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

No. F.DE.15 (1073)/PSB/2022/ 10037-10041 **Dated: 16/12/22**

Order

WHEREAS, **Holy Innocent Public School, Plot PS/09, Block-C, Vikaspuri, New Delhi (School ID-1618232),** (hereinafter referred to as " **the School**"), run by the Saraswati 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, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177 (1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and Rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon 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 recognized 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 recognized 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 authorized by the Director in this behalf and also by officers authorized 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 for some of the 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, 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 fees and other charges, with the objective 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 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

"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 DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning 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 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.

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 06.09.2022. The school was also provided an opportunity to be heard on 29.09.2022 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/ (270)/PSB/2021/4775-4781 dated 24.11.2021 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. Appendix-III (Part-I-General Instructions and Accounting Principles) of Guidance Note-21 states:

    1. *"the financial statement of the Schools should be prepared on accrual basis"*

    2. *"a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the school's Balance sheet………….."*

    3. *"accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed…."*

    Further, Clause 24 of DoE Order dated 11.02.2009 states "*Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP).*

    On review of the audited financial statements and other records submitted by the School, it has been noted that the school has been recording income on receipts basis. Thus, the school is deviating from basic principle in preparation of books of account and presenting the audited financial statements. During the personal hearing the school was asked to provide reconciliation statements and actual collection made in the last three financial years which has been tabulated below.

Particular	**FY 2021-22**	**FY 2020-21**	**FY 2019-20**
Tuition Fee as per the fee reconciliation statements submitted by the school	3,44,36,880	3,39,95,520	3,39,89,520
Tuition Fee collected as submitted by the school	3,32,74,708	Not provided	3,19,89,516
Income Recorded in Financial Statements	**3,32,74,708**	**3,51,91,975**	**3,35,81,570**

    From the above table, it can be seen that the school has been recording income on receipts basis only. The school also confirmed that it has been recording expenditure on accrual basis. The school is doing this intentionally in order to report higher operation loss in the audited financial statements than the actual. Therefore, the school has been preparing its audited financial statements neither on accrual basis nor cash basis. Even the statutory auditor of the school has not mentioned this fact in their Independent Auditors Report.

    Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year. However, the audited financial statements submitted by the school for FY 2019-20, FY 2020-21 and FY 2021-22 has been considered in the evaluation of fee increase proposal.

2. As per clause 2 included in the Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the*

other associations because the immovable property of the school becomes the sole property of the society". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Also, 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 award of scholarships to students, establishment of any other recognized 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 aforesaid savings shall be arrived at after providing for the following, namely:*

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

Accordingly, based on the above-mentioned provisions and pronouncements of the Courts, the cost relating to land and construction of school building should be borne by the society, being the property of the society and the school funds i.e., fee collected from students should not be utilized for the same. As per provision of Rule 177 of DSER, 1973, the school fee at the first instance should not be utilized for meeting establishment cost and other benefits admissible to the employees and capital expenditure should be met out the saving if any.

The Directorate in its Order No. 15/ (270)/PSB/2021/4775-4781 dated 24.11.2021 issued for FY 2019-20, noted that INR 8,23,214 was utilized by the school for construction of school building without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 8,23,214 from society.

The documents submitted by the school post personal hearing were taken on record. The school mentioned that *"the amount of INR 8,23,146 disallowed by the DoE has been recovered from the parent society and deposited in the school amount"* in FY 2021-22 and submitted the bank confirmation letter in support of this collection. However, in the audited financial statements the school has neither reported these receipts as capital contribution nor reported as grant receipts form society. The school instead of recording this as capital contribution and grant has recorded as amount payable to the school. This indicates that the school has made a temporary arrangement with the intention withdraws the observation of DoE and pay back this society at latter stage as and when the funds will be available with the school. Therefore, this amount is still recoverable from the society.

Further, during the FY 2019-20, the school incurred INR 16,79,800 for addition to the fixture. However, based on the supporting documents provided by the school it was note that this expenditure was related to the construction of school building although the school has changed the nomenclature of this expenditure in its audited financial statements.

Therefore, the above expenditure of INR 25,03,014 i.e., (INR 8,23,214 + INR 16,79,800) incurred by the school without complying with the above mentioned provisions have been considered as fund available with the School while deriving the fund position with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

3. On review of the audited financial statement from FY 2020-21 to FY 2021-22, it has been noted that the School were made payments to outsourced employees hired for housekeeping and security services. During personal hearing the school mentioned that these payments were made on companionate basis to help workers working on minimum wages in order to maintain their livelihood. To this extent the intention of the school was right. However, the School has also paid service charges to the vendor @10% during this period which violates the proprietary principle while utilizing school fund appropriately by the School management.

   Therefore, services charges paid by the School of INR 8,48,761 i.e., (10*(INR 44,15,744 + INR 49,20,622)/110) has been considered as fund available with the School while deriving the fund position with the direction to the School to recover this amount from the school management /vendor within 30 days from the date of issue of this order.

4. As per Section 18(4) of DSEA 1973 income derived by Unaided Recognized School by way of fees should be utilized only for educational purposes as prescribed. Further, Rules 176 and 177 of the DSER, 1973 states the manner in which the school fee to be utilized.

   The Directorate in its Order No. 15/ (270)/PSB/2021/4775-4781 dated 24.11.2021 issued for FY 2019-20, noted that INR 14,48,559 was utilized by the school for purchase of a car during FY 2014-15 without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 14,48,559 from society.

   The documents submitted by the school post personal hearing were taken on record. The school mentioned that *"the amount of INR 14,48,559 disallowed by the DoE has been recovered from the parent society and deposited in the school amount"* in FY 2021-22 and submitted the bank confirmation letter in support of this collection. However, in the audited financial statements the school has neither reported these receipts as capital contribution nor reported as grant receipts form society. The school instead of recording this as capital contribution and grant has recorded as amount payable to the school. This indicates that the school has made a temporary arrangement with the intention withdraws the observation of DoE and pay back this society at latter stage as and when the funds will be available with the school. Therefore, this amount is still recoverable from the society.

   Therefore, the above expenditure of INR 14,48,559 incurred by the school without complying with the above mentioned provision has been considered as fund available with the School while deriving the fund position with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

5. Section 18(4) (b) of DSEA, 1973 states *"charges and payments realized, and all other contributions, endowments and gifts received by the school shall be utilized only for the specific purpose for which they were realized or received".*

Further, Rule 177 (1) 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………………".*

The Directorate in its Order No. 15/ (270)/PSB/2021/4775-4781 dated 24.11.2021 issued for FY 2019-20, noted that the School had utilised school funds for purchase of bus of INR 20,88,818 which is not in accordance with above mentioned provision's and it was directed to the School to recover this amount from the Society.

The Directorate in its Order No. 15/ (270)/PSB/2021/4775-4781 dated 24.11.2021 issued for FY 2019-20, noted that INR 20,88,818 was utilized by the school for purchase of a bus without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 20,88,818 from society.

The documents submitted by the school post personal hearing were taken on record. The school mentioned that *"the amount of INR 20,88,818 disallowed by the DoE has been recovered from the parent society and deposited in the school amount"* in FY 2021-22 and submitted the bank confirmation letter in support of this collection. However, in the audited financial statements the school has neither reported these receipts as capital contribution nor reported as grant receipts form society. The school instead of recording this as capital contribution and grant has recorded as amount payable to the school. This indicates that the school has made a temporary arrangement with the intention withdraws the observation of DoE and pay back this society at latter stage as and when the funds will be available with the school. Therefore, this amount is still recoverable from the society.

Therefore, the above expenditure of INR 20,88,818 incurred by the school without complying with the above mentioned provision has been considered as fund available with the School while deriving the fund position with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

6. 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.

However, 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 created development fund utilisation account but 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.

7. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and overheads and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

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

Para No. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*"

Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from the students are a form of the restricted funds, which, according to the Guidance Note-21 'Accounting by Schools' issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

The aforementioned Guidance Note-21 also lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

The review of the audited financial statements from 2019-20 revealed that the school has been collecting earmarked levies in the name of transport fee, smart class fee and science lab fee. It has also been noted that school has not been following fund-based accounting as the school has incurred deficit from the transport fee and earned surplus from computer fee. The summary of earmarked levies collected, and expenditure incurred by the school is as under:

Particulars	Transport Fees	Smart class fees	Science lab expense
Financial Year 2019-20			
Income (A)	17,97,939	26,42,100	3,32,395
Expenditure (B)	18,85,330	10,49,076	7,394
Surplus/ (Deficit) (A-B)	**(87,391)**	**15,93,024**	**3,25,001**

Thus, the earmarked levies are to be collected only from the user students availing of the service/facility. In other words, if any, service/facility is extended to all the students. A separate charge should not be levied for those services/facilities. Because the same would get covered either under the tuition fee (expenses on curricular activities) or under the annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or any other amount/fee under different heads other than the prescribed heads of fee and the accumulation of surplus fund therefrom is prima-facie considered a collection of capitation fee in other manner and form. As the school has been charging smart class fee from students of all classes which losses the character of earmarked levy.

However, the analysis of the financial statements of the school revealed that the school has smartly included all these earmarked levies in its fee structure in order to generate extra funds without considering the requirement and income and expenditure for each type of levy. Therefore, based on the nature the Smart Class fees should not be charged from the students as these may get covered either from the tuition fee or annual charges collected from the students. Therefore, the school is hereby directed do not charges Smart Class fees levies apart from the transport fee, science lab and maintain the fund base accounting.

8. Para 49 of 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, para 57 states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date*". Also, para 7 of the Accounting Standard defines Plan Assets as under:

(a) Assets held by a long-term employee benefit fund; and
(b) Qualifying insurance policies.

The school has reported provision for retirement benefit of INR 2,77,80,80 in the audited financial statements of FY 2021-22. However, as per LIC valuation report, total provision of retirement benefit is INR 1,90,96,843 i.e., (gratuity of INR 1,29,76,277 and leave encashment of INR 61,20,566) as on 31.03.2022. The provision for retirement benefit recorded by the School is not as per LIC valuation report. Therefore, it is hereby directed to charge provision of retirement benefit as per LIC valuation report.

The school further, submitted that it has invested INR 36,10,920 with LIC towards gratuity and leave encashment and submitted the proof of receipts of investment in plan asset within the meaning of AS-15. Therefore, the amount invested by the School in plan asset 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 within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

1. Para 58(i) of Guidance Note-21 'Accounting by schools' issued by the Institute of Chartered Accountants of India (ICAI) states *"A school should charge depreciation according to written down value method at rates recommended in appendix 1 to the Guidance note"*. During personal hearing the school explained that the books of accounts are maintained in accordance with the Income Tax Act 1961 and the rates of depreciation prescribed there under are used.

   Therefore, the school is directed to make necessary adjustments and ensure that depreciation is charged on fixed assets at the rate prescribing in Appendix 1 to Guidance Note-21. The above being a procedural finding, no financial impact is warranted for deriving fund position of the school.

2. From review of documents submitted by the School with the proposal of fee hike for FY 2022-23, the following has been note with respect to the Fixed Asset Register (FAR) maintained by the school:

   - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
   - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
   - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register

   Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

3. As per 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 2021-22, it has been noted that the School has not made any disclosure in its audited financial statements related to related parties disclosure. In the absence of such details, the purpose and genuineness of transactions entered 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.

4. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	1959
EWS Students*	424
% of EWS students	21.64%

**Included EWS and other non-fee paying students.*

5. As per clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*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 2020-21 and 2021-22, it has been noted that the school is refunding only the principal amount to the student at the time of leaving the school, which is not in accordance with clause 18 of Order No. F.DE/15 (56) /Act /2009 / 778 dated 11.02.2009. The balance of caution money as on 31/03/2022 is INR 8,40,500 as per audited financial statements for the FY 2021-22. 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.

