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

No. F.DE.15(508)/PSB/2022/ 2925-2929 **Dated:** 12/05/22

ORDER

WHEREAS, **St. Lawrence Public School, Pocket F, Dilshad Garden, New Delhi – 110095, School ID-1105215** (hereinafter referred to as "**the School**"), run by the St. Lawrence Educational Society (hereinafter referred to as "**Society**"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as **"DSEAR, 1973")**. The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year 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) 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 School submitted its proposal for enhancement of fee 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 examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE 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 to be heard on 29.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. F.DE-15/(56)/PSB/2019/932-936 dated 22.01.2019, issued for academic session 2017-18, was also discussed and submissions taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations noted are as under:

A. Authenticity of Audited Financial Statements

1. As per 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 Practising 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 practising Chartered Accountants from 1 Jul 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 no 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:*

   (a) All the statements that comprise the financial statements, including the related notes, have been prepared; and

(b) *Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*

The financial statements for FY 2018-2019 submitted by the school dated 20 Oct 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.

Also, the financial statements for FY 2018-2019 submitted by the school did not include the audit report of the auditor on the financial statements. Since the school failed to provide the audit report issued by the auditor in absence of which it could not be determined whether the Balance Sheet and Income and Expenditure Account gives a true and fair view on the state of affairs of the school, surplus/deficit during the year and cash flows during the year respectively. Also, the school failed to provide the notes to accounts along with the financial statements. Further, from the financial statements of FY 2016-2017 to FY 2018-2019, it appears that the school failed to prepare and submit Receipt and Payment accounts as part of its financial statements. Also, since the auditor signed the financial accounts for FY 2018-2019 on 20 Oct 2019, the school did not comply with the requirement of submission of audited final accounts in accordance with the timeline prescribed in Rule 180(1).

While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2018-2019 assuming the same as unaudited/provisional financial statements.

The school is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the school for FY 2018-2019. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the 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 its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

The school is also directed to submit financial statements to the Directorate, which must be complete (including Audit Report, Receipt and Payment Account and Notes to Accounts) and comply with announcements and applicable Standards issued by the Institute of Chartered Accountants of India. The school is directed to ensure the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted to the Directorate.

2. On examination of the financial statements for FY 2016-2017 to FY 2018-2019, it was noted the financial statements were not appropriately authenticated by the representatives of the school, since only the principal signed the Balance Sheet, Income and Expenditure Account, Receipt & Payment Account and schedules annexed to the financial statements. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

   The school is directed to ensure that the entire set of financial statements (all pages, schedules including Notes to Account) must be appropriately signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

B. Key Observations

1. As per direction no. 2 included in the Public Notice dated 4 May 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 Oct 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 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and High Court judgement, 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 utilised for the same except in compliance with Rule 177 of DSER, 1973.

   Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

   Directorate's order No. F.DE.15 (56)/PSB/2019/932-936 dated 22 Jan 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school had incurred expenditure totalling to INR 29,10,382 (INR 18,00,382 in FY 2015-2016 and INR 11,10,000 in FY 2016-2017) towards construction of school building out of development funds. The school was directed to recover this amount from the society.

The school represented that the expenditure was incurred on renovation of existing building, which is in compliance of Rule 177. Therefore, the same should be allowed by the directorate.

Based on the fact that the school did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 till 2 Aug 2019 and did not make any investment in group gratuity scheme and group leave encashment scheme of LIC or other insurer to secure funds towards staff gratuity and leave encashment till date, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized 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*" before incurring expense on building. Accordingly, the burden of expenditure of developmental nature on the building could not shifted on the students and has to be borne by the Society on account of non-compliance with provisions of DSEA&R, 1973.

Further, from the audited financial statements for FY 2017-2018, it was noted that the school had incurred additional expenditure of INR 22,41,462 on construction of building out of development funds, which was not in accordance with the aforementioned provisions. While as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and 2004 judgement of Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others, development fund could be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment, utilisation of development fund for construction/ development/ addition to building is a non-compliance by the school. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

Since the school has not recovered any amount from the Society till date. Accordingly, the above-mentioned expenditure of INR 51,51,844 (INR 29,10,382 plus INR 22,41,462) incurred by the school for school building is hereby added to the fund position of the school (enclosed in the later part of this order) 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 this order. Further, the school is directed not to incur any expenditure on building unless it ensures compliance with Rule 177.

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure….. capital expenditure/investments have to come from savings.*"

   Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the* *investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

On review of the financial statements of the school for FY 2018-2019, it was noted that the school has purchased a bus of INR 15,96,000 from development fees, which was not in accordance with the aforementioned provisions. While as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and 2004 judgement of Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others, development fund could be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment, utilisation of development fund for construction/ development/ addition to building is a non-compliance by the school

While the school is not following fund-based accounting and has not created fund account against transport service provided to students by the school, the income and expense towards transport service from the financial statements of the school for FY 2015-2016 to FY 2018-2019 were evaluated and it was noted that the school was charging transport fee, which was not even adequate to cover revenue (operating) expenses for providing the transport service to students. Thus, estimated calculation of deficit based on documents and information on record, is enclosed below:

Particulars	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019
Income				
Transport Fees (A)	15,77,850	15,74,700	15,63,993	23,78,700
Expenses				
Transport Expenses	16,95,849	16,74,471	24,84,671	29,46,619
Total Expenses^ (B)	**16,95,849**	**16,74,471**	**24,84,671**	**29,46,619**
Surplus/(Deficit) (C)=(A-B)	**(1,17,999)**	**(99,771)**	**(9,20,678)**	**(5,67,919)**

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles over the life of the vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

The school explained that a bus was purchased to meet the transport needs of the students, which was required for effective operation of the school. However, the school did not provide any relevant explanation for operating the transport facility in such huge deficit.

Thus, it has been observed that the school has purchased bus for provision of transport facility despite there being deficit from operation of transport facility and has submitted proposal for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance. Earmarked levies in the form of transport fee are to be charged on no-profit no-loss basis and the school was not able to recover the cost of buses from the transport fee collected from students indicating that the school has shifted the burden of capital cost of buses to all the students at the school, who are not even availing the transport service.

Accordingly, the amount spent by the school on purchase of bus of INR 15,96,000 is hereby added to the fund position of the school (enclosed in the later part of this order) 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 this order. The school is further directed to ensure that transport vehicles are procured only from the transport fund and not from school funds unless savings are derived in accordance with Rule 177.

3. Rule 177 of DSER, 1973 states *"(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 managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

    - *award of the 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.*

    (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 development nature,
    (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or 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."

    From the financial statements for FY 2018-2019 provided by the school, it was noted that the school has paid INR 8,73,172 from school funds as scholarships to students during FY 2018-2019, which as per above mentioned rule is inappropriate considering that the school has not complied with the requirements of sub-rule 2 of Rule 177.

    Accordingly, in view of scholarship payments made by the school without complying with the requirements of Rule 177 of DSER, 1973, the amount of scholarships paid to students out of school fund of INR 8,73,172 is hereby added to the fund position of the school (enclosed in later part of this order) considering the same as funds available with 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 7.14 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Plan assets comprise:*
    - *assets held by a long-term employee benefit fund; and*
    - *qualifying insurance policies.*"

It was pointed out in Directorate's order No. F.DE.15 (415)/PSB/2018/1015-1019 dated 5 Oct 2018 issued to the school post evaluation of fee hike proposal for FY 2017-2018 that the school provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation.

Based on the documents submitted by the school and taken on record, the school has obtained actuarial valuation report dated 2 Aug 2019 for measuring its liability towards gratuity and leave encashment of INR 48,76,851 and INR 14,81,529 respectively as on 31 Mar 2019.

On review of the financial statements for FY 2018-2019, it was noted that the school has made a total provision of gratuity and leave encashment as per the actuarial valuation report, however the school has failed to earmark funds towards gratuity and leave encashment (i.e., investments such as group gratuity scheme and group leave encashment scheme of LIC or other insurer) of staff.

The school is required to deposit amount equivalent to the liability determined by the actuary in group gratuity and leave encashment policies of LIC or another insurer. Since the school did not make any investments in plan assets in previous years, 25% of the amount of liability determined by the actuary towards staff gratuity and leave encashment respectively has been considered and adjusted while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to deposit the same within 30 days from the date of this order to protect the statutory liabilities towards retirement benefits of school staff.

Further, the school is directed to make investments in group gratuity scheme and group leave encashment scheme of LIC or other insurer in subsequent years to ensure that the value of investment equals the amount of liability determined by the actuary towards staff gratuity and leave encashment.

Accordingly, since the 25% of the liability determined by the actuary towards staff gratuity and leave encashment has been separately adjusted, the amount recorded in the income and expenditure account by the school towards gratuity and leave encashment for the FY 2018-2019 has not been considered as part of expenses in the fund position of the school (enclosed in the later part of this order).

5. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

   Further, clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition 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.*"

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.*"

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

Further, the aforementioned Guidance Note 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).

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Activity & Tech fees and transport fees from students. However, the school has not maintained separate fund accounts for any of these earmarked levies separately 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. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2017-2018 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**Surplus/(Deficit) (INR)**
	A	**B**	**C=A-B**
Bus fee^	15,63,993	24,84,671	(9,20,678)
Activity & Tech fees	48,90,575	-*	48,90,575

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

* The school failed to provide the details of expenses against Activity & Tech fees.

The surplus in Activity & Tech fees is reflected since the school did not provide details of expenses incurred by the school towards same. Thus, actual surplus or deficit against Activity & Tech fee could not be determined. Also, the school is incurring heavy loss in operation of transport service, which is met from surplus from other earmarked levy or from other fee (tuition fee/ annual charges) collected from all students at the schools, which is not in accordance with provisions of DSEA&R, 1973. Therefore, the school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directly not to transfer the financial impact (i.e., deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e., it must not adjust the deficit from school funds. Further, the school is instructed to operate transport facility strictly on no-profit no-loss basis

Directorate's order No. F.DE.15 (56)/PSB/2019/932-936 dated 22 Jan 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 directed the school to stop collection of Activity fees, Computer fees, Multiple intelligence fees, Examination fees, Smart Class fee and pupil fund as the same should be covered in annual charges. From the financial statements of FY 2017-2018 and FY 2018-2019, it was noted that the school has merged examination fees, computer fees and multiple intelligence fees with annual charges and also merged activity fees, smart class fees and pupil fund and named it as 'Activity and Tech fees'. Further, the Directorate's order No. F.DE.15 (56)/PSB/2019/932-936 dated 22 Jan 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school had increased smart class and pupil fund in the FY 2016-2017 as compared to FY 2015-2016.

The school represented that all the necessary adjustment in its reserve balance shall be made and the school will follow fund-based accounting in future.

Based on the aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students o the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The school is charging Activity and Tech fee from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the Activity and Tech fees and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students. Further, the school should not regroup Annual charges and separate examination fees, computer fees and multiple intelligence fees from annual charges and stop charging a separate charge for examination fees, computer fees and multiple intelligence fees as the same should be covered in annual charges.

Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

Additionally, the school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately 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. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

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.

6. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining 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."*

As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16 April 2016 *"The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."*

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."*

Directorate's order No. F.DE.15 (56)/PSB/2019/932-936 dated 22 Jan 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school had utilised development fees for the construction of building during FY 2015-2016 and FY 2016-2017. Therefore, the school was directed to ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment. Further, from the financial statements of FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school has continued to utilize development fund for construction of building and purchase of bus, which is in contravention of the above-mentioned provisions since development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment.

Further, it was noted that from the financial statements of FY 2016-2017, FY 2017-2018 and FY 2018-2019 that the school reflected purchase of fixed assets amounting to INR 8,07,759, INR 35,97,670 and INR 18,64,173 totalling to INR 62,69,602 utilizing depreciation reserve fund, which amount was transferred to general fund from depreciation reserve fund. Also, it was noted that the school made presentation in the fixed assets in two schedule – 'First' comprising of assets purchased from 'Depreciation Reserve fund and 'Second' comprising of assets purchased from 'Development fund'. It is being highlighted that the presentation by the school of utilization of depreciation reserve of INR 62,69,602 towards purchase is not in accordance with accounting guidance included in para 99 of Guidance Note cited above. Depreciation reserve is a notional fund, which is not represented with actual funds. Thus, the school can't utilize depreciation reserve for purchase of assets. Accordingly, the accounting treatment by the school in its financial statements with respect to depreciation reserve is incorrect. Further, based on the ruling of the Hon'ble Supreme Court in the matter of Modern School Vs Union of India & Others, Directorate issued directions to the school in relation to development fund and depreciation reserve under clause 14 of Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009, which is cited above.

On further reconciliation of amount represented as utilised from depreciation reserve fund for purchase of fixed assets with the fixed assets schedule annexed with the financial statements, it was noted that during FY 2017-2018, the school indicated utilisation of depreciation reserve of INR 35,97,670 towards purchase of fixed assets while the fixed assets schedule included assets totalling to INR 14,15,088. Thus, the school did not include fixed assets totalling to INR 21,82,582 (INR 35,97,670 minus INR 14,15,088) indicating that the school diverted school fund for purchase of fixed assets which were not reflected in the financial statements of the school.

Further, based on the presentation made in the financial statements of the school for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that while the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from development fund to "Development Fund Utilised Account". However, the school did not transfer an amount equivalent to the depreciation on assets from the "Development Fund Utilised Account" to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Thus, the school has not done the accounting and reporting of development fund in accordance with the requirements of Para 99 of Guidance Note 21.

Accordingly, the school is directed to recover the amount diverted from the school funds of INR 21,82,582 from Society within 30 days from the date of this order, which have been considered as funds available with the school while deriving the fund position of the school (enclosed in the later part of this order).

The school is also directed to ensure that development fund is utilised only towards purchase of furniture, fixture and equipment and depreciation reserve is maintained equivalent to the amount of depreciation charged in the revenue accounts. The school should properly prepare fixed assets schedule for assets purchased against development fund and other assets purchased against general fund/ transport fund, which should be annexed with the audited financial statements along with the requisite disclosures as per the guidance note. Also, the school must not indicate purchase of assets from depreciation reserve in its financial statements as the same is a notional reserve.

The school is directed to transfer an amount equivalent to the depreciation from "Development Fund Utilised Account" to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note.

C. Other Observations

1. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."*

   Further, Clause 18 of Order no F.DE/15(56)/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."*

   On review of financial statements for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school was not refunding interest along with caution money to students at the time of leaving the school, which was also mentioned in Directorate's order No. F.DE.15 (56)/PSB/2019/932-936 dated 22 Jan 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018.

   Therefore, the school is directed to ensure compliance with above order and refund caution money together with interest thereon. Compliance of the same shall be validated the time of evaluation of subsequent fee increase proposal.

2. From the financial statements of FY 2017-2018 and FY 2018-2019, it was noted that the school has revised the opening balances of FY 2018-2019 as compared with closing balances reported in the financial statements of FY 2017-2018, the reason for such revision has not been disclosed in the Notes to Accounts of the school. The school has only changed the balances on the face of the balance sheet, however no change appeared in the schedules of FY 2018-2019. Also, the total of the assets side and liabilities side of the opening balance as on 31 Mar 2018 (as included the Balance Sheet as on 31 March 2019) does not match. Further, the school has failed to provide any

explanation/clarification in this regard. The summary of such revision in the opening balances are as under:

Particulars	Closing Balances as per financial statements of FY 2017-18 (A)	Previous year's figures (Opening Balances) as per Financial Statement of FY 2018-2019 (B)	Difference in Closing and Opening Balance (C)=(A-B)
General Fund	(46,14,941)	(1,21,77,260)	75,62,319
Development Fund	10,54,727	12,14,366	(1,59,639)
Reserve Fund	16,60,000	60,39,430	(43,79,430)
Total Difference in liability side (A)	**(19,00,214)**	**(49,23,464)**	**30,23,250**
Fixed Assets	2,03,08,353	2,05,10,103	(2,01,750)
Total Difference in asset side (B)	**2,03,08,353**	**2,05,10,103**	**(2,01,750)**
Net Difference between asset side and liability side (C)=(A-B)	-	-	**32,25,000**

The school failed to provide any reconciliation/ explanation in respect of the above-mentioned differences.

The school is directed to provided reconciliation/ explanation in respect of changes made to the opening balance included in the Balance Sheet as on 31 Mar 2019. The same shall be verified at the time of evaluation of subsequent fee hike proposal submitted by the school to the Directorate. Further, the school is directed to ensure that its financial statements are properly drawn and reconcile with its books of account.

3. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admin. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. Students	1,029	989	1,103
No. of EWS Students	120	132	167
% of EWS students to Total Students	11.67%	13.34%	15.14%

While the school in its response mentioned that it takes admission under EWS category on the basis of list of admissions provided by the Directorate, it has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

4. On review of the proposal for enhancement of fee for the academic session 2018-2019 submitted by the school, it was noted that the school did not include/disclose transport fee collected by it from students in its proposal for fee hike submitted for FY 2018-2019.

   The school must ensure that it discloses all heads of income in its proposal for enhancement of fee including earmarked levies. Also, the school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

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 year 2018-2019 amounting to INR 6,35,28,897 out of which cash outflow in the year 2018-2019 is estimated to be INR 5,42,11,921. This results in net surplus of INR 93,16,976. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	25,95,242
Investments (Fixed Deposits) as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	3,41,499
Total Liquid Funds Available with the School as on 31 Mar 2018	**29,36,741**
Add: Fees/Incomes for FY 2018-2019 (as per financial statements of FY 2018-2019) [Refer Note 1]	5,47,25,318
Add: Amount recoverable from Society towards construction of building during FY 2015-2016 to FY 2017-2018 [Refer Financial Observation No. 1]	51,51,844
Add: Amount recoverable from Society towards purchase of bus during FY 2018-2019 [Refer Financial Observation No. 2]	15,96,000
Add: Amount recoverable from Society towards scholarship paid during FY 2018-2019 [Refer Financial Observation No. 3]	8,73,172
Add: Amount recoverable from Society towards funds diverted in the guise of purchase of fixed assets from depreciation reserve not reported during FY 2017-2018 [Refer Financial Observation No. 6]	21,82,582
Gross Estimated Available Funds for FY 2018-2019	**6,74,65,657**
Less: FDR held jointly with CBSE/DOE (as per financial statements of FY 2017-2018)	1,64,237
Less: Staff retirement benefits – Gratuity [Refer Financial Observation No. 4]	12,19,213
Less: Staff retirement benefits – Leave Encashment [Refer Financial Observation No. 4]	3,70,382
Less: Balance of Development Fund as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	15,17,028
Less: Balance of Caution money as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	6,65,900
Net Estimated Available Funds for FY 2018-2019	**6,35,28,897**

Particulars	Amount (INR)
Less: Expenses for FY 2018-2019 (as per financial statements of FY 2018-2019) [Refer Note 1]	5,42,11,921
Estimated Surplus as on 31 Mar 2019	**93,16,976**

Notes:

1. The school submitted its financial statements for FY 2018-2019. Based on the financial statements for FY 2018-2019, all reported fees and incomes were considered, while expenses after the following adjustments were considered:

Expense Head	Amount (Actual)	Amount (Allowed)	Amount (Disallowed)	Remarks
Depreciation	38,42,092	-	38,42,092	Depreciation, being a non-cash expense, does not result in outflow of funds. Thus, the same has not been considered.
Loss on sale of assets	60,099	-	60,099	This, being an adjustment book entry and not an actual expense, does not have any impact on the fund position of the school.
Provision for Salary Reserve	24,57,277	-	24,57,277	The school has failed to create Fixed Deposit in the joint name of the school and Deputy Director of Education toward salary reserve. Accordingly, the same has not been considered in table above.
Provision for gratuity	9,84,156	-	9,84,156	Refer Financial Observation No. 4
Provision for Leave Encashment	2,50,018	-	2,50,018	Refer Financial Observation No. 4
Total	**75,93,642**	**-**	**75,93,642**	

ii. In the view of the above evaluation, it is evident that the School has sufficient fund to carry out its operations at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states:

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

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, certain financial irregularities that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2018-2019 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it has been noted that the School has paid INR 98,03,598 towards purchase of Assets, Buses, construction of building and Scholarship to students, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 98,03,598 from the society. The receipt of the above amount along with the copy of the bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, the 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 its 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 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 for enhancement of fee for session 2018-2019 of **St. Lawrence Public School (School ID-1105215), Pocket F, Dilshad Garden, New Delhi – 110095** has been 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:

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/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 order 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
St. Lawrence Public School
School ID-1105215,
Pocket F, Dilshad Garden
New Delhi - 110095

No. F.DE.15(508)/PSB/2022/ 2925 – 2929 Dated: 12/05/22

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 (North East) to ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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