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

No. F.DE.15(65)/PSB/2023-24/1384-1388 Dated: 21/03/24

Order

WHEREAS, **Salwan Public School (School ID- 1002268), Mayur Vihar, Delhi-110096** (hereinafter referred to as **"the School"**), run by the **Salwan Education Trust** (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, 1973 **(hereinafter referred to as "DSEA, 1973"**) and the Delhi School Education Rules, 1973 (**hereinafter referred to as "DSER, 1973"**). The school is statutorily bound to comply with the provisions of the DSEA, 1973, DSER, 1973 and the 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 DSEA, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEA, 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) of the DSEA, 1973 and the rule 180 (3) of DSER, 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 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, 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 orders dated 01.03.2023 and 27.03.2023 of the DOE, the school submitted its proposal for fee increase for the academic session **2023-24**. Accordingly, this order dispenses the proposal for fee increase submitted by the school for the academic session **2023-24**.

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

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 March 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 that hearing, the compliance of **order no. F.DE.15(1231)/PSB/2022/1393-1397 dated 10.02.2023 issued for the academic session 2022-23** was also discussed and the school submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee increase and subsequent documents submitted by the school post personal hearing, were evaluated by the team of Chartered Accountants. After evaluation of fee hike proposal of the school and its subsequent clarifications and submissions, the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure.... capital expenditure/investments have to come from savings."*

The school incurred INR 17,83,117 for purchase of school bus in FY 2017-18 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(762)/PSB/2022/ 4851-4855 dated 22.06.2022 and Order no. F.DE.15(1231)/PSB/2022/1393-1397 dated 10.02.2023.

The submissions made via compliance report submitted by the school against order dated 28.04.2023 were evaluated and taken on record. The school submitted that *"It is pertinent to note that bus, being a capital cost, cannot be funded out of Transport fund as Transport Fund is against Transport fee, which, is an earmarked levy and can only be charged for revenue expenditure of running and maintenance of Transport. Therefore, Capital Expenditure which gets classified under the head equipment can be funded only out of the Development fee fund in terms of DOE's order.*

Transportation of students is an embedded activity of education. Hence, school buses are not meant for any luxury purpose but to ferry students from their residence to school and back and also for educational activity and it is much in order to incur such Capital Expenditure out of Development Fund."

The submission of the School that the buses are covered under the definition of the equipment and thus, should be met out of the development fee is incorrect and without any legal base.

It is pertinent to mention here that in pursuance of directions in the matter of the Delhi Abhibhavak Maha Sangh Vs. Union of India and Others, a committee was constituted by the Govt. of NCT of Delhi vide notification No.323 dated 7th Dec., 1998 with (Ms.) Justice (Retd.) Santosh Duggal as 'Chairperson' to decide the claims in fee hike and other charges levied by individual recognized unaided schools.

As per 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. These recommendations were 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. Further, order dated

15.12.1999 was subsequently upheld by the Hon'ble SC in the matter of Modern School vs Union of India and Ors. (2004).

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

The school charges transport fee for providing transport facility to the students. It is pertinent to mention here that transport facility is a 'user based' facility and thus, any expenditure incurred pertaining to purchase, operation and maintenance should be incurred by the user students only. The development fee is charged from each fee paying student of the school and thus, cannot be utilised to facilitate a *'provision of service'* to a group of students.

Moreover, as per Guidance note 21 on 'Accounting by the Schools' issued by the ICAI, the purchase of buses falls under the asset head of vehicles and the equipment head covers office, science and sports equipment's only.

Accordingly, the contention of the school buses come under the head of equipment is not tenable and, therefore, unjustified. Therefore, the amount incurred by the school for purchase of school bus amounting to INR 17,83,117 is hereby again considered as fund available with the school.

Post hearing the school vide their letter Ref. no. SPS/MV/2023-24/3055 dated 05.03.2024 has submitted that. *"Without prejudice to our rights and the writ petitions filed by the School against the rejection orders, which are pending in the Hon'ble High Court, it is stated that the Society running the school, viz. Salwan Education Trust, has made a contribution of an amount of Rs. 2,00,00,000/- (Rupees Two Crores) to the School as the school administration did not have funds to meet day to day and other major expenses. The amount has been received and adjusted by the School against of above-mentioned expenditures. As stated above, the amount of Rs. 1,67,12,151/- were added back by Department of Education, as cash available, while calculating cash flow for fee hike proposals for session 2022-23. Further, it is schools contention that the said amount, if added back in a particular year and disallowed as an expense, cannot be added back in subsequent years as funds available."* It is noted that INR 1,00,00,000 was received vide ch no. 707603 dated 03.03.2022 and INR 1,00,00,000 was received vide ch no. 239858 dated 02.11.2023.

The submission of the school is conditional and thus, the observation cannot be considered as complied. As amount of INR 1,00,00,000 was received from the society before FY 2022-23 therefore, same has been considered while deriving the fund position of the school for the academic session 2023-24. The balance amount of INR 1,00,00,000 shall be considered during the subsequent FY 2024-25.

2. As per Rule 177 of DSER,1973 states "*income derived by an unaided private recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The abovementioned 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."

The school provided financial assistance of INR 55,43,501 to Salwan Public School, Tronica City from FY 2014-15 to FY 2016-17. The Directorate vide order no. F.DE.15(762)/PSB/2022/ 4851-4855 dated 22.06.2022 for academic session and order no. F.DE.15(1231)/PSB/2022/ 1393-1397 dated 10.02.2023 directed the school to recover the amount from the society.

The compliance reports submitted by the school against order dated 22.06.2022 and order dated 10.02.2023 were evaluated and taken on record. The school submitted that *"The savings referred under Rule 177, not only include the savings for any financial year but also include accumulated savings of past years resting in reserve funds. Thus, a school can assist not only from the savings of a particular financial year but also out of the past such reserve funds in case of deficit in any of the financial years".*

The above contention of the school cannot be accepted as Rule 177 of the DSER 1973 provides that the income of the school, at first instance, should be used for meeting the establishment cost including the retirement benefit payable to the staff. The savings, if any arrived, after meeting cost of establishment, including retirement benefits and after ensuring reasonable reserve fund, not less than ten percent, of such savings will be considered for any assistance to the other school in Delhi. Further, submissions of the school seem to be contradictory in nature as on the one hand it had transferred school funds as financial assistance to another school situated in different state and secondly, had filed fee proposal to the department claiming that it had no funds.

It is also pertinent to mention that the Delhi School Education Act, 1973, *is an Act to provide for better organization and development of school education in the Union Territory of Delhi and for matters connected therewith or incidental thereto.* Accordingly, the financial assistance can be given to the schools operating in the Union Territory of Delhi only and not to other schools running outside the Union Territory of Delhi as the funds have been generated and accumulated by a school operating in the Union Territory of Delhi.

It was also noted that the school had not ensured to protect the interest of the staff of the school as neither invested amounts in the plan assets nor made equivalent investments in the form of FDR in the joint name of Dy. Director of Education (Distt.) and the Manager, School when recovery was directed.

Therefore, the amount provided for financial assistance to another branch in Tronica City of the school amounting to INR 55,43,501 is hereby again considered as fund available with the school.

Post hearing the school vide their letter Ref. no. SPS/MV/2023-24/3055 dated 05.03.2024 has submitted that INR 1,00,00,000 was received vide ch no. 707603 dated 03.03.2022 and INR 1,00,00,000 was received vide ch no. 239858 dated 02.11.2023.

As discussed at financial suggestions for improvement no. 1, the submission of the school is conditional and thus, the observation cannot be considered as complied. As amount of INR 1,00,00,000 was received from the society before FY 2022-23 therefore, same has been considered while deriving the fund position of the school for the academic session 2023-24. The balance amount of INR 1,00,00,000 shall be considered during the subsequent FY 2024-25.

3. The "Director" is not a prescribed position for an unaided private school as per the Recruitment Rules. Thus, the "Director" is not entitled to any payment whatsoever from the school funds.

The school paid salary to "Director" amounted to INR 58,38,557 from FY 2014-15 to FY 2018-19 and thus, the Directorate vide Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022 and directed the school to recover INR 58,38,557 from the society. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Further, the Directorate vide Order no. F.DE.15(1231)/PSB/2022/1393-1397 dated 10.02.2023, observed that the school had paid salary to "Director" in FY 2019-20 to FY 2021-22. However, the school was stopped paying salary to "Director" from FY 2022-23 onwards. Accordingly, the School was directed to recover amount of INR 93,85,473 (INR 58,38,557 (upto 2018-19) plus INR 15,03,420 (FY 2019-20) plus INR 5,59,322 (FY 2020-21) plus INR 14,84,174 (FY 2021-22)). The details of payment made to Director are as under:

S. No.	Year	Amount (INR)
1.	Upto 2018-19	58,38,557
2.	2019-20	15,03,420
3.	2020-21	5,59,322
4.	2021-22	14,84,174
	Total	93,85,473

Post hearing the school vide their letter Ref. no. SPS/MV/2023-24/3055 dated 05.03.2024 has submitted that INR 1,00,00,000 was received vide cheque no. 707603 dated 03.03.2022 and INR 1,00,00,000 was received vide cheque no. 239858 dated 02.11.2023.

As discussed at financial suggestions for improvement no. 1, the submissions of the school are appeared to be conditional and thus, the aforesaid observation cannot be considered as complied. As amount of INR 1,00,00,000 was received from the society before FY 2022-23 and therefore, same has been considered while deriving the fund position of the school.

4. 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."*

The school was directed to disclose its liabilities on account of gratuity on the basis of actuarial valuation report in its audited financial statements and to make equivalent investments against its liabilities vide Directorate's Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022 and order no. F.DE.15(1231)/PSB/2022/1393-1397 dated 10.02.2023. However, on review of the audited financial statements for FY 2022-23, it is noted that the school has not invested funds equivalent to the gratuity and leave encashment liabilities in the Plan assets.

On review of the documents submitted by the school, it has been noted that the school has reported provision towards gratuity amounting to INR 4,67,85,171 and INR 1,43,39,011 towards leave encashment in its audited financial statement for FY 2022-23. Further, based on documents submitted post hearing, it is noted that the school has invested INR 4,36,84,685 and INR 1,42,65,839 in the plan assets with LIC against the gratuity and leave encashment liabilities respectively. Therefore, the amount deposited by the school of INR 5,79,50,524 (INR 4,36,84,685 and INR 1,42,65,839) in plan assets has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets.

The school is directed to make investment in the plan assets equivalent to the gratuity and leave encashment liabilities determined by the actuary within 30 days from the date of issue of this order.

5. 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)/Àct/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."*

On review of the audited financial statement for FY 2022-23, it has been noted that the school has refunded caution money amounting INR 22,000 along with interest amounting INR 4,004. It is also noted that the school still has excess amount of caution money which is refundable to the students, who had passed out or left the school. As per school fee proposal there are 1655 students in the school and therefore, the school should have estimated liability of INR 8,27,500. However, as per financial statements for FY 2022-23 the school has liability of INR 10,73,500 and the same has been considered while calculating the fund position of the school.

Also, Clause 4 of Order No. DE/15 /150 /ACT /2010 /4854-69 dated 09.09.2010 states, *"After the expiry of 30 days, the un-refunded Caution Money belonging to the ex-students shall be reflected* *as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for the ensuing Academic year"*

Accordingly, the school is directed to ensure that caution money is refunded along with interest to the students and un-refunded caution money, if any, after 30 days will be shown as income while projecting the fee increase proposal of the subsequent year.

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 a 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 transport fees, smart class fees and science fees from the students. However, the school has not maintained separate fund accounts for these earmarked levies except for the transport fund. The school has been generating surplus from smart class fees and science fees that has been utilised for meeting other expenses of the school. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

Particulars	Smart Class Fees	Science Fees	Transport Fees
For the year 2022-23			
Fee Collected during the year (A)	31,25,650	10,11,200	99,47,947
Expenses during the year (B)	**23,40,659**	-	**98,03,205**
Difference for the year (A-B)	**7,84,991**	**10,11,200**	**1,44,742**

Note- Smart Class Fees (Collected from III class onwards from all students) and Science Fees (Collected from XI and XII Class). Specific expenses related to science fee are not identifiable.

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 smart class fees from all the students (Class III onwards) loses its character of earmarked levy. Thus, the school is directed not to charge smart class fees 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. Incidental 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 any head other than the prescribed head of fee and accumulation of surplus fund thereof tantamounts to profiteering and commercialization of education as well as charging of capitation fee in another 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 the students belonging to weaker section of society. However, as per the information provided by the school for the FY 2020-21 to FY 2022-23, it has been noted that the school has not complied with above requirement. 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 2020-21 to FY 2022-23 are tabulated below:

Particulars	FY 2020-21	FY 2021-22	FY 2022-23
EWS	308	328	345
Total Strength	1694	1649	1655
% of EWS students to total strength	**18%**	**20%**	**21%**

3. As per Right to Education Act, the pupil teacher ratio for primary classes and upper primary classes should be 30:1 and 35:1 respectively. Also, as per the affiliation bye-laws prescribed by Central Board of Secondary Education (CBSE), the student's teacher ratio should not exceed 30:1 excluding principal, physical education teacher and counselor to teach various subjects. However, based on the information submitted by the school relating to total students and number of teachers following ratios have been derived:

Particulars	FY 2020-21	FY 2021-22	FY 2022-23
Total Number of Students (A)	1694	1649	1655
Number of Teachers (B)	68	71	75
Students to teacher ratio (A/B)	**24.91**	**23.22**	**22.06**

In view of the above calculation, it has been observed that there is one teacher on every 22 students which is much higher than the standard prescribed by the CBSE and mentioned in the RTE Act. It seems that there is overstaffing of teaching staff in the school. Therefore, the school management is required to look into this aspect and try to establish equilibrium, without compromising the standard of education, between the standard prescribed by the CBSE and the existing student teacher ratio.

4. According to the Directorate's Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, in exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

Further, Para 58(i) of the Guidance Note states, *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*

In Directorate's order no F.DE.15(1231)/PSB/2022/1393-1397 dated 10.02.2023 for the FY 2022-23, it was directed to provide depreciation on assets in accordance with the guidance note cited above.

On review of audited financial statements for the FY 2022-23, it has been noted that the school has charged depreciation on fixed assets as per written down value method at the rates prescribed in the Income Tax Rules, 1962.

Therefore, school is again directed to provide depreciation on assets in accordance with the guidance note cited above.

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 **16,28,57,361** out of which cash outflow for the FY 2023-24 is estimated to be INR **13,92,41,401.** This results in surplus of INR **2,36,15,960** for the FY 2023-24 after all payments. The details are as follows:

Particulars	**Amount (INR)**
Cash and Bank balances as on 31.03.23 as per Audited Financial Statements	14,14,883
Investments as on 31.03.23 as per Audited Financial Statements	13,86,64,573
Liquid Funds as on 31.03.2023	**14,00,79,456**
Add: Recovery from society on account of development funds utilized for purchased of vehicle **(Refer Financial Suggestion for Improvement no. 1)**	17,83,177
Add: Recovery from society for assistance provided to sister concern **(Refer Financial Suggestion for Improvement no. 2)**	55,43,501
Add: Recovery from society for salary paid to director **(Refer Financial Suggestion for Improvement no. 3)**	93,85,473
Add: Fees for FY 2022-23 as per Audited Financial Statements **(refer Note 1 below)**	9,06,35,244
Add: Other Income for FY 2022-23 as per Audited Financial Statements **(refer Note 1 and 5 below)**	68,09,194
Total Available Funds for FY 2023-24	**25,42,36,045**
Less: Amount received from the Society **(Refer Financial Suggestion for Improvement no. 1)**	1,00,00,000
Less: FDR in the joint name of Manager and CBSE/DOE **(refer Note 2 below)**	33,59,728
Less: FDR with JASDC **(refer Note 2 below)**	83,18,509
Less: Development fund **(Refer Note 4 below)**	1,06,76,423
Less: Depreciation Reserve Fund **(Refer Note 3 below)**	-
Less: Caution Money as on 31.03.2023 **(Refer Financial Suggestion for Improvement no. 5)**	10,73,500
Less: Gratuity and leave encashment LIC as per Audited Financial statements of FY 2022-23 **(Refer Financial Suggestion for Improvement No. 4)**	5,79,50,524
Net Available Funds for FY 2023-24 (A)	**16,28,57,361**
Less: Budgeted expenses for the session 2023-24 **(Refer Note 6 below)**	13,92,41,401
Less: Salary arrears to the staff **(Refer Note 7 below)**	-
Total Estimated Expenditure for FY 2023-24 (B)	**13,92,41,401**
Net Surplus (A-B)	**2,36,15,960**

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.

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

Particulars	Amount (in INR)	Remarks
FDR - Depreciation Reserve Fund	36,72,324	Refer Note 3 Below
FDR - Development Fund	1,05,87,620	Refer Note 4 Below
FDR - Caution Money	12,39,302	Refer Financial Suggestion No. 5
FDR with CBSE & DoE	33,59,728	Considered while calculating the fund position of the school
FDR with JADSC	83,18,509	Considered while calculating the fund position of the school
FDR - Leave Encashment Fund	1,38,50,068	Investments in planned assets with LIC already considered and thus, FDR cannot be considered. Refer Financial Suggestion No. 4
Other's FDR	3,96,86,498	Considered as free funds with the school
Amount deposited in 'Plan Assets' with LIC against Gratuity	4,36,84,685	Refer financial suggestion for improvement no. 4
Amount deposited in 'Plan Assets' with LIC against Leave Encashment	1,42,65,839	Refer financial suggestion for improvement no. 4
Total	**13,86,64,573**	

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised *of "Registration fee and all one Time Charges'* levied at the time of admissions such as admission and caution money. The second category of fee comprises *'Tuition Fee'* which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of *'Annual Charges'* to cover all expenditure not included in the second category and the fourth category consist of all *'Earmarked Levies'* for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee 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 of INR 34,86,086 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 4: As per audited financial statements for the FY 2022-23, the development fund balance is at INR 2,92,62,940. Although, the equivalent balance has not been maintained by the school. However, on review of FDR's and bank statements submitted by the school, development fund amounting to INR 1,06,76,423 [INR 1,05,87,620 (in the form of FDR) + INR 88,803 (in the form of bank balance)] has been considered while calculating the fund position of the school.

Note 5: All other income as per audited financial statements of 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 budgeted in FY 2023-24 except the following:

Particulars	Amount (in INR)	Remarks
Profit on sale of assets	16,669	Being non-recurring item.

Note 6: The budgeted expenditure amounting INR 16,72,09,765 as proposed by the school has been considered while deriving the fund position of the school except following:

Heads	Amount Disallowed (INR)	Remarks
School Function & Sport Activities Exp	7,35,395	Restricted to 110% of expenditure incurred in FY 2022-23.
Building Repair & Maintenance	25,77,606	
Transportation Expenses	99,61,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Computer & Smart Class Expenses	43,30,000	
Expenses for Hobby Clubs, Outdoor Trips, etc.	30,00,000	
EWS Books, Stationery & Uniform	6,00,000	

Heads	Amount Disallowed (INR)	Remarks
Examination Expenses	6,50,000	
Depreciation	61,14,363	Expenses being a non-cash item
Total	**2,79,68,364**	

Note 7: The school has implemented the recommendations of 7th CPC w.e.f. October 2018. Further, the school has already paid 7th CPC salary arrears for the period Jan 2016 to September, 2018.

ii. In view of the above examination, it is evident that the school does have adequate funds for meeting all the operational expenditure for the academic session **2023-24**. 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 utilizing the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, it is evident that the school has an estimated surplus of INR **2,36,15,960** 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 1,67,12,151 in contravention of the provisions of DSEA&R, 1973 and other orders issued by the departments from time to time. Post hearing the school vide their letter Ref. no. SPS/MV/2023-24/3055 dated 05.03.2024 has submitted that INR 1,00,00,000 was received vide ch no. 707603 dated 03.03.2022 and INR 1,00,00,000 was received vide ch no. 239858 dated 02.11.2023. The submissions of the school are conditional and thus, the observation cannot be considered as complied. However, the impact of amount received during FY 2021-22 has been considered in the fund availability calculation. As the amount has been recovered and the matter is under consideration with Hon'ble High Court of Delhi, no further direction has been given in relation to recovery of amounts from the society.

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 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 **Salwan Public School (School ID- 1002268), Mayur Vihar, Delhi-110096** 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 27.03.2023for the academic session 2023-24, is rejected by the Director (Education) with the 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, 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
Salwan Public School
School ID- 1002268
Mayur Vihar, Delhi-110096
No. F.DE.15(65)/PSB/2023-24/ 1384-1388

Dated : 21/03/24

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

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