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

No. F.DE.15 (177)/PSB/2021/ 4687-4692 **Dated:** 12/11/21

Order

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 Delhi School Education Act, 1973 (hereinafter read as ***'the Act'***) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as ***'the Rules'***).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) 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 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

AND WHEREAS, accordingly, this 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, are directed to submit their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate, **Darbari Lal DAV Model School, Shalimar Bagh, Delhi-110088 (School ID- 1309175)** had submitted the proposal for fee increase for the academic session 2018-19. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2018-19**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-19, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 21 September 2021 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 the aforesaid hearing compliances against order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants and the key findings noted are as under:

A. Financial Discrepancies

1. Rule 177 of DSER, 1973 specified the manner in which the school should utilise fee collected from the students. And the Director's Order No. DE15/ Act/ Duggal.com/203/99/23033/23980 dated 15.12.1999 states " *management of the school is restrained form transferring any amount from the recognised school fund to society or trust or any other institution".* The Supreme Court also through its judgements on a review petition in 2009 confirm restriction on transfer of fund to the society"

The audited financial statements of the school for FY 2017-18, reflected receivable balance (Reserve Fund) of INR 5,14,66,646 from DAV CMC (Society) which has been carried over from the previous year. During the personal hearing, the school has submitted that the society is paying interest @8% per annum. In financial year 2018-19 the school has booked INR 41,17,332 towards interest on this fund. Therefore, the amount recoverable of INR 5,14,66,646 (without interest) has been included while deriving the fund position of the school with the direction to the school to the recover this amount from the society within 30 days from date of issue of this order. The school also submitted during the personal hearing that total amount of INR 5,55,83,978 (INR 5,14,66,646 plus INR 41,17,332) receivable from the society has been squared off in financial year 2019-20 which has been used for payment of salary arrears and regular salary to staff.

2. Clause No. 2 of 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 titled Delhi Abibhavak Mahasangh concluded states "*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.*"

Thus, based on the aforementioned provisions, cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds should not be utilized for this purpose.

The Directorate through order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued for academic session 2017-18, observed that the school incurred expenditure of INR 8,68,972 on construction of building out of the school funds in financial year 2014-15 which is in contravention of the aforesaid provisions. Moreover, the above capital expenditure was incurred without complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, the school was directed to recover this amount of INR 8,68,972 form the society which is still pending for recovery.

Now, the school has submitted different explanation for this addition. The school submitted although this has been capitalized under the head building, but this is not an addition to the school building. The record submitted by the school were taken on record and noted that INR 7,56,566 incurred for construction of the workstations for staff room and INR 1,02,956 incurred for ATM room. Since, the financial statements of the school have already been certified by its statutory auditor and we assume that the statutory auditor must have vouched the nature of these transactions before certifying the financial statements of the school. Therefore, the claim of the school not to treat this expenditure as an addition to school building is incorrect.

Therefore, this amount is still recoverable from the society as per the direction given in the previous years' order and has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of the issued of this order.

3. 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 should not be utilised any other purposes other than those specified in cluse 14 of the order dated 11.02.2009. However, during the evaluation of fee increase proposal, it was noted that the school had incurred expenditure of INR 37,77,400 for purchase of CNG bus during the financial year 2016-17 and presented the same as utilisation of development fund in its audited financial statements which is not in accordance with the direction of clause 14 of the order dated 11.02.2009. Also, the school incurred the above expenditure without complying the requirements prescribed in Rule 177 of DSER, 1973.

Further, it has also been observed that school has been using the development fund/fee for meeting the revenue expenditure like payment of salary etc. which also not in accordance with the direction of clause 14 of the order dated 11.02.2009. Thus, the amount spent by the school on purchase of bus for INR 37,77,400 has included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of this order.

4. Para 99 of the Guidance Note-21, Accounting by Schools (2005) 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.*"

However, the school on purchase of assets out of the development fund transfers an amount equivalent to the cost of the assets to general reserve instead of transferring it to a separate account e.g. "Development Fund Utilisation Account" or any other account whatever name it may be called. This separate account shall be treated as deferred revenue income and need to be written off in proportion of deprecation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilisation resulting incorrect reporting of the balance of General Reserve in the audited financial statements. Thus, the accounting treatment adopted by the school is not in accordance with the above guidance note.

During the personal hearing, school accepted this fact and agreed to rectify its accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of next academic session.

5. The Directorate's order dated 16.4.2201 states "*All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in*

payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

An analysis of the development fee collected and utilised by the school in last three financial year revealed that the school has been collecting development fee more than its requirement. During the last three years the school has generated surplus of INR 4,78,80,706 out of the development fee. This is also not in accordance with the direction of clause 14 of the order dated 11.02.2009. The below analysis indicates that the school has been generating more funds than its requirements for purchase, upgradation and replacement of furniture fixtures and equipment and thereby the school has been accumulating surplus under this head. Therefore, the school is required to determine actual requirement of development fee to be collected from the students for the next financial year onward.

The summary of development fee collected and utilised by the school as per audited financial statement has been provided below:

(Amount INR)

Particulars	**FY 2016-17**	**FY 2017-18**	**FY 2018-19**
Development Fee Received	2,25,95,930	2,22,22,675	2,12,07,105
Expenditure out the Development Fee	1,19,52,928	25,64,000	36,28,076
Surplus in each year	**1,06,43,002**	**1,96,58,675**	**1,75,79,029**
Total Surplus			**4,78,80,706**

In view of above, while calculating the fund position of the school, the amount of development fund balance has been restricted accumulation to actual amount collected by the school in financial year 2018-19 i.e INR 2,12,02,105.

6. As per Rule 177 of DSEA & R 1973, "*(1) 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:-

1. *award of scholarships to students.*
2. *establishment of any other recognised school, or*
3. *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.*

(2) The savings referred to in sub-rule (1) 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 per cent, of such savings."*

As per the details provided by the school and review of the audited financial statement revealed that school has paid scholarships to meritorious students without maintaining savings in accordance with Rule 177 of DSER, 1973. The school has awarded scholarships of INR 2,10,000 in FY 2016-17 and INR 1,77,600 in FY 2017-18 from the school funds. A similar observation was also noted in order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued for academic session 2017-18 which is still pending for recovery.

Therefore, the total amount of INR 3,87,600 paid by the school for scholarship award to students is hereby added to the fund position of the school considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

7. As explained by the school an administrative charge payable to DAV CMC are accounted for @ 4% of the basic salary paid by the school to its staff up to financial year 2016-17. However, DAV CMC has increased this administrative charge to 7% of the basic salary paid by the school to its staff from the financial year 2017-18. While evaluating the fee increase proposal for the financial year 2017-18, the school was directed to reduce percentage of administrative charges to 2% instead of 7% of the basic salary paid to its staff. Thus, the school instead of following the direction of the department, has increased the rate of administrative charge payable to DAV CMC.

Accordingly, the excess amount of INR 54,59,224 paid by the school to DAV CMC by way of administrative charge is recoverable from the society and has been included while deriving the fund position of the school considering the same fund is available with the school, with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. The school is further, directed do not pay balance amount INR 19,83,960 to the society. Administrative charges paid by the school to DAV CMC has been provided below.

(Amount in INR)

Particulars	**FY 2017-18**	**FY 2018-19**
Basic Pay	6,72,07,288	14,68,53,402
Total	**6,72,07,288**	**14,68,53,402**
Applied Rate	4%	7%
Administrative charges (as per applied rate) (A)	26,83,031	1,02,46,367
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	13,44,146	29,37,068
Difference (A-B)	13,38,885	73,09,299
Less: Administrative charges payable (as per audited financial statements)	-	19,83,960

Particulars	FY 2017-18	FY 2018-19
Balance recoverable from Society	**13,38,885**	**53,25,339**

8. As per practice adopted by the schools under the management of the DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance and then this is transferred to the DAV CMC. The DAV CMC in turn manages and maintains common pool of funds for all the schools under its management and uses the same for payment of gratuity and leave encashment liability as and when arises on account of his/her resignation or retirement. The department had directed to the school through its order no. F.DE-15/Act/-I/WPC-4109/Part/13/912-916 dated 26.09.2017 to obtain an actuarial valuation of its gratuity and leave encashment liabilities and disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in its financial statements.

Further, during personal hearing of last academic session 2017-18, the school had agreed to report its liability as per the actuarial valuation along with investment in plan assets as per the requirements of AS-15 from financial year 2018-19. The school also agreed to invest the amount of funds available with DAV CMC in plan assets.

The school for the first time has obtained Actuary repot for gratuity and leave encashment as at 31.03.2019 which has been taken on record. As per the Actuary report, the school has liability towards gratuity and leave encashment as on 31.03.2019, INR 17,09,75,637 and INR 3,21,79,740 respectively. But the school has not recorded total liability towards gratuity and leave encashment in its audited financial statements. The details are as under.

(Amount in INR)

Head	As per Actuary Report as on 31.03.2019 (A)	As per Audited FS as on 31.03.2019 (B)	Difference C=(A-B)
Gratuity	17,09,75,637	6,45,40,071	10,64,35,556
Leave Encashment	3,21,79,740	3,59,98,988	38,19,248

Further, according to Para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies."

Based on the discussion with the school during the personal hearing, the school has not invested any amount in the plan assets in accordance with the requirement of AS-15. During the discussion the school also provided details of fund balance with DAV CMC in respect of payment made to DAV CMC towards maintenance of gratuity and leave encashment including the interest accrued. However, this investment in the form of fund balance maintained by DAV CMC. The balance disclosed by the school based on records maintained by the DAV CMC as on 31.03.2019 have been indicated below.

(Amount in INR)

Head	Balance as on 31.03.2019
Gratuity & Leave Encashment balance with DAV CMC	8,98,47,240

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). Further, the school has provisioned INR 1,13,81,031 towards gratuity and INR 48,78,973 towards leave encashment for the FY 2018-19 without depositing any amount in the plan assets in accordance with AS-15 despite being directed several times. Since the school has not deposited any amount in the plan assets in accordance with AS-15 and not complied with the directions given in order no. FDE15(31) PSB/2019/902 -906 dated 22.01.2019 issued for academic session 2017-18 and Order no. F.DE-15/Act-I/WPC-4109/Part/13/959 dated 13.10.2017. Therefore, these provisions towards gratuity and leave encashment have not been considered while deriving the fund position of the school.

As the school has not complied with directions of the department, the amount for gratuity and leave encashment actually paid by the school during financial year 2018-19 amounting to INR 25,93,169 and INR 4,63,472 respectively have been considered in the calculation of available fund of the school with the direction to the school to comply with the direction to the school to comply with the direction of the school.

9. The Director's Order no. DE.15/Act/Duggal.Com/203/99/23033-23980 dated 15.12.1999, indicated the head of fee that recognised private unaided school can collect from the students/ parents which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Also, the order no. 9 of the aforesaid order states " *no fee, fund or any other charge by whatever name called, shall be levied or released unless it is determined by the Managing Committee in accordance with the directions contained in this order....*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

However, on review of school fee proposal for academic session 2018-19 it has been noted that the school has been charging fee in the name of Orientation Charges amounting INR 5,000, Stipulated Learning Charges amounting INR 5,000 and Community Outreach Programme amounting INR 5,000 at the time of new admission. During discussion, the school has submitted that earlier it was charging and collecting fee in the name of Students Activity Welfare Fund amounting INR 11,000 at the time of new admission and charged the same till FY 2017-18 only.

The Directorate through its order issued post evaluation of fee increase proposal for academic session 2016-17 instructed to schools running by DAV CMC.

......School is not allowed to charge one-time fees at the time of admission for development activity of students. Charging of one-time fees at the time of admission tantamount to capitation fee which is prohibited under section 13 of the Right of Children to Free and Compulsory Education Act, 2009. The school is hereby directed not to charge any such fee from the students in future and to adjust the fee already collected against monthly fee due...

However, on review of school fee proposal for academic session 2018-19 it has been noted that the school has been charging fee in the name of Orientation Charges amounting Rs. 5,000, Stipulated Learning Charges amounting Rs. 5,000 and Community Outreach Programme amounting Rs. 5,000 at the time of new admission. During discussion, the school has submitted that earlier it was charging and collecting fee in the name of Students Activity Welfare Fund amounting Rs. 11,000 at the time of new admission and charged the same till FY 2017-18 only.

Thus, in view of the above, the school is not allowed to charge any fee in the name of Orientation Charges, Stipulated Learning Charges and Community Outreach Programme fee from the students at time of admission as a capitation fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is hereby directed to stop such collection of Orientation Charges, Stipulated Learning Charges and Community Outreach Programme fee with immediate effect.

10. During the financial year 2016-17, it was noted that an amount of INR 5,00,000 was paid to DAV CMC on account of advertisement and publicity. As per the school submission this amount was paid as part of the subscription to defray the expenses of holding function in Jawahar Lal Nehru Stadium where the students of the school also participated besides other schools. However, the school could not provide supporting documents in relation to the event such as list of participant schools, number of school participants, amount of contribution, total cost incurred, supporting of the invoices, basis of allocation of cost, etc.

    In the absence of information, the expense of INR 5,00,000 is deemed to be an expense incurred on behalf of the DAV CMC. Accordingly, the amount paid to DAV CMC as donation/ grant is hereby added to the fund position of the school considering eh same as funds available with the school and with the direction to the school to recover the same form the society within 30 days from issue of this order.

B. Other Discrepancies

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.*"

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

However, as per audited financial statements of the school, it has been noted that the school charges earmarked levies in the form of Transport Fees, Science fee, IT Charges, Activity Charges, Group Insurance, Internet Charges and Computer Fee from students, safety and security (newly introduced). However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

The aforementioned Guidance Note 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 should maintain 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 fee 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. Accordingly, the school is directed to comply with the above-mentioned provisions.

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and 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 should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is directed to stop collecting separate charges in the name of the Activity fees, internet and Computer fees immediately failing which necessary action shall be initiated against the school under section 24(4) of DSEA, 1973.

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ......*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Other.

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing, and stationery etc.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Also, the school is directed not to collect pupil fund form students with immediate effect. A similar observation was also noted while evaluating the fee increase proposal for financial year 2017-18.

3. As per the Director's order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued for academic session 2017-18, it was observed that the school has not prepared Fixed Asset Register (FAR). During personal hearing the school submitted that it has formed a team for physical verification of fixed assets and all the data has been captured in Microsoft excel post physical verification of fixed assets. It is also submitted that it had purchased a software in July 2018 and feeding the data in the software since 01.04.2014 by taking closing balance of 31.03.2014.

The school was asked to provide the copy of fixed assets register either in soft copy or hard copy in order to see the progress of work, but the school has not provided these details for verification. In the absence of the same, it cannot be ascertained whether has prepared fixed assets register or not and that too in the proper format. The fixed assets register normally include basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. Therefore, the school is directed to prepare and submit the fixed assets register at he earliest. The same shall be verified at the time of evaluation of fee proposal of the school for next academic session.

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 2018-19 amounting to INR **39,03,44,548** out of which cash outflow in the FY 2018-19 is estimated to be INR **32,56,80,127**. This results in net balance of surplus amounting to INR **6,46,64,421** for FY 2018-19 after all payments. The details are as follows:

Particulars	**Amount in INR**
Cash and Bank balances as on 31.03.18 as per audited Financial Statements	2,39,40,463
Investments (Fixed Deposits) as on 31.03.18 as per audited Financial Statements	7,44,523
Current Account Balance with DAV CMC as on 31.03.2018 as per audited Financial Statements of FY 2017-18	7,80,32,779
Capital fund/ Reserve fund of Schools/Colleges with DAV CMC in the books of Schools/ Colleges as on 31.03.2018 **(as per observation 1 of Financial Discrepancy)**	5,14,66,646
Add: Recovery of additions to building reflected in financial statement for FY 2014-15 from the Society **(as per observation 2 of Financial Discrepancy)**	8,68,972

Particulars	Amount in INR
Add: Recovery of additions to vehicles reflected in financial statement for FY 2016-17 from the Society **(as per observation 3 of Financial Discrepancy)**	37,77,400
Add: Recovery from Society for the scholarships paid by school during the FY 2016-17 and 2017-18 **(as per observation 6 of Financial Discrepancy)**	3,87,600
Add: Recovery from Society on account of advertisement and publicity charges paid during the FY 2016-17 **(as per observation 10 of Financial Discrepancy)**	5,00,000
Add: Recovery of excess administration charges from DAV CMC **(as per observation 7 of Financial Discrepancy)**	66,64,224
Less: Development Fund **(as per observation 5 of Financial Discrepancy)**	2,12,07,105
Less: Excess fee collected by school **(Refer Note 1 below)**	85,99,432
Less: Fixed Deposits in the joint name of Secretary, CBSE and Manger, School as on 31.03.2019 (as per School's submission)	7,44,523
Available funds	**13,58,31,547**
Fees for FY 2018-19 as per audited Financial Statements.	24,69,56,598
Other income for FY 2018-19 as per audited Financial Statements.	75,56,403
Total available funds for 2018-19	**39,03,44,548**
Total cash outflow (Refer Note 2)	29,25,09,927
Less: Arrears of salary as per 7th CPC (as per school submission)	3,31,70,200
Estimated Surplus/(Deficit)	**6,46,64,421**

Note 1: The Directorate vide its Order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16.04.2016 issued with respect to fee increase proposals for FY 2016-2017, ".... *the schools have already charged any increased fee prior to issue of this order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal.*" Based on the details submitted by the school, it was noted that the school had increased the fee during FY 2016-17 without approval from Director of Education. However, based on the information provided by the school during the evaluation of fee increase proposal for academic session 2017-18. It was noted that out of the total excess fee INR 1,20,99,567 collected by school in FY 2016-17, the school has already refunded INR 35,00,135. The balance amount of INR 85,99,432 is yet to be refunded to the students. During the personal hearing the school has confirmed that no such refund/ adjustment has been made. Therefore, this excess fee of INR 85,99,432 collected by the school has been adjusted while deriving the fund position of the school with the direction to the school to refund/ adjust this within 30 days from the date of issue of this order.

Note 2: As per financial observation no. 8, the school has not deposited any amount to LIC or similar agency towards gratuity and leave encashment despite being instructed several times by the department. Accordingly, the school provision made by school amounting INR 1,13,81,031 towards gratuity and INR 48,78,973 towards leave encashment for the FY 2018-19 has not been considered while deriving fund position of the school.

ii. The School has sufficient funds to carry on the operation of the School for the academic session 2018-19 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the school may be rejected.

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 WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2018-19 of **Darbari Lal DAV Model School, Shalimar Bagh, Delhi-110088 (School ID-1309175)** is rejected by the Director of Education.

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

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2018-19 and if the fee is already increased and charged for the academic session 2018-19, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.
3. To rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down

by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

5. To utilise 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.

6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.
This is issued with the prior approval of the Competent Authority.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Darbari Lal DAV Model School, (School ID- 1309175)
Shalimar Bagh, Delhi-110088

No. F.DE.15 (177)/PSB/2021/4687-4692 Dated: 12/11/21

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-A) 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.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi