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

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No. F.DE.15(114)/PSB/2024/ 3108 – 3112 Dated: 24/06/24

**Order**

WHEREAS, **Ahlcon Public School (School ID- 1002276) Mayur Vihar, Phase-I, Delhi - 110091,** (hereinafter referred to as **"the School"**), run by the **Shanti Devi Progressive Education Society** (hereinafter referred to as the "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 with the Directorate. Such statement is required to indicate 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 DSER, 1973.

AND WHEREAS, as per section 18(5) of the DSER, 1973 read with sections 17(3), 24(1) and rule 180(3) of the above DSER, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180(3) of DSEA&R, 1973 have been reproduced as under:

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

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

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

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

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the 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/2023/1964-1972 dated 01.03.2023 and F.DE.-15(40)/PSB/2023/2685-2692 dated 27.03.2023, 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 2023-24.

AND WHEREAS, in pursuance to order dated 01.03.2023 and 27.03.2023 of the DOE, the school submitted its proposal for enhancement of fee for the academic session **2023-24**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the school for the academic session **2023-24**.

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session **2023-24**, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 1st April 2024 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. During such hearing, the compliance of **order no.**

F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23** was also discussed and the school submissions were taken on record.

AND WHEREAS, on receipt of the clarifications 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 thoroughly by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:

**A. Financial Suggestion for Improvements**

1. As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, *"no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or trust or any other institution"*. This was upheld by the Hon'ble. Supreme Court in the matter of Modern School Vs. Union of India & Others.

   The Directorate vide order no. F.DE.15/ (581)/PSB/2018/30320-24 dated 10.12.2018 issued to the school post evaluation of fee hike proposal for FY 2017-18, directed the school to recover INR 2,80,58,634 from society towards amount reported under 'Inter Unit Balance (SDPES)' as on 31.03.2017. Subsequently, vide order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23, it was noted that the school collected INR 40,00,000 from the society and debited INR 97,108 in FY 2020-21 and INR 81,225 in FY 2021-22 and thus, leaving the closing balance of INR 2,42,36,867 (INR 2,80,58,634 minus INR 40,00,000 plus INR 97,108 plus INR 81,226) as on 31.03.2022. Therefore, the school was directed to recover the balance amount of INR 2,42,36,867 from the society. No amount is recovered from the society despite repeated directions to the school.

   On review of the financial statement for the FY 2022-23, it is noted that the balance recoverable from the society reported as 'Inter Unit Balance (SDPES)' has increased by INR 7,19,126. The total amount recoverable from the society as per audited financial statements for FY 2022-23 is INR 2,49,55,994.

   Therefore, the outstanding balance of INR 2,49,55,994 (INR 2,42,36,867 plus INR 7,19,126) reported by the school under 'Inter Unit Balance (SDPES)' has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. In case the school fails to comply with this direction, necessary action will be initiated against the school under section 24(4) of the DSEA, 1973, without giving further opportunity to be heard.

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

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

b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

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

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of *"Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]'* held that education is a noble profession and emphasized that *"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".*

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

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

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the sponsorship of the DoE. Therefore, the school is bound to follow all the instruction/direction issued by the DoE under the obligation of land allotment. Additionally, Rule 50 of DSER,1973 states *"the school is not run for profit to any individual, group or association of individual or any other person' and 'the managing committee observes the provisions of the Act and Rules made there under".*

Based on the provisions mentioned above and the pronouncement of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission only but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of new head of fee in the fee structure whether at the time of the admission of the students or otherwise. In this regard the Directorate vide order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents otherwise than the specified head of fees.

Therefore, any demand of capitation fee or introduction of the new head of fee in the fee structure of the school other than the notified head of fees will be considered as *commercialization of education*, which cannot be permitted at any cost.

The Directorates in its order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 revealed that since 2006 the school was charging *"One Time Periodic Maintenance and Activity Charge"* from the students at the time of admission which is outside the ambit of the permitted heads of fee.

As per aforesaid order dated 25.10.2022, the school management explained that till FY 2013-14, the amount so collected by the school was part of the "Repair and Maintenance Fund" while in FY 2014-15, it was treated as revenue receipts and in FY 2015-16 and FY 2016-17 treated as capital receipts and was transferred to development funds account. But from FY 2017-18, it was considered as revenue receipt for meeting the revenue expenditures because fees collected by the school was not sufficient to meet the revenue expenditure of the school.

