

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

No. F.DE.15 (1676)/PSB/2023/ 10170-10174

Dated: 15/12/23

Order

WHEREAS, The Indian Height School (School ID-1821238), Sector-23, Dwarka, New Delhi-110075 (hereinafter referred to as "the School"), run by the Bhagwati Devi Foundation (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, the 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, the DoE has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of 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 25.10.2023 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(40)/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23 was also discussed and the school submission were taken on record.

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

A. Financial Suggestion for Improvements

1. 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:

- i. Assets held by a long-term employee benefit fund; and
- ii. Qualifying insurance policies.

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

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

The record submitted by the School were taken on record, it has been noted that the School has got the actuarial valuation for the retirement benefits and created provision for gratuity of INR 66,66,524 as on 31.03.2023 in accordance with the actuarial valuation report for FY 2022-23. Based on the actuarial valuation report dated 24.03.2023, the actuarial valuation for leave encashment liability was INR 34,93,353 and as per audited balance sheet for FY 2022-23 the provision for leave encashment is stated at INR 40,05,593. The school has invested of INR 68,22,604 and INR 43,63,685 with LIC against Gratuity and leave encashment respectively as per the audited financial statements.

The amount invested by the school with LIC amounting to INR 1,11,86,289 qualifies as amount invested in the plan assets and thus, the same has been considered while deriving the fund position of the school. Further, the school is directed to deposit the amount determined as per actuarial valuation with LIC so that the provision for gratuity and leave encashment stand equals the investment made in the plan assets.

2. Clause 24 of DoE Order dated 11.02.2009 states "*Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, P&L Account and Receipt & Payment account every year.*"

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

- i. *"the financial statement of the Schools should be prepared on accrual basis.*
- ii. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School's Balance sheet.....*
- iii. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed....".*

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

On review of the audited financial statements and other records submitted by the School, it has been noted that the school has been recording income on receipts basis without complying with the above-mentioned provision. Thus, the school is deviating from basic principle for maintenance of books and account and presentation of the financial statements. The school following such type of accounting intentionally in order to report higher operation loss in the audited financial statements than the actual one. Therefore, the school has been preparing and presenting, its audited financial statements neither on accrual basis nor on cash basis. Even the statutory auditor of the school has not mentioned this fact in their Independent Auditors Report.

Similar observation was also noted in order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23.

Therefore, the school is again directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year. However, the audited financial statements submitted by the school for FY 2020-21, FY 2021-22 and FY 2022-23 has been considered in the evaluation of fee increase proposal.

3. Direction no. 2 included in the Public Notice dated 04.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi AbibhavakMahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Clause 7.24 of Duggal committee report states *"school should be prohibited from discharging any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been*

givento the society at concessional rates for carrying out a philanthropic activity. One only wonders what is then the contribution of the society that professes to run the school".

Moreover, Rule 177 of DSER, 1973 states that *"income derived by an unaided 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. And 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.*

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. In this regard, it is also important to mention that society was allotted an institutional land at lower cost compared to the price of commercial as well as the residential land in that nearby locality. The reason for allotment of land at such lower cost was that society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. In its offer society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, DoE had recommended to the land-owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at such cost in such posh location.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE. Society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the main source (i.e., land) which was required to establish and run the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause was included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The Directorate in its order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23, the school was directed to present the INR 1,39,63,544 of FY 2016-

17 to FY 2018-19 expenditure as part of their repair and maintenance expenses in the financial statements for FY 2022-23.

However, the school is again directed to ensure to present the aforesaid expenditure as part of their repair and maintenance expenses in the financial statements for FY 2022-23. Also, complete disclosure needs to be made in the Notes to accounts of the financial statements to give effect to these entries.

4. The Hon'ble Supreme Court in the judgement of Modern School vs Union of India and others held that *capital expenditure cannot form part of financial fee structure of the school*. Further, in pursuance of Rule 177 of DSER, 1973, income derived by an unaided 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.

Moreover, Rule 177 of DSER, 1973 states that "*income derived by an unaided 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. And 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.*

Further, with respect of earmarked levies, the school is required to ensure with the following provisions.

- Clause 22 of the Order dated 11.02.2009 which states that earmarked levies shall be charged from user students on 'no profit no loss' basis.
- Rule 176 of DSER, 1973 states that 'income derived from collections for specific purpose shall be spent only for such purpose'.
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others states that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

And, as per Clause 22 of order dated 11.02.2009, Earmarked levies shall be charged from the user students only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts.

The Directorate in its order F.DE-15/(292)/PSB/2021/5197-5201 dated 13.12.2021 issued for academic session 2019-20 and order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23 noted that the school had purchased a luxury car of INR 35,29,655 in FY 2016-17 by taking a secured loan of 14,80,000 and remaining amount of INR 20,49,655 was paid out of school funds. Further, the school also made repayment of loan and interest thereon by utilizing school funds of INR 29,97,005 during FY 2016-17 to FY 2018-19. Further, it was also noted that the school purchased other buses by taking a secured loans and made repayment of loan and interest thereon of INR 1,95,55,083 during FY 2016-17 to FY 2018-19 and INR 28,15,929 during the FY 2019-20 to FY 2021-22.

The above capital expenditure was incurred by the school without complying with the above-mentioned provisions given a fact that the school has not implemented the recommendation of 7th CPC from January 2016. The transport facility run by the school was also reviewed. It was noted that in the year when buses were purchased, the transport income was not sufficient to meet even regular expenditure of transport. Thus, the school has indirectly shifted the burden of earmarked levy on all the students in the form of interest cost etc. whether they have been using the transport facility or not. Accordingly, the school was directed to recover above amount from society because it was incurred in without complying with the above-mentioned provision which is still pending for recovery.

Therefore, the above expenditure was incurred without complying with the provision of Rule 177 of DSER, 1973 and pronouncement of courts judgements. Even, the school is not following fund-based accounting with respect to the transport facilities. Based on the information submitted by the school, the calculated surplus/deficit from transport facility is as:

Period	Surplus/(Deficit)(INR)
FY 2016-17	(73,07,934)
FY 2017-18	(43,23,938)
FY 2018-19	60,76,083
FY 2019-20	68,71,471

Since, the school has not followed fund-based accounting, the surplus or deficit generated by the school from transport facility was used to meet other expenditure of the school or vice versa. Therefore, the contention submitted by the school is not tenable and justified.

Further, on review of the audited financial statements for FY 2022-23, it has been noted that the school has been making repayment of loan and interest thereon which were taken for purchase of vehicle out of school funds. The detail of such payment is provided below:

Particulars	FY 2022-23
Interest on Loan taken for purchase of vehicle	*
Principal repayment of loan taken for purchase of vehicle as per receipt and payment account	153,246
Total	153,246

**Amount can't be identified separately from the audited financial statements and thus, not mentioned.*

Accordingly, the total expenditure incurred by the school amounting to INR 2,55,21,263 (i.e., INR 29,97,005 plus INR 28,15,929 plus INR 1,95,55,083 plus INR 153,246) towards purchase of vehicle, etc., was not in accordance with above mentioned provisions. Accordingly, has been considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

Moreover, it is pertinent to mention here that the school has taken substantial loans and put unnecessary burden of interest on school funds and as on 31.03.2023 school has shown the overdraft facility of INR 3,04,24,928 in addition to term loan of INR 42,59,034 and INR 23,33,208. Even the purpose for taking the overdraft facility and other loan are not disclosed in the financial statements and not during the hearing. It is also noted that the staffs' interests are not protected or ensured by the school by paying salaries on basis of 7th CPC, depositing amounts in plan assets in accordance with AS-15, creating necessary salary reserve. It is generally observed that the salary expenses and other dues to the school staff is one of the major components of schools' expenditure. Considering the quantum of loan outstanding and dues towards staff and the fact that there are no investments for gratuity, leave encashment and for the salary reserve, it is not clear where the loan funds actually been applied over the years. Accordingly, no impact of bank overdraft facility has been considered in the calculation of fund availability.

5. The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:
- a) It is reiterated that annual fee-hike is not mandatory.
 - b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
 - c) If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

The Directorate in its order No. F.DE-15/(292)/PSB/2021/5197-5201 dated 13.12.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20 and Order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23, noted that the school had increased its fees for the academic session 2019-20 without obtaining

prior approval from the DoE. Accordingly, the school was directed to either refund the increased fee to the students or adjust the same against future dues due from the students. But the school has not complied with the above direction. Therefore, the school is hereby again directed to comply with the above-mentioned direction and submit the compliance report within 30 days from the date of the issue of the order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

6. Direction no. 2 included in the Public Notice dated 04.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Clause 7.24 of Duggal committee report states *"school should be prohibited from discharging any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a philanthropic activity. One only wonders what is then the contribution of the society that professes to run the school"*.

Moreover, Rule 177 of DSER, 1973 states that *"income derived by an unaided 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. And 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.*

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building.

The Directorate in its order No. F.DE-15/(292)/PSB/2021/5197-5201 dated 13.12.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20 and order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23, noted that the school has taken an unsecured loan of INR 24,80,000 from Corporation Bank during FY 2017-18, but didn't provide details of such loan. It was also noted that during the same financial year, school made addition to the building of INR 93,60,185 by using school funds. Therefore, it was considered that the loan was taken for construction of school building and interest paid on such loan was INR 3,31,118 during FY 2016-17 to FY 2018-19 which was not in accordance with above mentioned provisions. Therefore, the school was directed to recover this amount from the society which is still pending for recovery.

The documents submitted by the school post personal hearing has been taken in records. The school submitted that *"while repairing the toilet block after removing the khengar and checking the pipes the damage far exceeded than what we had expected....."*

The contention of the school that due to shortage of funds the school has taken such loan is incorrect because the expenditure referred by the school in its submission was incurred in FY 2018-19 and loan was taken in FY 2017-18. Further, the school was asked to provide the copy of the sanction letter which was not provided by the school. Furthermore, the school purchased vehicles and incurred capital expenditure towards addition to the building during the same period. Therefore, the submission of the school is contradictory in itself. Hence, the contention of the school is not tenable and justified.

Therefore, the interest paid by the school amounting to INR 3,31,118 on such loan which was not in accordance with above mentioned provision has been considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

7. Clause 14 of the Order No. F.DE/15 (56)/ Act/2009/778 dated 11.02.2009 *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment."* Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

As per order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23 school has submitted that due to paucity of funds in the school, some part to the development fund was utilized for payment of salaries and to meet the other operational expenditures. Due to which there is no liquid fund specified against the closing balance of development funds but the remaining amounts available in the bank and in the form of cash and as presented in the balance sheet are the funds against the development fund.

The submission of the school is considered and thus, while deriving the fund position of the school, amounts available in the bank and in the form of cash amounting INR 23,64,835 and INR 4,84,828 respectively are treated as development fund balance of the school. Total



Development Fund amounting to INR 28,49,663 thus needs to be deposited in the bank account opened for Development Fund. School is directed to ensure compliance of close 14 of order dated 11.02.2009 in letter and spirit.

B. Other Suggestion for Improvements

1. As per Clause 19 of Order No. F.DE/15(56)/Act/2009/778 dated 11.02.2009 *"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 *"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."*

And as per clause 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 *"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."*

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

Further, sub-rule 3 of Rule 177 of DSER, 1973 provides *"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)."*

And, 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."*

The review of the audited financial statements of FY 2022-23 revealed that the school charges earmarked levies in the form of Transport Fees, Health and club fees, computer fees, Lab charges, etc. But the school has not been maintaining separate fund account for these earmarked levies. Because the surplus or deficit generated by the school from these earmarked levies used to other expenditure of the school or vice versa.

Similar observation noted in Order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23.

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). However, the school has not been following



fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to 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 during subsequent proposal for enhancement of fees, ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

2. During the personal hearing, the school confirmed that it was not preparing a Fixed Asset Register (FAR). The school should ensure that FAR capturing details such as Asset Description, Quantity, Supplier name, invoice number, purchase date, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, identification number, etc. is prepared to facilitate identification of asset and documenting complete details of assets at one place.

The school confirmed that it will start preparing the FAR as per the recommendations of the Directorate. Accordingly, the school is again directed to prepare the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

3. The School is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter require to provide 25% reservation for children belonging to a EWS category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. From the records provided by the school, the percentage of EWS has been calculated below:

Particulars	FY 2022-23
Total Students	1,666
EWS Students*	358
% of EWS students	21.49%

**EWS includes non-fee-paying students.*

4. 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.

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique



Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practicing Chartered Accountants from 1 July 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated *"With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing."*

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.

Also, para 47 of SA 700 states *"The auditor's report shall be dated not earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

- All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*

However, the audited financial statements submitted by the school FY 2020-21, FY 2021-22 and FY 2022-23 did not include the following information:

- Independent Auditors Report duly signed by the Chartered Accountant.
- Receipt and Payment Account
- Unique Document Identification Number (UDIN)

During the personal hearing the school was asked to provide the above-mentioned details and get the clarification from the statutory auditor for not complying with direction of the ICAI with respect to the UDIN for last three financial years. But the school has not provided the above-mentioned details. It also important to mention that receipts and payment account for the FY 2020-21 was neither signed by the statutory auditor not by the management of the



school. Similar observation was also noted in order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 issued for the academic session 2022-23.

The above findings raising serious doubt on the reliability of the audited financial statements submitted by the school. Therefore, the school is hereby directed to get the relevant audit report from the statutory auditor and confirm whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements or not. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the statutory auditor, the school is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

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 and generation of UDIN.

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 is INR **14,97,33,003** out of which the expected expenditures of the school would be INR **15,79,62,711** resulting in deficit of INR **82,29,708** for the FY 2023-24. The detailed calculation is as under:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.23 as per Audited Financial Statements	28,49,663
Investments as on 31.03.23 as per Audited Financial Statements	1,26,52,094
Liquid Funds as on 31.03.2023	1,55,01,757
Add: Recovery from society towards purchase of vehicles (Refer Financial Suggestion for Improvement no. 4)	2,55,21,263
Add: Recovery from society for payment of interest taken for construction of building (Refer Financial Suggestion for Improvement no. 6)	3,31,118
Add: Fees for FY 2022-23 as per Audited Financial Statements (refer Note 1 below)	11,63,71,998
Add: Other Income for FY 2022-23 as per Audited Financial Statements (refer Note 1 below)	10,51,666
Add: Additional Fees due to increase in fee (refer Note 3 below)	57,56,958
Total Available Funds for FY 2023-24	16,45,34,760
Less: FDR in the joint name of Manager and CBSE/DOE (refer Note 2 below)	7,65,804
Less: Development fund (Refer Financial Suggestion for Improvement no. 7)	28,49,663
Less: Depreciation Reserve Fund (Refer Note 4 below)	-
Less: Gratuity and leave encashment LIC as per Audited Financial statements of FY 2022-23 (Refer Financial Suggestion for	1,11,86,290

Particulars	Amount (in INR)
Improvement No. 1)	
Net Available Funds for FY 2023-24 (A)	14,97,33,003
Less: Budgeted expenses for the session 2023-24(Refer Note 5 below)	15,13,84,000
Less: Salary arrears to the staff(Refer Note 6 below)	84,98,010
Total Estimated Expenditure for FY 2023-24 (B)	15,79,62,711
Net Deficit (A-B)	82,29,708

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.

Note2: The details of fixed deposit held by the school as per the audited financial statements of FY is provided below:

Particulars	Amount (in INR)	Remarks
FDR in the joint name of DoE and the Manager, School	7,65,804	FDR in the joint name of Manager, School and the Dy. Director of Education (District) hence, the same has been deducted while calculating the fund position of the school.
Towards Gratuity Provision	1,11,86,290	Refer financial suggestion for improvement no. 1
Salary reserve	7,00,000	Not in the joint name and hence, not considered.
Total	1,26,52,094	

Note 3: The school was allowed to increase fee 5% vide Order no.F.DE.15()/PSB/2023/2593-2598 dated 21.03.2023 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 thus, following amount has been considered as funds available with the school:

Fee heads	Actual receipt in FY 2022-23	Impact of increased fee @5% in FY 2023-24
Tuition fees	9,01,50,748	9,46,58,285
Annual Charges	1,62,21,081	1,70,32,135
Development fee	87,67,334	92,05,701
Total	11,51,39,163	12,08,96,121
Impact of fee increase		57,56,958

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 charges 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. I 5/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 already been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./1 5(56)/Act/2009/778 dated 11.02.2009, *"development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account"*. Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme Court in the case of Modern School Vs Union of India &Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states *"where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."*

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for the FY 2022-23 has not been considered while deriving the fund position of the school.



Note 5: All budgeted expenditure proposed by the school amounting INR 18,71,92,000 has been considered while deriving the fund position of the school except the following.

Heads	Budgeted expenditure in FY 2023-24(INR)	Amount Disallowed (INR)	Remarks
Club Expenses	45,20,000	45,20,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
IT & Lab Expenses	55,70,000	55,70,000	
Transportation Expenses	2,15,00,000	2,15,00,000	
Advertisement Expenses	12,18,000	12,18,000	New head of expenses proposed without any justification.
Interest on Overdraft for working capital	30,00,000	30,00,000	Refer Financial Suggestion for Improvement no. 4
Capital Expenditure	1,11,25,000	19,19,299	Restricted to development fee expected to be received in FY 2023-24
Total	4,69,33,000	3,77,27,299	

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 Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

Post hearing school has submitted the details of amount payable as salary arrears to the staff amounting INR 84,98,010 payable in the year 2023-24. Based on facts produced and the considering the financial implication on parents and the teachers' salaries, the submission of the school has been dealt in the order. The school is also directed to ensure to disclose its full liability for 7th CPC arrears in the audited financial statements and no impact of salary arrears will be allowed unless the same is disclosed/presented as liability of the school in the financial statements duly audited by the independent auditor.

- ii. In view of the above examination, it is evident that the school does not 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 utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the proposal of the school for the session 2023-24 have been evaluated and certain financial suggestions have been identified (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 the order) that the sufficient funds are not available with the school to carry out its operations for the academic session 2023-24.

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 DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

AND WHEREAS, it is noticed that the school has utilized INR 2,58,52,381 in contravention of the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from 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 the 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 fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are not available with the school for meeting financial implication for the academic session 2023-24. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 8% to be effective from 01.10.2023.

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

AND WHEREAS, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form 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, 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 the order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for fee hike of **The Indian Height School (School ID-1821238), Sector-23, Dwarka, New Delhi-110075** 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 accepted by the Director (Education) with the above conclusion and suggestions and the school is allowed to increase the fee by 8% for session 2023-24 to be effective from 01.10.2023.

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. To increase the fee only by the prescribed percentage from the specified date i.e., 01.10.2023.
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 the 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.



(BIMLA KUMARI)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

To:

The Manager/ HoS

The Manager/ HoS

The Indian Height School (School ID-1821238),

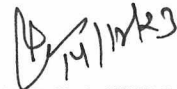
Sector-23, Dwarka, New Delhi-110075

No. F.DE.15(1676)/PSB/2023/ 10170-10174

Dated: 15/12/23

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 concerned (SwB)
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



(BIMLA KUMARI)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi