

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

No. F.DE.15 (100)/PSB/2022/ 8515- 8519

Dated: 18/10/22

Order

WHEREAS, ITBP Public School (School ID- 1821284) Dwarka, New Delhi-110075, (hereinafter referred to as "the School"), run by the DAV Collage Trust and Management 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 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 fee 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 in case of private unaided schools situated on the land allotted by DDA 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/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the 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 the 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 expert Chartered Accountants at HQ level who have evaluated the fee 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 the DoE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 15.09.2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing, were evaluated by the team of chartered accountants and key suggestions noted for improvement by the school are hereunder:



A. Financial Suggestions for Improvement

1. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:
 - a. Assets held by a long-term employee benefit fund; and
 - b. Qualifying insurance policies

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

An appropriate charge to the income and expenditure account for a year should be made through a provision for accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons say less than 50, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in "*Plan Assets*" as per AS-15 issued by ICAI.

On review of the documents submitted by the school post personal hearing, it has been noted that the requirement of AS-15 is not applicable to the school as it has employed less than 50 staff in a year. Further, the school has calculated liability as on 31st March, 2022 amounting to INR 8,90,131 towards gratuity and INR 15,207 towards leave encashment in accordance with the actuarial valuation report without making any investment in plan assets. The school claimed that it has investment in the form of separate bank balance against gratuity and leave encashment of INR 11,14,834 which can be utilised for payment of these liability. However, the investment made by the school in the form of separate bank balance cannot be considered as investment in plan assets as required by AS-15 and therefore, the same has not been considered while deriving the fund position the school.

Gratuity is a statutory liability which the school is required to pay to their eligible employees on their retirement/resignation, as the case may be. However, over the number of years, the department has noticed that most of the schools have been recording liability for retirement benefits in their financial statements without making any investment in Plan Asset due to paucity of funds or otherwise. Accordingly, many schools keep the retirement benefit 'unfunded', which is not the true spirit of law, and it also defeats the objectives of maintaining of books of accounts as per Generally Accepted Accounting Principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgment titled Modern School Vs. Union of India and Ors. Therefore, it has been felt that in order to protect statutory dues of the employees, instead of disallowing the full liability on account of non-investment in Plan Asset, it would be rational to spread this liability over the period of 13 years on the assumption that normally a student studies 13 years in the school. This will not only allow the schools a breather to make an investment in Plan Asset gradually but also lower down the sudden financial burden of fee on the parents/students on account of huge liability for retirement benefits.



Accordingly, an amount of INR 69,641 (i.e., 1/13 of (INR 8,90,131 and INR 15,207)) has been considered while deriving the fund position of the school with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, the school shall not be allowed further instalments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

2. 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 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 Schools issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- i. In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
- ii. Assets, such as investments, and liabilities belonging to each fund separately;
- iii. Restrictions, if any, on the utilization of each fund balance;
- iv. Restrictions, if any, on the utilisation of specific assets."
- v. Also, as per para 67(ii) of the Guidance Note-21 "The financial statements should disclose, inter alia, the historical cost of fixed assets."

On review of audited financial statements of FY 2021-22, it has been noted that the school is not following para 99 of the GN 21 cited above. As the school has neither created the deferred income account upon purchase of assets out of the development fund nor transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets.

Further, the review of audited financial statements for FY 2021-22 revealed that the school has not maintained separate bank account for development fee collection and has not made earmarked investments against the development fund presented in the audited financial statements at the year-end which is in contravention of aforesaid clause 14 of order dated 11.02.2009.



Therefore, the school is directed to comply with the directions regarding development utilisation fund and make necessary rectification entries. Further, the School is directed to maintain separate bank account for collection of development fee against the balance of development fund within 30 days from the date of issue of this order. Considering the school will comply with the above directions within the aforesaid period, the balance of development fund as on 31st March 2022 amounting to INR 34,48,613 has been considered while deriving the fund position of the school for FY 2022-23. Non-compliance of the above direction shall be reviewed seriously at the time of evaluation of proposal for enhancement of fee for subsequent year.

3. 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."*

While evaluating the fee increase proposal, following has been noted with respect to the caution money:

- School had maintained joint bank account for deposit of caution money with building fund
- School had not refunded interest on caution money along with the refund of principal amount of caution money collected from the students.
- School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days.

Accordingly, the school is directed to ensure compliance with the above requirements especially ensuring that the caution money is refunded along with interest to the students and un-refunded caution money is treated as income while projecting the fee increase proposal of the subsequent year. Therefore, the amount refundable to students of INR 5,91,500 as on 31.03.2022 as per the audited Financial Statements has been considered while deriving the fund position of the school.

4. 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"*.

Further, 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),-*

1. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
2. *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.*

On review of audited financial statement submitted by the school, it has been noted that the school was collecting fee amounting to INR 10,000 per student at the time of admission in the name of



"Building Fund" till 2018. During the personal hearing, school submitted that it has stopped collecting building fund from students from FY 2018-19 onwards and has started refunding the amount to the students at the time of leaving the school. Hence, the amount of INR 58,13,475 outstanding as on 31st March, 2022 in the audited financial statements has been considered while calculating the fund position of the school with the direction to the school not to charge capitation fee from the students in future.

B. Other Suggestions for Improvement

1. 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."*

Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."*

Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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."*

Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"Earmarked levies shall be charged from the user student only."*

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

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

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

Further, the Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.



From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of Computer Fees, Science Lab Fees, Smart Class Fees, Fees and Examination Fees from the students but has not maintained fund-based accounting. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

(Figures in INR)

Particulars	Science Fee*	Computer Fees	Examination Fees	Smart Class Fee*
For the year 2019-20				
Fee Collected during the year (A)	-	52,850	-	-
Expenses during the year (B)	1,63,530	-	5,05,512	2,81,937
Difference for the year (A-B)	(1,63,530)	52,850	(5,05,512)	(2,81,937)
For the year 2020-21				
Fee Collected during the year (A)	-	24,500	-	-
Expenses during the year (B)	-	17,700	30,280	21524
Difference for the year (A-B)	-	6,800	(30,280)	(21,524)
For the year 2021-22				
Fee Collected during the year (A)	1,19,144	5,79,009	59,450	-
Expenses during the year (B)	-	1,26,968	1,24,778	1,13,631
Difference for the year (A-B)	1,19,144	4,52,041	(65,328)	(1,13,631)
Total (Surplus)**	(44,386)	5,11,691	(6,01,120)	(4,17,092)

* Smart Class Fee and Science Fee (collected from XI and XII)

** The above table is not showing the actual surplus/losses of last 3 financial year from the earmarked levies in the absence of complete details of income and expenditures furnished by the school.

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Computer Fees and Examination Fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge such fee as earmarked levy with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked

levies in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

2. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to students belonging to weaker section. However, as per the information provided by the school for FY 2019-20 to FY 2021-22, it has been noted that the school was not complying with the abovementioned DOE's Order and condition mentioned in the land allotment letter which provides for granting of free ship to the extent of 25% to the children belonging to EWS category. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
EWS	94	129	149
Total Strength	1100	1232	1303
% Of EWS students to total strength	9%	10%	11%

3. Para 18 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states that *"schools should follow recognition and measurement principles, within the framework of accrual basis of accounting, for the purpose of preparation of their financial statements."*

On review of the financial statements of the school for the FY 2019-20 to FY 2021-22, it has been noted the school is following hybrid approach for recording of transactions i.e., accrual basis for recording of expenses and cash basis for recording of fee from the students. During personal hearing the school has explained that it follows the practice for recording income on receipt basis because there are several students who do not pay fee even after multiple reminders and the same is normally not realizable whereas it follows accrual basis of accounting for recording of expenses. Thus, the school has not correctly applied recognition and measurement principles mentioned in Guidance note cited above. Therefore, the school is directed to follow accrual basis of accounting and recognize both income and expenses on accrual basis. This being a procedural suggestion, no adjustment has been made in the fund position of the school.

5. The school has prepared a Fixed Assets Register (FAR) that only captures date, asset name, quantity and amount. The FAR should also include details such as supplier name, invoice number, manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of asset and document complete details of assets at one place.

Accordingly, the school is directed to prepare/update the fixed assets register by capturing all the details mentioned above and submit the compliance report within 30 days from the date of issue of this order. Compliance of the above shall be verified at the time of evaluation of proposal for enhancement of fee for subsequent year.

6. As per Order No.F.DE./15(56)/Act/2009/778 dated 11.02.2009 and DE 15/Act/Duggal . com /203/99/23033-23980 dated 15.12.1999, the fee and fund collected from the students can be utilised as under:

Registration Fee and Admission Fee: Registration fee of INR 25 per student and admission fee of INR 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: 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

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

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

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 provision of the same.

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

Clause 20 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11/02/2009 states that "no fee, fund or any other charges by whatever name called , shall be levied or realised unless it is determined by the managing committee in accordance with the directions contained in this order and unless the representatives of the PTA and the nominees of the undersigned are associated with these directions"

In view of the above, the school cannot collect or levy any fees or charges other than those mentioned above. However, as per fee receipts submitted by the school the school is collecting PTA Fund @ INR10 per month from every student which does not come under the ambit of either tuition fee or annual charges etc as mentioned above.

Therefore, the collection of PTA Fund by the school is not accordance with the above-mentioned provisions. Accordingly, the school is hereby directed to immediately stop the collection of PTA fund and refund/adjust the amount collected so far to the students within 30 days from the date of issue of this order. Compliance of the above shall be verified at the time of evaluation of proposal for enhancement of fee for subsequent year.

7. Para 85 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states that *"Every school should maintain proper books of account with respect to*
- (a) all sums of money received by the school and the matters in respect of which receipts take place, showing distinctly the amounts received from students and through grants and donations;*
 - (b) all sums of money expended by the schools and the matters in respect of which expenditure takes place;*
 - (c) all assets and liabilities of the school.*

As per rule 59 (h) (iii) of DSER, 1973, "the head of the school be responsible for the proper maintenance of accounts of the school, school records, service books of teachers, and such other registers, returns and statistics as may be specified by the Director from time to time"



On review of additional documents submitted by the school post hearing for the FY 2019-20 to FY 2021-22, it has been noted that books of accounts of the school have been prepared manually as all the ledgers and journal entries provided by the school for our verification are recorded by the school's accountant in a manual way. Hence the school is hereby directed to maintain their books of accounts by using some accounting software such as tally ERP 9, Busy etc. to maintain accuracy and reliability of the accounts.

8. 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....."*

On review of audited financial statements, it was noted that the school was charging depreciation as per Income Tax Act, 1961 and from FY 21-22 the school started charging depreciation as per guidance note on Accounting by Schools (2005) with retrospective effect. However, the school has not made disclosure in respect of change in accounting policy in the audited financial statement for the FY 2021-22 as per aforesaid guidance note. Therefore, the school is hereby directed to make the necessary disclosures in the audited financial statements of the subsequent financial years.

9. 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 public notice and judgement of the Courts, the cost relating to land and construction of the school building must be met 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.

On review of the building ledger account from April 2015 to 31 March 2022, it has been noted that the school has incurred INR 23,96,47,979 on construction of school's building. During the personal hearing the school explained that it has been receiving the funds from the society on regular basis for construction of the school building. The school has reported "Building" of INR 23,96,47,979 (Gross Value) against the corpus fund of INR 30,27,62,915 in its balance sheet however, the corresponding corpus fund reflecting in the audited financial statements includes surplus/deficit of previous years. In the absence of detailed information about the money received from the society it cannot be determined how much money school has received from the society to meet the cost of building.

In view of the above, the school is directed to create corpus fund equivalent to the gross value of building and to create general fund after adjusting previous years surplus/deficit incurred in the respective financial years.

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 **11,82,97,927** out of which cash outflow in the FY 2022-23 is estimated to be INR **9,08,10,319** This results in net balance of Surplus amounting to INR **2,74,87,608** for FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	4,12,35,616
Investments as on 31.03.22 as per Audited Financial Statements (Refer Note 1 Below)	2,79,19,008
Liquid Funds as on 31.03.2022	6,91,54,624
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	5,72,56,830
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 3 below)	21,26,508
Total Available Funds for FY 2022-23	12,85,37,962
Less: FDR with joint name of School Manager and DOE against 3 month salary reserve as on 31.03.2022 (Refer Note 4 Below)	3,16,806
Less: Provision of Gratuity and Leave Encashment (Refer Financial Suggestion No. 1)	69,641
Less: Development Fund as on 31.03.2022 (Refer Financial suggestion No. 2)	34,48,613
Less: Caution money as on 31.03.2022 (Refer Financial Suggestion No. 3)	5,91,500
Less: Building Fund as on 31.03.2022 (Refer Financial suggestion No. 4)	58,13,475
Net Available Funds for FY 2022-23	11,82,97,927
Less: Budgeted expenses for the session 2022-23 (Refer Note 5 Below)	9,08,10,319
Net Surplus	2,74,87,608

Note 1: The detail of fixed deposit held by the school as per the audited financial statements of FY 2021-22 is provided below:

Particulars	Amount (in INR)	Remarks
FDR in the joint name of DoE and Manager	3,16,806	Deducted while calculating available funds of the school.
Other FDR with the school	2,76,02,202	Available with the school for utilization
Total	2,79,19,008	

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.

On 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 tuition fees, annual charges and development fees in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Table A:

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	3,89,95,232	4,58,76,744	Tuition fee of FY 2021-22 has been increased by INR 68,81,512.
Annual Charges	33,51,380	39,42,800	Annual charge of FY 2021-22 has been increased by INR 5,91,420.
Development fees	50,95,631	59,94,860	Development fees of FY 2021-22 has been increased by INR 8,99,229.
Total	4,74,42,243	5,58,14,404	

Note 3: All the other income as per audited financial statements of FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23 except reversal of provision of gratuity amount to INR 2,24,703 being a non-cash item.

Note 4: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount

should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank.

As per audited financial statements of the school for the FY 2021-22, balance of Salary Reserve fund as on 31.03.2022 is INR 23,51,994. However, the school has earmarked investment in the joint name of the Dy. Director and Manager of the school of amounting INR 3,16,806 only. Hence, the same has been considered while calculating the fund position of the school.

Note 5: Under the following heads the school has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2019-20 (certain expenditures were not incurred due to pandemic during FY 2020-21 and 2021-22, therefore FY 2019-20 is considered as a base year) or proposed new head of expenditure for which the school has not offered satisfactory explanation/ justification. Therefore, the aforesaid expenditure in excess of 10% over the previous year and/or new head of expenditure have not been considered in the evaluation of fee increase proposal:

Particulars	FY 2019-20	FY 2022-23	Net Increase/ (Decrease)	% Change	Amount disallowed in excess of 10% (in INR)	Remarks
Revenue Expenses						
DDA Ground Rent Penalty	-	25,00,000	25,00,000	100%	25,00,000	During personal hearing school explained that official demand for these expenditures has not yet come. Therefore, this has not been considered while calculating the fund availability.
Property tax arrears with late fees	-	67,00,000	67,00,000	100%	67,00,000	
Total	-	92,00,000	92,00,000		92,00,000	
Capital Expenditure						
Shed of entrance and barricading work around the school building	-	32,32,141	32,32,141	100%	32,32,141	As per contravention of clause 2 of public notice dated 04.05.1997
Stone fastening work of	-	33,24,842	33,24,842	100%	33,24,842	

school building						
Total	-	65,56,983	65,56,983		65,56,983	

- ii. The school has sufficient funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other suggestions, 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, 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 the school has sufficient funds for meeting financial implication for the academic session 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23.

Accordingly, it is hereby conveyed that the proposal of fee increase of **ITBP Public School (School ID- 1821284) Dwarka, New Delhi- 110075** is rejected by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
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
ITBP Public School (School ID- 1821284) Dwarka,
New Delhi- 110075
No. F.DE.15(100)/PSB/2022/ 8515-8519

Dated: 18/10/22

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 (South West B) 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