From the explanation provided by the school, it was concluded that the school introduced a new head of fee in order to generate additional sources of revenue other than the specified heads of fee just to pretend itself that no fee was increased under the head tuition and annual charges during a particular financial year but in reality, capitation fee was collected by the school over the years. The details of *'One Time Periodic Maintenance and Activity Charge'* charged during last three years are as follows:

| S. No. | Year | Amount of Fee (INR) |
|---|---|---|
| 1. | 2020-21 | 27,500 |
| 2. | 2021-22 | 27,500 |
| 3. | 2022-23 | 27,500 |

Hence, the school was directed to stop collection of *'One Time Periodic Maintenance and Activity Charge'*. It was also directed to transfer the *"Repair and Maintenance Fund"* fund of INR 55,87,598 to general funds and utilize the same for meeting the revenue expenditure of the school.

However, despite regular directions to stop collection of *'One Time Periodic Maintenance and Activity Charge'*, the school is still continuing the same practice. The school is, thus, indulged in commercialization of education and profiteering.

Further, Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEA&R, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by DoE from time to time. As the manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure the admission process transparently, they are jointly and severely be responsible in their personal capacity for levy and collection of the capitation fee and any other unauthorized fee.

The School is again directed to immediately stop collection of *'One Time Periodic Maintenance and Activity Charge'* from the students. In case the school fails to comply with this direction within 30 days from the date of issue of this order, a strict action against the school will be initiated u/s 24(4) without providing any further opportunity of being heard.

Also, the fund accumulated as *"Repair and Maintenance Fund"* amounting INR 55,87,598 is directed to be transferred to general funds and utilize the same for meeting the revenue expenditure of the school.

3. As per clause 8 of the order No. DE.15/Act/Duggal.com1203/99/23033-23980 dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, *"no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or trust or any other institution".* This was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs. Union of India & Others.

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".*

Based on the above-mentioned provisions, the school can only provide financial assistance to any other school or institution run under the same management, if there is saving calculated in the manner specified under Rule 177 of the DSER, 1973. In other words, the school first of all needs to meet its own expenditure and thereafter, if there is any saving, the same may be utilized for one or more purposes specified under Rule 177.

The Directorate vide order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23, noted that the school had transferred funds to another school namely 'Ahlcon International School' without complying with Rule 177 of the DSER, 1973. The school had claimed it as financial assistance to another school and had transferred funds of INR 5,66,21,833 in last three years. Therefore, the school was directed to recover an amount of INR 5,66,21,833 from the society/ Ahlcon International School. However, no amount is recovered from the society/ Ahlcon International School yet.

On review of the audited financial statements of FY 2022-23, it is noted that the school has recovered an amount of INR 26,62,183 (INR 20,00,000 on 25.04.2022 and INR 6,62,183 on 27.01.2023) from the Ahlcon International School. However, as per audited balance sheet for FY 2022-23 amount of INR 5,39,59,650 is still recoverable from the 'Ahlcon International School' as at 31.03.2023.

In view of the above, school is directed to recover an amount of INR 5,39,59,650 (INR 5,66,21,833 minus INR 26,62,183) from the society/ 'Ahlcon International School' within 30 days from the date of issue of this order and accordingly, the same has been included while deriving the fund position of the school.

4. 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) I 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 fee, at first instance, 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 vide order no. F.DE-15/ (581)/PSB/2018/30320-24 dated 10.12.2018 issued to school post evaluation of fee increase proposal for FY 2017-18 and order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23, noted that during FY 2014-15 a term loan of INR 5,00,00,000 was taken in the name of '*Shanti Devi Progressive Education Society*' for alteration/renovation and repair/maintenance work of Ahlcon Public School. Further, the school repaid loan and interest cost thereon in subsequent years as well. On review of the school documents, records and other submissions, it was noted that the school neither implemented the recommendation of the 7th CPC nor invested any amount in plan assets towards payment of gratuity and leave encashment. In the aforesaid order the school was, thus, directed to recover INR 6,42,97,123 (INR 5 crores towards principal repayment and INR 1.43 crores towards interest payment till 31.03.2019) from society. Despite repeated directions in each years' order, no amount is recovered from the society yet.

Therefore, the total expenditure of INR 6,42,97,123 (INR3,51,52,996 plus INR 2,91,44,127) incurred by the School on construction of school building is in contravention of aforesaid rules and judicial pronouncements and is thus recoverable from the society. The school funds have been utilized for construction of school building without ensuring the compliance of Rule 177 of DSER, 1973 which provides that fee, at first instance, should be utilized for payment of salaries and other benefits to the staff.

Therefore, the total expenditure incurred by the school for construction of school building has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

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 vide order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 noted that the school had purchased bus by taking loan from bank in FY 2017-18 and 2018-19 for INR 25,24,856. Therefore, the school was directed to recover amount of INR 25,24,856 from the society. However, no amount is recovered from the society yet.

Further, on review of the audited financial statement for the FY 2022-23, it is noted that the school has repaid the loan taken for purchase of buses and also, has paid interest thereon. As the bus facilities are not being used by all the students of the school, therefore, the financial burden for purchase of buses such as repayment of loan and interest cost thereon cannot be shifted upon all the students who are not availing the transport facility. Further, income and expenditure of transport facility for last three financial years are also evaluated and it is noted that income generated from transport facility is not enough to meet the transport expenditure. And the school has utilized the other fees viz. tuition fee and annual charges to meet the capital expenditure of buses in form of repayment of principal amount of bus loan. Thus, the school had purchased these buses without complying with Rule 177 of the DSER, 1973. The details of repayment of loan and interest paid thereon as provided by the school in last four financial years has been tabulated below:

Amount in INR

| Particulars | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 |
|---|---|---|---|---|
| Principal | 5,91,351 | 6,69,112 | 7,67,184 | 1,95,116 |
| Interest cost | 2,49,225 | 1,74,592 | 73,392 | 3,664 |
| **Sub-total** | **8,40,576** | **8,43,704** | **8,40,576** | **1,98,780** |
| **Total** | | | | **27,23,636** |

Accordingly, the school funds utilized by the school for payment of INR 27,23,636 (interest plus principal) have been include while deriving the fund position with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

6. 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 vide order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 noted that the school had purchased Innova Toyota Car in June 2017. The total cost of the Car was INR 22,13,206 and this was purchased by taking loan of INR 16,73,524 from the Nainital Bank and rest of the amount was paid by utilizing the school funds. On review of the school documents, records and other submissions, it was noted that the school neither implemented the recommendation of the 7th CPC nor invested any amount in plan assets towards payment of gratuity and leave encashment and thus, had contravened Rule 176 and 177 of the DSER, 1973 and used school's funds for purchase of capital assets i.e., car instead of ensuring salaries as per 7th CPC or creating plan assets for protection of employee terminal and other benefits. The outstanding balance of loan as at 31.03.2022 was INR 1,12,136.

On review of the audited financial statement for the FY 2022-23, it is noted school repaid the remaining amount of loan along with interest and there is no outstanding balance of loan as at 31.03.2023.

Accordingly, the school funds of INR 22,13,206 (cost of the car) which was utilized for purchase of the car in contravention of Rule 176 and 177 of the DSER, 1973 is included as funds 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.

7. Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated 11.02.2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall*

*be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development fund Account."*

The presentation of audited financial statements of FY 2022-23 revealed the closing balance of development funds balance was INR 3,41,72,428 as on 31.03.2023. However, the school has neither maintained separate bank account nor have the earmarked investment against this outstanding balance. Thus, the school is not complying with specific requirement of Clause 14 of the order dated 11.02.2009.

Similar observation was also noted while evaluating the fee increase proposals for the years from FY 2017-18 to FY 2022-23, wherein the school was directed to maintain equivalent investments against development fund account which is still pending for the compliance.

Further, the Supreme Court, in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 states *"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."*

Over the years, the school has accumulated "Development Fund (Unutilized)" account which has reflected a closing balance of INR 3,41,72,428 in its audited financial statements of FY 2022-23. Therefore, the accumulated reserve of "Development Fund (Unutilized)" created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as a free reserve available with the school.

Therefore, the collection of development fund in FY 2022-23 of amount INR 10,02,997 has been considered while deriving the fund position of the school with the direction to comply with the aforesaid direction and to maintain separate bank account for collection of development fee and also, maintain equivalent investment against the year-end balance of development fund within 30 days from the date of issue of this order.

Moreover, as per 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 cognizance 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 not created any deferred income account and has not transferred any amount from deferred income to the credit of income and expenditure account.

Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account.

8. As upheld in Modern School vs Union of India and Ors. case read with Rule 177 of the DSER, 1973, capital expenditure could only be made out of the savings of the school and cannot be part of the fee structure. However, the School is continuously incurring huge expenditure for alteration/ renovation of school building. This resulted into depletion of school reserves and funds over the year. As per DoE order No. F.DE.15/(581)/PSB/2018/30320-24 dated 10.12.2018 issued to the school post evaluation of the fee increase proposal for FY 2017-18, mentioned that school incurred INR 6,85,50,948 for alteration/ renovation of building in last three financial years and the same was booked as revenue expenditure instead of capital expenditure.

During the personal hearing, the school was again asked to provide justification for these expenditures, but no justification for the same is furnished. Thus, it is understood that the school does not have any reason or justification to deny this observation and has utilized school funds for capital expenditure. Therefore, the School is directed to follow proper accounting procedures and provide the proper justification with respect to the highlighted amount within 30 days from the date of issue of this order. In case the school fails to provide the proper justification, necessary action U/s 24(4) of the DSEA, 1973, shall be taken against the school without providing further opportunity of being heard.

9. The Directorate vide order no. F.DE-15/(581)/PSB/2018/30320-24 dated 10.12.2018 issued to the school post evaluation of fee hike proposal for FY 2017-18, mentioned that a penalty of INR 2,20,000 was imposed by Dy. Conservator of Forest vide their order dated 18.4.2013 on the School for illegal pruning of trees and this was paid on 23.4.2013. The DoE directed the School that responsibility regarding imposition of fine should be fixed and the aforesaid amount should be recovered from the personal responsible for this illegal act within 30 days.

The school has submitted in its reply post personal hearing that it will act in the best interest of the students, staff, and school property. However, the school is not able to fix the responsibility for fine imposed until now. Despite continuous directions, no amount is recovered yet.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEA&R,1973, including the direction of the High Court/Supreme Court and to ensure compliance of other applicable Acts. As the manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure compliance of DSEA&R, 1973 and other applicable Acts. Thus, they are jointly and severely be responsible in their personal capacity for any penalty imposed under any other Act.

In view of the above, the school is again directed to fix the responsibility regarding imposition of fine and recover the said amount from him/her or from the society within 30 days from the date of issue of this order and therefore, while calculating the fund position of the school this amount has been considered as funds available with the school.

10. 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 free and overheads and expenses on play-grounds, sport 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 purpose 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 for 2020-21 to FY 2022-23 revealed that the school has been collecting earmarked levies in the name of transport fee, computer fee and fee for other activities like French Language Fee, Sports Coaching Charges, service Charges/Can. Uniforms & Books, Educational Trip, web designing, electronics cum robotics etc. 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 (in INR) | Computer Fees (in INR) | French Language Fee (in INR) |
|---|---|---|---|
| **For the year 2020-21** | | | |
| Fee Collected during the year (A) | - | 64,680 | 87,400 |
| Expenses during the year (B) | 30,65,277 | 3,17,802 | - |
| **Difference for the year (A-B)** | **(30,65,277)** | **(2,53,122)** | **87,400** |
| **For the year 2021-22** | | | |
| Fee Collected during the year (A) | - | 64,680 | 59,800 |
| Expenses during the year (B) | 22,49,923 | 6,78,094 | - |
| **Difference for the year (A-B)** | **(22,49,923** | **(6,13,414)** | **59,800** |
| **For the year 2022-23** | | | |
| Fee Collected during the year (A) | 1,64,17,205 | 14,61,460 | 13,57,000 |
| Expenses during the year (B) | 1,52,16,339 | 3,40,200 | 12,000 |
| **Difference for the year (A-B)** | **12,00,866** | **11,21,260** | **13,45,000** |
| **Total** | **(41,14,334)** | **2,54,724** | **14,92,200** |

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 Activity fee, Foreign Language fee etc. 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, Activity fee, Foreign Language fee etc. 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 to not charges other earmarked levies mentioned above apart from the transport fee and maintain the fund base accounting.

11. 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.*

Review of the audited financial statements of FY 2022-23 revealed that the school has provided liability for gratuity and leave encashment amounting INR 8,53,97,525 and INR 1,68,90,031 respectively. The school has not submitted the copy of actuarial valuation report relevant to the FY 2022-23. However, the school has submitted the copy of actuarial valuation report dated 17.06.2022 for gratuity liability wherein the actuary has estimated the gratuity liability as at 01.07.2022 amounting to INR 11,54,61,660. However, the school has not obtained the actuarial valuation report for leave encashment.

The Directorate vide order no.F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 had directed the school to share the employee's data submitted to the LIC for determination of liability towards gratuity. However, the school has not provided the same for verification neither in the compliance report nor at the time of hearing or thereafter. Further, it is noted that the school has invested an amount of INR 4,18,98,160 only towards gratuity in plan assets. This amount invested by the school in plan assets has been considered while calculating the fund position of the school for the FY 2023-24. However, it has neither obtained the actuarial valuation report for leave encashment nor invested any amount towards leave encashment. Therefore, the amount invested by the School in plan asset against gratuity liability 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. The Directorate in order no. F.DE-15/ (581)/PSB/2018/30320-24 dated 10.12.2018 issued to the school post evaluation of fee hike proposal for FY 2017-18 and order no. F.DE.

15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23, directed the school to maintain proper internal control systems, which includes carrying out physical verification of fixed assets.

In submitted documents, the school submits Physical verification report of Fixed Assets for the FY 2022-23. Physical verification of Fixed Assets was conducted by the Fixed assets verification committee. The committee members are employees of the school. As per report, physical verification was carried out only for seven locations in the school viz., Computer room, Accounts department, Reception, Class-IX C, Class-X A, Class-XII A and Class XII-B.

The school is again directed to have proper internal control system for managing and safeguarding its fixed assets and to cover all fixed assets in physical verification. Compliance of this direction shall be verified while evaluating the fee hike proposal of the subsequent year.

2. It was observed that the school has not complied with the direction issued in DoE Order No. F.DE-15/ACT1/WPC4109/Part/13/7905-7913 dated 16-04-2016 e.g. the school is required to follow accrual system of accounting for maintaining its books of accounts and to disclose relevant accounting policies in its financial statements. From review of the significant accounting policy and notes to accounts submitted by the school following has been noted:

- The school received capital grant of INR 10 lacs (Atal Tinkering) and revenue grant of INR 2 lacs in FY 2018-19. As per AS-12, where the grant is received for acquiring/purchase of certain assets, the same need to be accounted for by following either of the following two methods prescribed but the school has not complied with either of them:

- Method 1: The amount of grant is reduced from the gross amount of the asset to calculate book value.

- Method 2: The grants are treated as a deferred income in the financial statements. This income is recognized gradually in the profit and loss account over the useful life of an asset or say in the proportion of depreciation on such asset.

- Similarly, on receipts of revenue grants the same need to be credited to income and expenditure account as other income but the school has reportedly not complied with that.

- One of the mandatory criteria for collection of development fee is to create depreciation reserve fund equivalent to the amount charged in income and expenditure account. However, as per the significant accounting policies, the school does not charged depreciation on assets purchased out of development fee/fund. Thus, the school is not complying with the requirement of Clause 14 of the order dated 11.02.2009.

The school has not furnished any compliance or action taken against this observation. Accordingly, the school is directed to ensure to maintain its account in compliance of aforesaid order and make necessary presentations and disclosures to comply with the aforesaid directions. Compliance of this direction shall be verified while evaluating the fee hike proposal of the subsequent year.

3. As per DoE Order No. F.DE-15/(581)/PSB/2018/30320-24 dated 10.12.2018 issued to the school post evaluation of fee hike proposal for FY 2017-18 and order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23, the weaknesses in the internal control system of the payment process of the School was noted. For example, payments are processed before signing of vouchers by principal and manager, paid and cancelled stamp was not marked on the vouchers after making payments, purchase procedure was not followed, sanction letter of the competent authority not attached, corrections and overwriting in the bills are made etc. Therefore, the school was directed to maintain proper internal control systems so as to strengthen its payment process and to ensure that payments are made after following the due process. The school has not submitted relevant documents in order validate the compliance with respect to above findings.

Therefore, the school is hereby directed to maintain proper internal control system and submit the evidence that it has make good of the above findings. Compliance of this direction shall be verified while evaluating the fee hike proposal of the subsequent year.

4. The Directorate in its order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 noted that as per audited financial statements for FY 2020-21 the school had utilized/ adjusted INR 48,82,767.51 out of the depreciation reserve fund. Therefore, the school was directed to submit the complete details along with the supporting document of this utilization which is still pending for compliance with above direction.

In the absence of required information, the purpose for which this amount was utilized cannot be determined. Therefore, the school is hereby directed to submit the complete details along with the supporting document of this utilization. The compliance of this shall be verified while evaluating the fee hike proposal of the subsequent year.

5. The Directorate vide order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 stated that the school was asked to furnish certain documents vide email dated 30.09.2022 and school had not furnished the same. The details of documents asked are as under:

- The school has not provided Receipt and payment account of any of the last three financial years.
- The school has not provided Cash Book of last three financial years.
- The school has not provided actuarial valuation report for leave encashment.
- The school has not provided list of employees left in last five financial years along with copy of their full and final settlement.
- The school has not provided list of employees appointed in last five financial years along with their date joining and initial pay band.
- The school has not provided sanction letter of overdraft facilities taken from Nainital bank and Indian bank.
- The school has not provided computation of salary arrears in excel format employees wise.
- The school not provided clarification about the income received and recorded in terms of DoE order dated 01 July 2022.

The school has not neither furnished any compliance/action taken against this observation nor any documents for verification. Accordingly, the school is again directed to furnish the aforesaid documents for verification. Compliance of this direction shall be verified while evaluating the fee hike proposal of the subsequent year.

6. Appendix II to Rule 180(1) of DSER, 1973, the school is required to submit final accounts i.e., receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

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

On review of the audited financial statements and auditors' report submitted by the school for FY 2022-23, following discrepancies are noted:

- There is no mention of the Receipts and Payments Account in the auditors' report;
- There is no mention of UDIN in the auditors' report and in the audited financial statements; and
- Firm Registration Number (FRN) and Partner's membership number are not mentioned in the auditors' report and in the audited financial statements.

The SA-700 mandates to follow certain guidelines such as mentioning of UDIN, firm registration number, membership number, etc., in order to establish the authenticity of the audited financial statements and the auditors' report issued by the member of the ICAI. Non-compliance of these guidelines is a serious issue. However, in the fee evaluation of fee proposal of the school, these financial statements and the auditors' report are considered.

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

**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 2023-24 amounting to **INR 44,26,49,710** out of which cash outflow for the FY 2023-24 is estimated to be **INR 29,68,12,711.** This results in estimated surplus of **INR 14,58,36,999** after meeting all expenditures. The details are as follows:

| **Particulars** | **Amount (in Rs)** |
|---|---|
| Cash and Bank balances as on 31.03.23 as per Audited Financial Statements | 1,28,55,449 |
| Investments as on 31.03.23 as per Audited Financial Statements | 7,87,13,575 |
| **Liquid Funds as on 31.03.2023** | **9,15,69,024** |
| Add: Amount recoverable from Society as per Audited Financial Statements of FY 2021-22 **(Refer Financial Suggestion for Improvement no. 1)** | 2,49,55,994 |

| Particulars | Amount (in Rs) |
|---|---|
| Add: Amount recoverable from Ahlcon International School **(Refer Financial Suggestion for Improvement no. 3)** | 5,39,59,650 |
| Add: Amount recoverable from Society for repayment of loan and interest taken for construction of school building **(Refer Financial Suggestion for Improvement no. 4)** | 6,42,97,123 |
| Add: Amount recoverable from Society for repayment of loan and interest taken for purchase of buses **(Refer Financial Suggestion for Improvement no. 5)** | 27,23,636 |
| Add: Amount recoverable from Society towards purchase of Cars **(Refer Financial Suggestion for Improvement no. 6)** | 22,13,206 |
| Add: Recoverable from School management for fine imposed on the school **(Refer Financial Suggestion for Improvement no. 9)** | 2,20,000 |
| Add: Fees for FY 2022-23 as per Audited Financial Statements **(refer Note 1 below)** | 24,68,46,076 |
| Add: Other Income for FY 2022-23 as per Audited Financial Statements **(refer Note 1 below)** | 45,15,450 |
| Add: Additional Fees due to increase in fee **(refer Note 3 below)** | 1,60,73,730 |
| **Total Available Funds for FY 2023-24** | **50,73,73,889** |
| Less: FDR in the joint name of Manager and DOE **(refer Note 2 below)** | 1,02,512 |
| Less: FDR in the joint name of Manager and CBSE **(refer Note 2 below)** | 15,70,609 |
| Less: Caution Money as on 31.03.2023 | 36,49,235 |
| Less: Development fund **(Refer Financial Suggestion for Improvement no. 3)** | 10,02,997 |
| Less: Depreciation Reserve Fund **(Refer Note 4 below)** | - |
| Less: FDR in the Joint name of Deputy Director and Manger of the school towards contingent reserve **(refer Note 2 below)** | 1,65,00,666 |
| Less: Gratuity and leave encashment LIC as per Audited Financial statements of FY 2022-23 **(Refer Financial Suggestion for Improvement No. 11)** | 4,18,98,160 |
| **Net Available Funds for FY 2023-24 (A)** | **44,26,49,710** |
| Less: Budgeted expenses for the session 2023-24 **(Refer Note 5 below)** | 27,59,24,418 |
| Less: Salary arrears to the staff **(Refer Note 6 below)** | 2,08,88,293 |
| **Total Estimated Expenditure for FY 2023-24 (B)** | **29,68,12,711** |
| **Net Estimated Surplus (A-B)** | **14,58,36,999** |

**Note 1**: All the fee and other income as per financial statements for the FY 2022-23 has been considered with the assumption that the amount received in FY 2022-23 will at least accrue during FY 2023-24, except the following:

| S.No. | Particulars | Amount (in INR) | Remarks |
|---|---|---|---|
| 1. | Tuition fee arrears | 7,895 | Not considered being it relates to previous years and will not accrue to the school in session 2023-24. |
| 2. | Annual Charges Arrears | 5,88,264 | |
| | **Total** | **5,96,159** | |

. ote 2: The detail of fixed deposit held by the school as per the audited financial statements for the FY 2022-23 is provided below:

| Particulars | Amount (in INR) | Remarks |
|---|---|---|
| FDR in the Joint name of Secretary, CBSE and School Manager | 15,70,609 | |
| FDR in the Joint name of Dy. Director of Education and School Manager | 1,02,512 | Considered while calculating available funds. |
| Gratuity Reserve Fund | 77,59,682 | Amount allowed/considered on the basis of amount deposited in the Plan Assets with LIC. Refer financial suggestion for improvement no. 11. |
| LIC – Gratuity Fund | 4,18,989,160 | |
| Salary Reserve Fund | 2,73,82,612 | School has an FDR for INR 1,65,00,666 in the joint name of Deputy Director of Education (Distt.) and the Manager of the school and thus, same has been included while deriving the fund position. |
| **Tota l** | **7,87,13,575** | |

**Note 3:** The school was allowed to increase fee by 15% vide order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 from 01.10.2022. Accordingly, additional income on account of fee increase will also accrue to the school in FY 2023-24 and additional fees is computed as follows:

| | |
|---|---|
| % of fee increase allowed as per order issued for session 2022-23 | 15% |
| Effective date of fee increase as per order issued for session 2022-23 | 01-10-2022 |
| No. of months | 6 |
| Effective rate in 2022-23 (a) | 7.50% |
| Fees for FY 2022-23 as per Audited Financial Statements (Tuition fee, Annual Charges and Development fee) (b) | 23,31,92,670 |
| **Additional fees due to increase in fee from effective date (for six months) – as computed {(b)*7.5/107.5}** | **1,62,69,256** |

Moreover, the school has submitted the details of impact of increased fee amounting INR 1,60,73,730 for six months and there is not much difference with the calculated value of impact of increased fee. Therefore, school's submission has been considered in the above calculations of fund available.

**Note 4:** 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 of any other head of fee for investments against depreciation reserve fund.

Further, Clause7 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 Modem School Vs Union of India & INR: 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 as reported by the school in the financial statements for the FY 2022-23 has not been considered while deriving the fund position of the school.

**Note 5:** The budgeted expenditure proposed amounting **INR 74,07,13,165** by the school has been considered while deriving the fund position of the school except the following:

| Heads | Budgeted expenditure in FY 2023-24 | Amount Disallowed | Remark |
|---|---|---|---|
| Salary | 24,02,80,000 | 58,70,419 | The school has not furnished any justification for increase in the expenditure vis-à-vis expenses incurred in the FY 2022-23 and therefore, the same have been restricted to 130% of actual expenditure incurred in FY 2022-23. |
| Salary Reserve | 4,31,00,000 | 4,31,00,000 | Considered separately (Refer Note 2 above) |
| Arrear Salary | 22,92,08,977 | 22,92,08,977 | Considered separately (Refer Note 6 below) |
| Gratuity | 1,76,40,370 | 1,76,40,370 | Considered separately. (Refer Financial Suggestion for Improvement No. 11) |
| Leave Encashment | 32,28,804 | 32,28,804 | |
| Balance of Gratuity Provision - Past years | 7,72,99,349 | 7,72,99,349 | |
| Balance of Leave encashment Provision - Past years | 4,26,50,180 | 4,26,50,180 | |
| Electricity & Water Charges | 55,00,000 | 5,96,223 | The school has not furnished any justification for increase in the expenditure vis-à-vis expenses incurred in the FY 2022-23 and therefore, the same have been considered to the extent of Restricted to 110% of actual expenditure incurred in FY 2022-23. |
| Activity & Sports Expenses | 10,00,000 | 6,83,847 | |
| Examination Expenses | 10,00,000 | 2,14,575 | |
| House Keeping Expenses | 66,00,000 | 11,38,240 | |
| Laboratory Expenses | 5,00,000 | 3,27,912 | |
| Newspaper & Periodical Expenses | 12,50,000 | 3,16,791 | |
| Office Expenses | 1,47,485 | 1,26,057 | |
| Telephone Expenses | 2,30,000 | 2,30,000 | |
| Generator Expenses | 1,00,000 | 1,00,000 | The school has introduced new heads of expenses introduced in the Budget for the FY 2023-24 and has not submitted any justification for the same. Accordingly, the same are not considered. |
| Sports Fee CBSE-2021-22 | 3,50,000 | 3,50,000 | |
| Transportation Expenses | 2,05,60,000 | 2,05,60,000 | Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no |
| French Lab Expense | 3,00,000 | 3,00,000 | |
| Computer Expenses | 10,00,000 | 10,00,000 | |

| Heads | Budgeted expenditure in FY 2023-24 | Amount Disallowed | Remark |
|---|---|---|---|
| EWS-Book Stationery Uniform | 45,00,000 | 45,00,000 | profit no loss basis |
| Term Loan/OD/Interest | 10,00,000 | 10,00,000 | Capital expenditure cannot form part of fee structure and accordingly, repayment of term loan taken for capital assets and interest thereon is not allowable. |
| Depreciation | 60,00,000 | 60,00,000 | Expenses being a non-cash item |
| Development fund | 93,50,000 | 83,47,003 | Capital expenditure cannot form part of fee structure. Thus, capital expenditure is allowed to the extent of development fee expected to accrue to the school in year 2023-24. |
| **Total** | **71,27,95,165** | **46,47,88,747** | |

**Note 6:** In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3 (17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private Unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Unaided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

Vide school's reply submitted during the hearing, it was informed that the school has implemented 7th CPC recommendations with effect from October, 2022. Vide order no. F.DE.15(1009)/PSB/2022/8591-8595 dated 25.10.2022 issued for the academic session 2022-23 it was directed to the school to implement the 7th CPC for payment of staff salaries and also, the school was allowed salary arrears of INR 19,31,59,627 upto FY 2021-22. However, despite repeated directions from the Directorate, the school has not released the salary arrears to the staff.

Also, it is noted that even though the school is claiming the salary arrears but has not provided the same in their audited financial statements for FY 2022-23. Accordingly, salary arrears of one year i.e. 2022-23 on account of 7th CPC amounting INR 2,08,88,293, as per school's submission, are considered while calculating the fund position.

Further, it is pertinent to mention here that the Hon'ble High Court of Delhi in *W.P. (C) 928, 929, 932 & 956/2019 Kuttamparampath Sudha Nair Vs Managing Committee Sri Sathya Sai Vidya Vihar And Anr.* has stated that, "*...this Court cannot accept the plea of paucity of funds and financial crisis raised by the school*" as reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Thus, the school is directed to ensure to release the salary arrears to the concerned staff without any further delay.

ii. In view of the above examination, it is evident that the school does have adequate funds to carry on its operation for the academic session **2023-24** 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, it is evident that the school has an estimated surplus of **INR 14,58,36,999** which it was able to accumulate by practicing commercialisation of education and indulging into profiteering over the years. The charging of fee under the permissible heads of fee viz. tuition fee, development fee, annual charges and earmarked levies in excess of the actual requirement of the funds for permissible expenditure or charging of fee under non-permissible heads of fee, leads to generation of excess reserves/funds to the school. Further, maintaining books of accounts in a manner that is not in compliance with the Generally Accepted Accounting Principles (GAAP) and also in contravention of the directions of the Hon'ble Supreme Court in the matter of *Modern School vs Union of India and Ors. (2004)* and the directions of the Directorate of Education time and again, the school is attempting to present an impression before the Directorate of Education that it has no funds and is in deficit, which in fact is contrary to the surplus determined, and consequently submitted its fee proposal for approval.

AND WHEREAS, in the light of 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 certain financial suggestions (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instruction against which have been given in this order) and that the sufficient funds are available with the school to carry out its operations for the academic session **2023-24**. Accordingly, the fee increase proposal of the school for academic session 2023-24 may be rejected.

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

AND WHEREAS, it is noticed that the school has utilized **INR 14,83,49,609** in contravention of 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 the society. 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 the DSEA, 1973 and the DSER, 1973 without providing any further opportunity of being heard.

AND WHEREAS, the act of the school of charging unwarranted free 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 and thus, school should ensure to charge fee only under the prescribed heads and utilized the fees collected for the defined purposes in accordance with the provisions of the DSEA, 1973 and the DSER, 1973.

AND WHEREAS, recommendation of the team of the Chartered Accountants along with relevant material were put before the Director of Education 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 who has found that the school has sufficient funds for meeting financial implication for the academic session **2023-24**. Therefore, the Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session **2023-24**.

Accordingly, it is hereby conveyed that the proposal for fee hike of **Ahlcon Public School (School ID- 1002276) Mayur Vihar, Phase-I, Delhi - 110091,** filed by the school in response to the order Nos. F.DE.15(40)/PSB/2023/1964-1972 dated 01.03.2023 and F.DE.-15(40)/PSB/2023/2685-2692 dated 27.03.2023 for the academic session 2023-24, is rejected by the Director (Education) with above conclusion and suggestions.

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).

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

1. Not to increase any fee/charges during FY 2023-24. In case, the school has already charged increased feed during FY 2023-24, 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, it is pertinent to mention here that 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.

**(Patil Pranjal Lahen Singh)**
**Additional Director of Education**
**(Private School Branch)**
**Directorate of Education, GNCT of Delhi**

**To**
**The Manager/ HoS**
**Ahlcon Public School (School ID- 1002276)**
**Mayur Vihar, Phase-I, Delhi - 110091**

No. F.DE.15(114)/PSB/2024/ 3108-3112

Dated: 24/06/24

**Copy to:**
1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

**(Patil Pranjal Lahen Singh)**
**Additional Director of Education**
**(Private School Branch)**
**Directorate of Education, GNCT of Delhi**