

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

No. F.DE.15(675) / PSB / 2022 / 4140 - 4144

Dated: 03/06/22

ORDER

WHEREAS, Mount Abu Public School, Sector-5 Rohini, Delhi-110005 (School ID: 1413239) (hereinafter referred to as "the School"), run by the Mount Abu Education 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 have 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 27.11.2019 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(412) PSB/2018/1430-1434 dated 29.03.2019 issued for academic session 2017-18 were also discussed and school submissions were 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. Financial Observations

1. Direction no. 2 included in the 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.”

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

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

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.

Directorate’s Order no. F.DE.15(412)/PSB/2018/1430-1434 dated 29.03.2019 issued to the School post evaluation of proposal for enhancement of fee for FY 2017-18, it was noted that the School capitalised INR 39,55,457 under the head Building in FY 2014-15. The above addition was made without complying with the above-mentioned provisions and without complying with the requirement of Rule 177 of DSER, 1973. Therefore, the said expenditure incurred by the School on addition to building was directed to recover from the society. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

On review of audited financial statements for FY 2017-18 and FY 2018-19, it has been noted that the School has made further additions to building amounting to INR 11,91,056 in FY 2017-18 and has incurred expenditure on construction of basketball court amounting to INR 19,39,750 in FY 2018-19 which is not in accordance with the abovementioned provisions and rule 177 of DSER, 1973.

The representation submitted by the School against order dated 29.03.2019 were taken on record. The School submitted that *“Capital expenditure incurred upon its own development in the form of building in FY 2014-15 is permissible under Rule 177 and under the judgement in the case of Modern School. Further, there is no hierarchy provided under Rule 177(2) as to which expenditure is to be incurred before the other one. Depending upon the availability of funds, the need, necessity and exigency of a particular expenditure to be incurred at a particular point of*



time, the School in its discretion, autonomy and fundamental right, can appropriate its financial resources, best suitable to its own needs".

The above contention of the School cannot be accepted considering the fact that the School has not yet implemented the recommendations of 7th CPC and has not deposited the liability for retirement benefit in the plan assets. The School was well aware about the implementation of the recommendations of the 7th CPC and its statutory liability towards gratuity and leave encashment but the School instead of paying salary to its staff in accordance with the recommendation of 7th CPC preferred to incur expenditure of capital nature which was otherwise be the responsibility of the society and submitted the proposal of fee hike in the expectation to get the fee hike from the Directorate of Education. Thus, all the above contentions and arguments of the School are not correct, and the School should refrain itself from incurring expenditure on school building and land as this is the responsibility of the society as per the aforesaid provisions.

In view of the above, total expenditure of INR 70,86,263 (i.e., INR 39,55,457 *plus* INR 11,91,056 *plus* INR 19,39,750) has been included in the calculation of fund availability of the School considering the same as fund available with the School with the direction to the School to recover the aforesaid amount from the society within 30 days from the date of issue of this order.

2. 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.*"

On review of the audited financial statements of FY 2016-17 to FY 2018-19 and documents submitted by the School, it has been noted that the School incurred capital expenditure on purchase of buses amounting to INR 26,54,909, INR 18,88,683 and INR 39,20,189 in FY 2016-17, FY 2017-18 and FY 2018-19 respectively. The above expenditure was incurred without complying with the requirement of Rule 177 of DSER, 1973. The income earned by the School from transport facility have also been taken into consideration. As per audited financial statements of FY 2018-19, the surplus of INR 4,46,251 reported by the School from transport facility has been adjusted.

Accordingly, INR 80,17,530 (INR 84,63,781 spent on purchase of buses minus closing balance of transport fund of INR 4,46,251) is hereby added to the fund position of the School considering the same as fund available with the School with the direction to recover this amount from the society within 30 days from the date of issue of this order. Further, the School is directed to ensure that capital assets are not procured from school funds unless savings are derived in accordance with Rule 177 of DSER, 1973 and the school funds should not be utilised for purchase of buses.

3. 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.*"

On review of audited financial statements for FY 2018-19, it has been noted that School incurred capital expenditure on purchase of Car (Innova) amounting to INR 21,50,240 from school funds which was not in accordance with the provisions mentioned above. Also, the above capital



expenditure was incurred by the School without complying the requirements prescribed in Rule 177 of DSER, 1973.

Accordingly, payment made against purchase of Car of INR 21,50,240 is hereby added to the fund position of the School considering the same as funds available with the School and with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order.

4. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."*

Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

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

Para 57 of the AS-15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

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

On review of documents submitted by the School were taken on records, it has been noted that the School has got the actuarial valuation report for liability towards gratuity and leave encashment and reported the same in its audited financial statements. As per the audited financial statements of FY 2018-19, the total liability towards retirement benefit was INR 4,60,93,910 including a provision of gratuity and leave encashment of INR 61,13,419 as on 31.03.2019 against which the school invested INR 2,21,10,180 with LIC which qualify as plan assets.

Therefore, the provision created for the FY 2018-19 of INR 61,13,419 has been excluded from the fund position of the School and amount invested in plan asset of INR 2,21,10,180 as on 31/03/2019 has been considered while calculating the fund position of the School.

The school is directed to invest an amount equivalent to the liability determined by the actuary in plan asset to secured its statutory liability towards retirement benefit within 30 days from the date of issue of this order..



5. Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009, "*Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment's. 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 circular no. 1978 dated 16.04.2010 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.

As per order no. F.DE-15(412)/PSB/2018/1430-1434 dated 29.03.2019 issued to the School, post evaluation of proposal for fee enhancement for the academic session 2017-18, it was noted that the School had an accumulated development fund closing balance of INR 4,14,74,654 in its audited financial statements for FY 2016-17 by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture, fixtures and equipment.

Over the number of years, the School has accumulated a development fund and has reported the closing balance of INR 4,86,28,857 in its audited financial statements for the FY 2018-19. Accordingly, the accumulated reserve of development fund created by the School by collecting development fee is more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment. Therefore, the same has been considered as free reserve available with the School. In view of the above, development fund equivalent to the amount collected during the financial year 2018-19 of INR 1,27,85,701 has been left with the School to meet its future requirements and balance may be utilized by the School as a free reserve in order to avoid sudden financial burden on the parents/ students on account of payment of salary arrears and implementation of the recommendation of 7th CPC.

B. Other Observations

1. 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.*"

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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 on 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.

The information provided by the school were taken on the record, it was noted that the school charges earmarked levies in the form of Smart Class Fee, Science & Computer Fee, Transport charges and medical fee from the students. However, the school has not maintained separate fund accounts for these earmarked levies except the Transport fund. The school has been generating surplus from smart class fee that has been utilised for meeting other expenses of the school and has been incurring losses (deficit) from Science & Compute Fee and Medical Fee which has been met from other fees/income. Details of calculation of surplus or deficit, based on breakup of expenditure provided by the school are given below:

Particulars	Smart Class Fee	Science & Computer Fee	Medical Fee
For the year 2016-17			
Fee Collected during the year (A)	48,04,600	9,26,000	1,87,170
Expenses during the year (B)	13,39,676	17,35,939	8,40,942
Difference for the year (A-B)	34,64,924	-8,09,939	-6,53,772
For the year 2017-18			
Fee Collected during the year (A)	46,22,639	12,47,400	64,800
Expenses during the year (B)	38,86,983	9,10,760	4,84,265
Difference for the year (A-B)	7,35,656	3,36,640	-4,19,465
For the year 2018-19			
Fee Collected during the year (A)	45,45,200	12,95,600	79,200
Expenses during the year (B)	54,66,844	13,68,355	6,45,538
Difference for the year (A-B)	-9,21,644	-72,755	-5,66,338
Total (Surplus)	32,78,936	-5,46,054	-16,39,575

Thus, the 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 of 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). From the record submitted by the school, it was noted the school has been collecting Smart class fee from all the students which loses the character of earmarked levies. Therefore, the school is directed to stop the collection in the name of Smart class fee with immediate effect.

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.

Since, the school is not following fund base accounting in accordance with the provision cited above. The total fees (including earmarked fee) have been included in the income and expenditure and have been considered in calculation of fund availability with the school. 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 utilised 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 structure for earmarked levies during the subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. On review of submission of documents made post personal hearing, it has been noted that the School had no process in relation to calling of quotations from vendor, approval process, gate inward control and payment, only oral communication is done with the prospective suppliers and no documentation was done for the same. The School was not preparing any comparative statement for evaluating the quotations received from vendors and was not getting the same approved from the purchase committee. Also, the School does not have a process of maintaining gate inward and outward register and stamping the invoice at entry gate.

Accordingly, the School is directed to follow proper procurement process and maintain proper documentation in relation to procurements and purchases done by the School. Compliance of the above shall be verified at the time of evaluation of proposal for fee enhancement for subsequent year.

3. Direction no. 3 of the public notice dated 04.05.1997 published in the Times of India states *"No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the School along with the interest at the bank rate."*

Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states *"No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the School along with the bank interest thereon irrespective of whether or not he/she requests for refund."*

On review of audited financial statements for FY 2018-19, it has been noted that the School has not been refunding only the caution money principal to the students and has not been refunding caution money along with interest at the time of leaving the School by the students.

Therefore, the School is directed to ensure compliance with the aforementioned directions including refund of caution money along with interest to exiting students and treat un-claimed caution money as income after the expiry of 30 days from the date of communication with ex-students to collect the same. Further, the balance of caution money outstanding INR 1,71,500 as on 31.03.2018 has been considered while deriving the fund position of the School.

4. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between



the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

5. 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) being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders. ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

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

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by 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:*

- i. *All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- ii. *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 along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were



signed but date of signing has not been mentioned on the records. Further, the audit report issued by the auditor is not in accordance the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the School, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the School could not be verified.

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 2018-19 assuming the same as unauthentic 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 status of compliance. 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 including compliance with SA 700 and generation of UDIN.

After detailed examination of all the material on record and considering the clarification submitted by the School, it was finally evaluated/ concluded that:

- i. The total funds available for the Academic session 2018-19 amounting to INR 27,69,79,108 out of which cash outflow is INR 18,36,85,565. This results in net surplus of INR 9,32,93,543. The details are as follows:

Particulars	Amount
Cash and Bank balances as on 31.03.18 as per Audited Financial Statement	5,49,32,882
Investments as on 31.03.18 as per Audited Financial Statements	12,30,12,382
Liquid fund as on 31.03.18	17,79,45,264
Add: Recovery from the society for additions to building (Refer financial observation no. 1)	70,86,263
Add: Recovery from the society towards amount spent on purchase of buses (Refer financial observation no. 2)	80,17,530
Add: Recovery from the society towards amount spent on purchase of Car (Refer financial observation no. 3)	21,50,240
Add: Fees for FY 2018-19 as per Audited Financial Statements (Refer note 1 below)	13,01,58,950
Add: Other income for FY 2018-19 as per audited Financial Statements (Refer note 1 below)	1,24,99,609

Particulars	Amount
Total available funds for FY 2018-19	33,78,57,856
Less: FDR on joint name with Secretary, CBSE as per School submission	4,55,567
Less: Caution money as on 31.03.2018 (Refer other observation no. 3)	1,71,500
Less: Investment made with LIC against provision made for retirement benefits (Refer financial observation no. 4)	2,21,10,180
Less: Development Fund received for FY 2018-19 (Refer financial observation No. 5)	1,27,85,701
Less: Depreciation Reserve Fund as on 31.03.2018 (Refer note 2 below)	0
Less: 3 Months salary arrears (Refer note 3 below)	2,53,55,800
Net Available Funds for FY 2018-19	27,69,79,108
Less: Audited expenses for the session 2018-19 (Refer Note 4 below)	13,81,75,339
Less: Arrears of salary on implementation of 7th CPC 01.01.16 to 31.03.19 (Refer Note 5 below)	4,55,10,226
Net Surplus	9,32,93,543

Note 1: Income as per audited financial statements of FY 2018-19 has been considered except depreciation charged on development fee assets of INR 1,09,11,137 being non-cash item.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided recognised school. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and also to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

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

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

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund.

Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not required to deduct from the calculation of the fund position of the school.

From the above, it is clear that the depreciation reserve fund is a notional account of a notional fund for which there is no requirement to have equivalent fund neither in a bank account nor in the form of a fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on the fee structure of the school which would be in contravention of the judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004). In the said judgement the Hon'ble Supreme Court has clearly stated "*capital expenditure cannot form part of financial fee structure of the school*". Accordingly, charging of depreciation from Income and Expenditure account implies that the school is including a capital component in its fee structure which is not permissible.

Note 3: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank. While evaluating the fee increase proposal of FY 2017-18, the School was allowed INR 2,53,55,800 towards salary reserve with the direction to the school invest the in accordance with the above mentioned provisions. Therefore, the amount allowed to the school in the previous year has also been considered while deriving the fund position of the school.

Note 4: All expenditure incurred by the School has been considered in the above table except the following:



Particulars	Amount Disallowed	Remarks
Provision for gratuity and leave encashment	61,13,419	Refer Financial observation no.4
Transportation expense	10,78,015	Since, income of the corresponding expense is not provided by the School. Therefore, both income and expenditure has not been considered in the fund position.

Note 5: The Directorate 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, pension, 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 schools 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 06.09.2018 for implementation of sixth pay commission recommendations.

As per the minutes of meeting of the School Management Committee dated 28.03.2019, it has been noted that School Management has not yet implemented the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds with the School.

While as per Directorate’s Order no. F.DE.15(412)/PSB/2018/1430-1434 dated 29.03.2019 issued post evaluation of fee increase proposal of the School for the FY 2017-18, the School was directed to implement the recommendations of 7th CPC. But the School has not complied with the direction mentioned in the previous year’s order. Accordingly, the impact of salary arrears which is still pending for payment (as provided by the School in its fee justification for increase in fee) has also been considered while deriving the fund position of the School with the direction to the School to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the School would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. The School has sufficient funds to carry on the operation of the School for the academic session 2018-19 on the existing fees structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 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."

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 has been noted that the School has paid INR 1,72,54,033 towards construction of building, purchase of car, buses, 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 1,72,54,033 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, 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 funds are available with the School for meeting financial implication 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 status 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 **Mount Abu Public School, Sector-5 Rohini, Delhi-110005 (School ID: 1413239)**, has been rejected by the Director (Education).

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

1. Not to increase any fee/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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To:

The Manager/ HoS
Mount Abu Public School (School ID: 1413239)
Sector-5 Rohini, Delhi-110005
No. F.DE.15 (675) / PSB / 2022 / 4140-4144

Dated: 03/06/22

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 West-B) 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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi