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

No. F.DE.15 (488)/PSB/2022/ 2704 - 2708 **Dated:** 10/05/22

Order

WHEREAS, **Mother Mary's School (School ID-1002353), Site No.1, Sahkarita Marg, Mayur Vihar, Phase – I, Delhi - 110091,** (hereinafter referred to as **"the School"**), run by the **Dr. Walia Charitable Trust Society** (hereinafter referred to as the "**Society")**, is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi **(hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 **(hereinafter referred to as "DSEAR, 1973").** The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"27....

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, 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 session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, the **Mother Mary's School (School ID-1002353), Site No.1, Sahkarita Marg, Mayur Vihar, Phase – I, Delhi - 110091,** submitted the proposal for fee increase for the academic session **2018-19**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the 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 27.01.2020 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. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 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 observations noted are as under:

A. Financial Observations

I. As per clause 2 of Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

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

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.
b) The needed expansion of the school or any expenditure of a developmental nature;
c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.
d) Co-curricular activities of the students.
e) Reasonable reserve fund, not being less than ten percent, of such savings.

Accordingly, based on the aforementioned public notice, High Court Judgement and provisions of Rules 177 of DSER, 1973, the 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 i.e. fee collected from students is not to be utilized for the same.

The Directorate in its order no. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18, noted that the school had incurred expenditure on construction of building out of school funds and capitalized under the head building for INR 3,24,24,857 in the FY 2015-16 & 2016-17 in non-compliance of the above-mentioned provisions. Accordingly, the school was directed to recover INR 3,24,24,857 from society for the expenditure incurred for the construction of the building. However, the same is still pending for recovery.

The school instead of complying with the above direction and refrain itself from incurring expenditure on the construction of the school building has further incurred INR 9,82,500 in FY 2017-18 and INR 30,22,741 in FY 2018-19 on construction of the school building without complying with the above-mentioned provisions. It has also been noted that the above expenditure was incurred by the school before meeting its statutory liability towards employee benefits i.e., investment in plan assets to secure the payment for gratuity and leave encashment. Based on above-mentioned provisions, the amount totaling to INR 3,64,30,098 incurred by the school on addition to the school building is recoverable from the society being the property of the society. Therefore, the aforesaid recovery has been included in the calculation of available fund of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

II. Section 2(m) defines that "Manager" in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school".

Further, Rule 59 of DSEAR, 1973 states, "Regarding appointment and qualification of Manager 59(2)(i),the educational and other qualifications of the manager and his duti es and responsibilities; the position of the manager viz-a-viz the managing committee:(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided;(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties and responsibilities of the manager;(l) bills (including bills relating to the salaries and allowances of the teachers and non- teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf;(m)that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school;(r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager. Thus, the manager of the school cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.The post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Hence, the Manager of the School cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

As per Directorate's order no. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18, the school was directed to recover INR 23,40,000 (i.e., INR 65,000 * 12 months * 3 years) from the manager/ society being honorarium paid to manager during the FY 2014-15, 2015-16 and 2016-17. The school has not recovered this amount until now.

The reply submitted by the school post personal hearing were taken on record, the review of these documents revealed that the school has been continuing paying salary to the manager during the FY 2017-18 and 2018-19. The amount paid by the school to the manager by way of salary in FY 2017-18 was INR 8,09,250 and in FY 2018-19 was INR 8,19,000.

Based on the above-mentioned provision, the post of the manager is honorary post. Therefore, total remuneration of INR 39,68,250 paid by the school to the manger is recoverable from the manger/ society of the school within 30 days from the date of issue of this order. Accordingly, INR 39,68,250 is hereby added while deriving the fund position of the school considering the same as funds available with the school.

III. Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state that *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

The Directorate in its order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18, noted that school had utilized the development fund for purchase of other assets i.e., other than for purchase, upgrade and replacement of furniture, fixtures and equipment. In the aforesaid, the school was directed to ensure utilization of development fund only towards purchase, upgradation and replacement of furniture, fixture and equipment because during the FY 2016-17, the school has reflected utilization of development fund of INR 18,47,880 whereas as per fixed assets schedule, total fixed assets purchased were excluding building amounting to INR 9,10,108 which indicates that the school had utilized INR 9,37,772 (INR 18,47,880 minus INR 9,10,108) for purchase of assets out of development fund other than those directed in clause 14 of order dated 11.02.2009.

However, on review of financial statements of the school for FY 2017-18 and 2018-19, it was noted that the school has again utilized development funds for purchase of assets other than purchase, upgradation and replacement of furniture, fixtures and equipment. .

Detail of development funds utilized by the school other than purpose for which it was collected is tabulated below:

Particulars	FY 2017-18	FY 2018-19
Building	1,30,590	30,22,741
Basketball court	9,82,500	-
Scooter	50,326	-
Library Books	50,598	10,000

In view the above, the school is directed to ensure proper utilization of development fund, as the development fund can only be utilized for purchase, upgrade and replacement of the furniture, fixtures and equipment. And if the school is willing to purchase any other assets other than furniture and fixtures the same can be procured only out of the saving calculated in accordance with Rule 177 of the DSER, 1973.

IV. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 01.02.2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."

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

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

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

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

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From review of audited financial statements, it has been noted that the school charge earmarked levies in the name of IT Account Fee, Magazine Fee, Examination & worksheet Fee, Mid-day Meal Fee, Transport Fee, and Science charges. The school is following fund-based accounting in respect of all earmarked levies but the receipts and expenditure against the earmarked levies are not routed through the income and expenditure account and directly shown the fund position in the balance sheet. Accordingly, the school is directed to show the receipts and expenditure against the earmarked levies in the income and expenditure

Further, it has been noted that the school has shown Computer Fees as income for the period FY 2016-17 to 2018-19. But E-Care and ID Card are shown as income only in FY 2016-17. While the school has neither submitted the fee structure for FY 2017-18 and 2018-19 nor submitted the fee receipts, the fee collected in the name of E-care and ID Card cannot be determined for FY 2017-18 and 2018-19.

However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income, which was also mentioned in DOE's order No. F.DE-15/ACT-I/WPC-4109 /PART/13/ 291-295 dated 27.12.2016 and F.DE-15/(146)/PSB/2019/1862-1866 dated

22.02.2019. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, 2017-18 and 2018-19 is given below:

Particulars	Computer Fee	E Care Receipts	ID Card Receipts
For the year 2016-17			
Fee Collected during the year (A)	8,24,060	6,240	93,170
Expenses during the year (B)	5,95,121	7,41,410	96,061
Difference for the year (A-B)	**2,28,939**	**-7,35,170**	**-2,891**
For the year 2017-18			
Fee Collected during the year (A)	13,29,960	-	-
Expenses during the year (B)	11,15,188	-	-
Difference for the year (A-B)	**2,14,772**	**-**	**-**
For the year 2018-19			
Fee Collected during the year (A)	14,27,776	-	-
Expenses during the year (B)	9,03,620	-	-
Difference for the year (A-B)	**5,24,156**	**-**	**-**
Total Surplus/ (Deficit)	**9,67,867**	**-7,35,170**	**-2,891**

The school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies 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.

Also, the Directorate in its order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016, issued to the school post evaluation of fee increase proposal for FY 2016-2017, noted that the school does not provide fee receipt in respect of e-Care fees collected from the students. In the aforesaid order the school was directed not to collect any fee against which no fee receipt is not issued to the students.

Also, in the same order dated 27.12.2016, it was noted that transport fee was not routed through Income and Expenditure Account instead the school has opened a separate management fund account for receiving transport fee. The audited financial statements for FY 2016-17 also did not reflect income and expenses from transport fee. It was further noted from the financial statements for FY 2016-17 that the school has reported a liability in the name of "management fund" having balance of INR 1,02,51,160 as on 31.03.2017. However, the school did not provide any details and ledger account of management fund to understand the nature of transactions routed through this and the school was directed to submit the ledger account of "Management Fund" along with necessary supporting documents to substantiate the transactions made in the same.

In view of the above, it has been noted that directions issued to the school in the Directorate's order dated 27.12.2016 & 22.02.2019 with respect to transportation fee and E-care charges has not been complied by the school.

While evaluating the fee increase proposal for the academic session 2018-19, the school was asked to submit the necessary details with respect to the above findings which the school has not provided for until now. In the absence of necessary details and ignorance by the school in submitting the requisite documents indicates that the school is indulge in charging of unwarranted fee or profiteering and commercializing the education. Therefore, the school is hereby directed to submit necessary details within 30 days from the date of issue of this order. Non-compliance with this direction shall be dealt in accordance with the provision of DSEAR, 1973 without giving further notice in this regard.

V. Para 99 of Guidance Note on 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.*" Further, Para 102 of the aforementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

a. In respect of each major fund, opening balance, additions during the period, deductions/ utilisation during the period and balance at the end.
b. Assets, such as investments, and liabilities belonging to each fund separately.
c. Restrictions, if any, on the utilisation of each fund balance.
d. Restrictions, if any, on the utilisation of specific assets."

Also, para 67 of the aforementioned Guidance Note states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

Basis the presentation made in the audited financial statements, , it was noted that the school has not transferred an amount equivalent to the purchase cost of the assets from Development fund to Development Fund utilization account (Deferred Income) which is not in compliance with the accounting treatment specified by the above-mentioned guidance note.

However, upon purchase of the assets out of the development fund the school use to transfer the whole cost of assets to general funds resulting overstatement of General Fund balance with this notional figure. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Noted- 21 issued by ICAI. Further, the school is directed to pass the necessary rectification entries and report the correct general fund balance in its audited financial statements. As per the audited financial statements, the school has utilized development fund for purchase of assets which requires the correct accounting adjustments.

Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Total
Development Fund utilised	90,52,706	18,47,880	1,35,32,189	49,79,528	2,94,12,303

VI. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date.

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.*"

The review of the audited financial statements of FY 2017-18 revealed that the school has reported the liability for gratuity of INR 1,72,09,132 while the liability as per the actuarial valuation report was INR 1,76,16,655 which means the school has under reported the liability towards gratuity in its audited financial statements.

It has also been noted that school has not invested any amount in the fund which qualify as plan assets as per the requirements of AS-15. During the personal hearing the school explained that it has maintained investment in the form of fixed deposit with the banks which can be utilized for payment of the retirement benefits as and when any expenditure arise in this regard. As the investment in the form of FDR does not quality as plan assets within the meaning of AS-15, therefore, the same cannot be allowed. Similar observation was also noted by the DoE in its order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for academic session 2017-18. As the school has not complied with direction issued in the previous year order, the amount of INR 2,15,47,950 allowed to the school as per the order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 has been considered while deriving the fund position of the school with the direction to the school to make an investment that qualify as 'Plan Assets', equivalent to total liability determined by the actuary, within 30 days from the date of issue of this order.

B. Other Observations

I. As per Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

However, on review of audited financial statement for FY 2015-16 to 2018-19, it has been observed that only principal amount of caution money is being refunded to the leaving students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009/778 dated 11.02.2009. Further, as per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of Audited Financial Statements of FY 2018-19 submitted by the school, it has been noted that the school has not considered the un-refunded caution money as income of FY 2018-19. In the absence of available information, the amount of un-refundable caution money belonging to ex-students which could have been treated as income and the correct balance of caution money cannot be determined.

Therefore, the school is directed to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the subsequent year.

II. Directorate's order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued to the school post evaluation of the proposal for enhancement of fee for FY 2016-17 noted few instances of late payment of PF and ESI. Further, from the ESIC deposit challans submitted by school for FY 2016-17, it was noted that the payment of ESIC dues were delayed in 4 months.

As per Directorate's order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to ensure compliance with the statutory provisions and ensure that employees' statutory dues are paid within the prescribed timelines which the school has yet to comply.

III. Directorate's Order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued post evaluation of fee increase proposal for FY 2016-17 noted that the income shown in the financial statements was in excess of INR 3,75,895 as per the reconciliation prepared on the basis of number of students and the class wise fees to be collected from students and actual income recorded by the schools in its financial statements.

On the basis of computation, difference was noted in the development fee collection reported by the school during FY 2016-17 in its audited Receipt & Payment Account and amount of fee arrived/computed as per details provided by the school as under:

Particulars	Amount (in INR)
Development Fee receipt as per Audited Receipt and Payment Account for FY 2016-2017 (A)	68,84,683
Development Fee for FY 2016-2017 receivable as per Audited Balance Sheet as on 31 Mar 2017 (B)	23,160
Development Fee received in advance for FY 2016-2017 as per Audited Balance Sheet as on 31 Mar 2016 (C)	7,08,025
Total Development Fee for FY 2016-2017 (D) = (A+B+C)	**7,615,868**
Development fee computed based on fee structure and number of students provided by the school for FY 2016-2017 (E)	**9,009,480**
Difference – Income reported in Financial Statements less than the fee computed (F) = (E-D)	**13,93,612**

As per Directorate's Order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued post evaluation of fee increase proposal for FY 2016-17 and order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to prepare and submit reconciliation of the fee collected from students and income to be recognized based on the fee structure and number of fee paying students enrolled by the school for FY 2015-16 to 2018-19. However, the school did not provide any reconciliation/ explanation noted above.

Accordingly, the school is once again directed to prepare and submit reconciliation of the fee collected from students and income to be recognized based on the fee structure and number of fee-paying students enrolled by the school for FY 2015-16 to 2018-19 within 30 days from the date of issue of this order. Non-compliance with this direction shall be strictly viewed at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

IV. As per Rule 166 of the Delhi School Education Rules, 1973, "school shall charge fine for late payment of fees or contributions at the rate of 5 paisa per day after 10th day of the month for which the fee is due." However, Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/291-295 dated 27.12.2016 issued to the school post evaluation of the proposal for enhancement of fee for FY 2016-17 noted that the school is charging late fees of INR 50 per month (after due date) for delay, which is not in compliance with rule 166.

As per Directorate's order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to ensure compliance with the provisions of DSEA & R, 1973, and submit the compliance status within 30 days from the date of issue of this order.

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 20,29,75,781** out of which cash outflow for the FY 2018-19 is estimated to be **INR 10,59,04,534.** This results in net balance of Surplus amounting to **INR 9,70,71,247** 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 of FY 2017-18)	3,08,18,689
Investments as on 31.03.18 as per audited Financial Statements (as per audited Financial Statements of FY 2017-18)	6,39,65,161
Total Liquid Funds Available with the School as on 31 Mar 2018	**9,47,83,850**
Add: Fees and other incomes for FY 2018-19 based on audited financial statements of FY 2018-19 of the school	10,88,12,960
Add: Recovery from Society of amount spent on Building **(Refer Financial Observations No. I)**	3,64,30,098
Add: Recovery from Society for salary paid to manager (**Refer Financial Observations No. II)**	39,68,250
Gross Available Funds for FY 2018-19	**24,39,95,158**
Less: Development Fund as on 31.03.2018	63,28,894
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager of the school	4,24,007
Less: Fixed Deposit with Bank in the joint name of Dy Director of Education and Manager of the school	10,02,526
Less: Caution money as on 31.03.2018	17,16,000
Less: Staff Retirement Benefits **(Refer Financial observations No. VI)**	2,15,47,950
Less: Salary Reserve Fund **(Refer Note 1 below)**	1,00,00,000
Less: Depreciation Reserve **(Refer Note 2 below)**	-
Net Available Funds for FY 2018-19	**20,29,75,781**

Particulars	Amount in INR
Less: Arrears of salary as per 7th CPC with effect from January 2016 **(Refer Note 4 below)**	1,77,22,807
Net Surplus	**9,70,71,247**

Note 1: Though the school has adequate funds and has also created salary reserve of INR 1,00,00,000 in the audited financial statements of FY 2018-19. Accordingly, the school is directed to earmarked fixed deposit in the joint names of Deputy Director of Education and the Manager of the School and submit the compliance within 30 days from the date of issue of this order.

Note 2: The school has charged depreciation on fixed assets and has transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. While development fund has been adjusted for deriving the fund position of the school, depreciation reserve is more of an accounting head for appropriate 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, it is not considered in table above.

Note 3: All income and expenditure as per the audited financial statements of FY 2018-19 has been considered except depreciation being non-cash item.

Note 4: Vide order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority". Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 6th September 2018 for implementation of sixth pay commission recommendations.

As per the minutes of meeting of the School Management Committee, it has been noted that School Management has decided not to implement the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds with the school and instead the school management has decided to implement w.e.f. the recommendations of 7th CPC fully/partially 01.04.2019.

However, as per the Financial Statements of the school, there was no need for any increase in the existing fee structure for extending the benefit of 7th CPC to its staff including payment of arrears along with managing other operational expenses of the school. The school has devised its fee structure in such a manner that it is able to absorb all the expenditures without increasing the fee. It is also important to mention here that vide F.DE-15/(146)/PSB/2019/ 1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, wherein it was found that the school had sufficient funds after considering the impact of 7th CPC. Accordingly, the school was directed to implement the recommendations of 7th CPC. But the school has not complied with the above direction. Therefore, the school management is hereby directed for payment of salary to its staff as per the recommendations of 7th CPC and do not withheld the pay scales and benefit of 7th CPC in the shadow of no fee increase was allowed to the school. Accordingly, salary arrears allowed to the school from January 2016 to March 2018 in the previous year's order amounting to INR 1,77,22,807 (which is still pending for payment) has also been considered in the above calculation. Further, the school has not provided arrears details for the FY 2018-19 therefore, no impact has been considered for the same. Non-compliance with the above direction shall be dealt u/s 24(3) of DSEA, 1973.

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 along with certain financial and other observations, 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, it is noticed that the school has contravened provisions of DSER, 1973 and other orders issued by the departments from time to time. Accordingly, the school is directed to recover INR 4,03,98,348 from the society. The receipt of above amount along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of receipt of this order. Non-compliance of this shall be taken up in accordance with the provision of DSEA&R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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.

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, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2018-19 of **Mother Mary's School (School ID-1002353), Site No.1, Sahkarita Marg, Mayur Vihar, Phase – I, Delhi - 110091** is rejected by the Director (Education).

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

1. Not to increase any fee/charges during FY 2018-19. In case, the school has already charged increased fee during FY 2018-19, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

This is issued with the prior approval of the Competent Authority

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

To
The Manager/ HoS
Mother Mary's School (School ID-1002353)
Site No.1, Sahkarita Marg,
Mayur Vihar, Phase – I, Delhi – 110091

No. F.DE.15 (488)/PSB/2022 / 2704-2708 Dated: 10/05/22

Copy to:

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

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