000	2,38,441	
Misc. expense	6,14,203	20,00,000	13,24,377	
Building	82,821	10,00,000	9,08,897	
Computers	22,716	5,00,000	4,75,012	
Furniture	6,51,945	8,00,000	82,861	
Loan repayment	-	1,55,69,093	1,55,69,093	Not allowed as this loan was not required.

Note 3: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states 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 along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the School to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has incurred INR 4,54,19,901 in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. The school is hereby further directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of this order

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 15% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the School.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **DAV Public School (School ID - 1001175), Sreshtha Vihar, Delhi – 110092** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 15% to be effective from 1 October, 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.

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

To
The Manager/ HoS
DAV Public School (School ID - 1001175),
Shreshtha Vihar, Delhi - 110085

No. F.DE.15 (1011)/PSB/2022/8581-8585 Dated: 25/10/22

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 (East) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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