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 is **INR 7,26,74,390** out of which the expected expenditures of the school would be **INR 6,36,66,752** resulting in net surplus of **INR 90,07,638** for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount (INR)**
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	1,34,70,814
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	1,91,91,151
Liquid Fund as on 31.03.2022	**3,26,61,965**
Add: Amount recoverable from society for construction of school building **(Refer Financial Suggestion No. 2)**	25,03,014
Add: Amount recoverable from society for service charges paid to vendor during Covid period **(Refer Financial Suggestion No. 3)**	8,48,761
Add : Amount recoverable from the Society for purchase of School car **(Refer Financial Suggestion No. 4)**	14,48,559
Add : Amount recoverable from the Society for purchase of School bus **(Refer Financial Suggestion No. 5)**	20,88,818
Add: Fee as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 2 Below)**	4,29,96,778
Add: Other income as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 2 Below)**	51,16,400
Add: Additional Annual Charges and Development Fee **(Refer Note No.2 Below)**	10,41,179
Less: Amount of income related to FY 2020-21 recorded in FY 2021-22 **(as per Schedule-10 of AFS 2021-22)**	37,81,857
Total Available Funds for FY 2022-23	**8,49,23,616**
Less: FDR in the Joint Name of School Manager and CBSE as per Audited Financial Statements of FY 2021-22	8,98,820
Less: Gratuity and leave encashment- LIC as per Audited Financial Statements of FY 2021-22 **(Refer Financial Suggestion No. 8)**	36,10,920
Less: FDR submitted in High court	25,76,158
Less: Caution Money as per Audited Financial Statements of FY 2021-22 **(Refer Other Suggestion No. 5)**	8,40,500
Less: Depreciation reserve fund **(Refer Note No. 3 Below)**	
Less: Development Fund as on 31.03.2022	43,22,828
Net Available Funds for FY 2022-23	**7,26,74,390**
Less: Budgeted Expenditure for FY 2022-23 **(Refer Note 4, 5 & 6 Below)**	6,36,66,752
Estimated Surplus	**90,07,638**

Note 1: The detail of fixed deposit held by the school as per the audited financial statements of FY is provided below:

(Amount in INR)

Particulars	**As per AFS 2021-22**	**Remarks**
FDR in Joint name of Manager and DDE/MCD	8,98,820	Deducted as not available for utilization.
FDR submitted with High Court	25,76,158	
Deposit with LIC	32,00,000	
FDR against Retirement benefit	1,25,16,713	Considered as fund available with the School.
Total	**1,91,91,151**	

Note 2: 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 had 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 land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

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 commercialization, again directed to the management of all the petitioners private unaided recognized 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.

(iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

From review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	3,32,74,708	3,32,74,708	
Annual Charges	37,84,999 (after adj. of arrear of FY 20-21)	44,52,940	The school recorded 85% of the income.
Development fund	21,15,014 (after adj. of arrear of FY 20-21)	24,88,252	Therefore, this has been grossed up.

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 71,45,190 as reported by the School in the audited financial statements for the FY 2020-21 has not been considered while deriving the fund position of the School.

Note 4: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except the followings.

Heads	Proposed Amount (INR)	Amount Disallowed	Reasons
Earmarked levies	30,58,000	30,58,000	Neither earmarked levies income nor expenses have been considered while deriving the fund position of the school.

Note 5: While evaluating the fee hike proposal, the department considers how much liquid funds schools would require for a particular session for smooth operation without compromising the quality of education. Thus, while deriving the fund position of the school, all legitimate revenue as well as capital nature expenditures in accordance with the provisions of DESAR, 1973 and the pronouncement of Courts judgment have been considered. Therefore, the balance of the other current assets and other current liabilities has not been considered because these are cyclic in nature, as the same would have been part of the budgeted income and expenditure of the school in earlier years. Although it is reflected in the financial statements at the end of the financial year.

Note 6: Based on the documents submitted by the school, it has been noted that the school has implemented the recommendation of 7th CPC w.e.f. April'2019. Since, the school has already implemented the recommendation of 7th CPC, the salary expenditure reported by the school in the audited financial statements of FY 2019-20, FY 2020-21 and FY 2021-22 is inclusive of 7th CPC. Accordingly, the school has not reported any amount as arrears payable in its audited financial statements.

However, the school has proposed INR 8,43,37,124 for the period from 01.01.2016 to 31.03.2023 towards salary arrears in its budget which has not been considered considering the same has already been included while evaluating the fee increase proposal of the previous years.

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 April 2010 states that:

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

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 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 rejected.

AND WHEREAS, it is noticed that the school has incurred INR 68,89,152 in contravention to the provisions of DSEA&R, 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, 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.

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 **Holy Innocent Public School, Plot PS/09, Block-C, Vikaspuri, New Delhi (School ID-1618232)** 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 rejected by the Director (Education) with the above conclusion and suggestions.

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 2022-23. In case, the School has already charged increased fee during FY 2022-23, 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.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Holy Innocent Public School,
Plot PS/09, Block-C, Vikaspuri,
New Delhi
(School ID-1618232)

No. F.DE.15 (1073)/PSB/2022/10037-10041

Dated: 16/12/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (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.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi