

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

No. F.DE.15(699)/PSB/2022/4275-4279

Dated: 07/06/22

ORDER

WHEREAS, **Masonic Public School (School ID-1720155), Vasant Kunj, Delhi-110070** (hereinafter referred to as "School"), run by the Northern India Masonic Charitable Society (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

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

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

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

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

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others



has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

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

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

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

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

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

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 & 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 very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-19, necessary records and explanations were also called from the school through email. Further, the School was also provided an opportunity of being heard on 13.12.2019 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 were noted. During the aforesaid hearing, compliances against Order No. F.DE.15(254)/PSB/2019/1468-1472 dated 07.02.2019 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 findings noted are as under:

A. Financial Observations

1. 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."

The audited financial statements of FY 2018-19 revealed that school spent INR 47,64,569 for purchase of vehicles out of the school funds by taking secured loans. The above expenditure incurred by the school was not in accordance with the Rules 177 of DSER, 1973. The outstanding of the aforesaid loan as on 31.03.2019 is INR 29,13,133. Further, the school is not following fund-based accounting and has not created fund account against transport service provided to specific students of the school. From the audited financial statements of the school for FY 2018-19 it has been noted that there is net deficit of transport income over the expenses.

Accordingly, the amount spent by the school on repayment of loan for purchase of buses out of the school funds amounting to INR 23,25,205 (Cost of Buses of INR 47,64,569 plus Interest on term loan of INR 4,73,769 minus outstanding balance of Loan of INR 29,13,133) is recoverable from the society. Therefore, this amount of INR 23,25,205 has been 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.

2. 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."

Also, as per the Directorate's Order No. DE.15/Act/Duggal.Com/203/99/23033-23980 dated 15.12.1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

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 provisions 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.

The DoE in its Order No. F.DE.15(94)/PSB/2019/1468-1472 dated 07.02.2019 issued post evaluation of fee hike proposal for FY 2017-18, noted that during the FY 2016-2017 building of INR 3,83,19,486 was capitalised by crediting society's account, which is a notional transfer of building in the books of account of the school. The DoE also noted that during the FY 2014-2015 and FY 2015-2016, school had made payments of INR 95,73,760 and INR 68,38,603 to various vendors/contractors towards construction of building on behalf of the Society with respect to the aforesaid addition, resulted in indirect transfer of funds by the school to the Society. All these payments were made by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 1,64,12,363 (INR 95,73,760 plus INR 68,38,603) from the Society which is still pending for recovery.

The school was also directed to reverse the building along with the amount of depreciation charged on building from its books of account, which has been capitalised by crediting Society's ledger account in the books of account of the school. This is also pending for compliance.

The school instead of recovering the amount mentioned above and following with the previous direction, has further capitalised INR 7,58,615 under the head building during the FY 2018-19 which is also not in accordance with the abovementioned provisions. It is also important to mention that the school is yet to implement the recommendation of 7th CPC and has to pay salary arrears of INR 2,55,66,108 until the end of the financial year 2018-19. This indicated that the school on one hand trying to exhaust its fund on the construction of the school building and creating the wealth for the society and on the other hand submitting the fee increase proposal to Director of Education with the expectation to get the fee hike from the students to recover cost of capital expenditure. This indicates that the school indulge in commercialisation and profiteering of education.

In view of the above, the total capital expenditure incurred by the school amounting to INR 1,71,71,978 (INR 1,64,13,363 plus INR 7,58,615) on school building is recoverable from the society. Accordingly, it has been included while deriving the fund position of the school with the direction to the school recover this amount from the society within 30 days from the date of issue of this order. Further, the school is again directed to reverse the building along with the amount of depreciation charged on building from its



books of account, which has been capitalised by crediting Society's ledger account in the books of account of the school.

3. DoE in its Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15.12.1999 states "the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution". The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 815 dated 3 July 2017 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that the school signed a Memorandum of Understanding (MoU) with the Society agreeing to pay rent of INR 4 lakhs, INR 6 lakhs, INR 7 lakhs per month respectively for the FY 2013-2014, FY 2014-2015 and FY 2015-2016 aggregating to rental payments over three years period of INR 2.04 crores, which is contravention to the clause No. 8 of Directorate's Order No. DE 15/Act/Duggal.com/ 203/99/23033/23980 dated 15 Dec 1999 and clause 23 of Order No. F.DE./15(56)/Act/2009/ 778 dated 11 Feb 2009.

However, during the evaluation of the fee increase proposal of FY 2017-18, on review of the ledger accounts of FY 2013-2014 to FY 2016-2017, it was noted that school had reversed entry of rent payable to Society in its books of accounts. However, had paid INR 73,00,000 lakhs to the society without any consideration for expenses/liability of the school. Therefore, the school was directed to recover INR 73,00,000 from the society which is still pending for recovery.

The documents submitted by the school post personal hearing were taken on record, on review of the same it has been noted that the aforesaid INR 73,00,000 was paid to Nircon projects for the construction/extension of the existing building on behalf of society which is not in accordance with the above-mentioned provisions and Rule 177 of DSER, 1973. Accordingly, this amount of INR 73,00,000 has been again added while deriving 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 this order.

4. Para 57 of Accounting Standard 15- 'Employee benefits' issued by the Institute of Chartered Accountants of India states "An Enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date" Accounting Standard 15 further 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, 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".

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

- (a) 'assets held by a long-term employee benefit fund; and
- (b) qualifying insurance policies."

On review of the financial statements for FY 2017-18, FY 2018-19 it has been noted that the school has not been recognizing any provision for leave encashment and gratuity neither had they obtained actuarial valuation for its liability towards staff leave encashment and gratuity.

However, it is also noted that the school has deposited INR 53,76,777 in group gratuity scheme of the LIC of India and based on the intimation provided by LIC, the liability of the school towards gratuity was derived by LIC as on 31.03.2018 on the basis of actuarial assumptions and reported the same in the audited financial statements of FY 2018-19. Therefore, the amount deposited by the school with LIC in group gratuity scheme of INR 53,76,777 has been considered while deriving the fund position of the school for FY 2018-19.

Further, the school is directed to obtain actuarial valuation for liability towards retirement benefits and deposit the amount equivalent to the provision created into the 'plan-asset' as per AS-15 issued by ICAI within 30 days from the date of this order.

B. Other Observations

1. As per 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.*

As per para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year." Further, Para 102 of the abovementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts;

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



And as per para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, "The financial statements should disclose, inter alia, the historical cost of fixed assets."

The school was directed to treat development fees as capital receipt and open separate bank account for deposit and utilisation of development fund in the directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/815 dated 3 July 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 and DoE order No. F.DE.15(94)/PSB/2019/1468-1472 dated 07.02.2019 issued post evaluation of fee hike proposal for FY 2017-18 submitted by the school.

However, on review of the audited financial statements of the FY 2018-19, it has been noted that school has neither opened separate bank to ensure availability of funds for incurring capital expenditure on furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009.

It has been further, noted that the school has been treating development fee as revenue receipts instead of capital receipts which is not in accordance with clause 14 of the order dated 11.02.2009. During the FY 2018-19 the school has incurred INR. 47,30,787 capital expenditure against the collection of INR 45,35,870 which means that the school has been incurring the capital expenditure more than the amount of development fee collection. During personal hearing the school verbally explained that the school does not have sufficient income from tuition fee and annual charges to meet all its expenditure. The contention made by school is not correct as the school cannot be allowed to overlook the compliance of the DSEAR, 1973. As per clause 14 of the order dated 11.02.009, the development fund can only be utilized for purchase upgrade and replacement of furniture and fixture and equipment and not for other purposes. Therefore, if the school wish to collect development fee, it has to comply with the condition of the clause 14 of the order dated 11.02.2009.

Accordingly, the school is hereby again directed to follow the provisions of clause 14 of the order dated 11.02.2009 and do not collect the development fee until it complies with clause 14 of the order dated 11.02.2009. In view of the above findings, no adjustment towards development fund has been made while deriving the fund position of the school.

2. Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "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."

As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. Further, as per the directions of Supreme Court in Modern School vs. Union of India & Ors. (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

- a) It is reiterated that annual fee-hike is not mandatory.
- b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973
- c) If any school has collected fee in excess of that determined as per procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

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.

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 has been noted that the school charges earmarked levies in the form of Transport Fee, Science fee and Computer fee from students. However, the school has not been following fund base accounting. i.e. 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)". The school has been generating deficit against such earmarked levies. Details of calculation of deficit, based on breakup of expenditure provided by the school for FY 2018-19 is given below:

Particulars	Transport Fees	Science Fee	Computer Fee
For the year 2018-19			

Fee Collected during the year (A)	59,03,859	77,600	2,04,500
Expenses during the year (B)	66,45,344	2,51,507	3,40,075
Difference for the year (A-B)	(7,41,485)	(1,73,907)	(1,35,575)
Total	(8,83,707)	(1,73,907)	(1,35,575)

Also, school has introduced new heads of earmarked levies in the form of 'Science fee' and 'Computer fee' from FY 2018-19 without taking prior approval of the Directorate in this regard.

Based on the above, 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).

It is also important to mention that 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.

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

3. As per clause 1 of Order No. DE/15/150/Act/2010/4854-69 dated 09.09.2010, "Caution money/security deposit shall not be charged/collected beyond Rs. 500 (Rupees five hundred only) per student."

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 Rs. 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."

Clause 3 and 4 of Order No. DE/15/150/Act/2010/4854-69 dated 09.09.2010 stated In case of those ex-students who have not been refunded the Caution money/Security deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year".

On review of documents submitted post personal hearing, it has been noted that school has not been refunding interest along with refund of caution money to the students at the time of their exit from the school.

Thus, the school is directed to ensure compliance with the aforementioned directions including refund of interest along with caution money to exiting students and to open separate bank account/create fixed deposit with bank for depositing caution money collected from students and interest earned on this account has to be refunded to the students along with refund of caution money at the time of leaving the school. Accordingly, the balance of caution money outstanding INR 12,08,500 as on 31.03.2018 has been considered while deriving the fund position of the school.

4. On review of submissions made against proposal for fee enhancement submitted by school for FY 2018-19, Following anomalies were noted in Fixed asset register (FAR) maintained by the school:

- No tagging of the assets was done in Fixed Assets Register (FAR) and physically on fixed assets to identify their location because of which the assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Date of purchase against each asset was not mentioned.
- Supplier name, invoice number, manufacturer's serial number, location of asset not mentioned

School is hence directed to update the FAR with relevant details mentioned above according to the process for periodic physical verification of assets and document the results of physical verification of assets. This being a procedural finding, no financial impact is warranted in the fund position of the school.

5. Para 58(i) of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*

As per notes to Appendix I- 'Rates of depreciation' of Guidance note, *"The rates contained in this Appendix should be viewed as the minimum rates and, therefore, a school should not charge depreciation at rates lower than those specified in this Appendix in relation to assets purchased after the date of the applicability of the Guidance Note. However, if on the basis of a bona fide technological evaluation, higher rates of depreciation are justified, the same may be provided with proper disclosures by way of a note forming part of accounts"*

On review of financial statements for FY 2017-18 and FY 2018-19, it has been noted that school has followed rates of depreciation as per Income tax Act, 1961 and not as per Appendix I of the guidance note as mentioned above. A rate higher than what is mentioned in Appendix-I of guidance note can also be charged by the school subject to bona fide technological evaluation however school has charged rate of depreciation less than mentioned in guidance note.



Hence, school is directed to follow rates of depreciation as mentioned in Appendix-I of Guidance note as the same shall be verified at the time of evaluation of proposal for enhancement of fee for subsequent year. This being a procedural finding, no financial impact is warranted in the fund position of the school.

6. As per 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.

7. As per Section 18(5) of the DSEA, 1973, the management 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.

Further, Rule 180 of DSER, 1973 states "(1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in sub-rule (1), shall be submitted to the Director by the 31st day of July of each year.(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 any officers authorised by the Comptroller and Auditor General of India"

And Section 24 (2) of DSA. 1973 states "The Director may arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him".

Whereas Appendix-II to Rule 180 specify that "final accounts i.e. receipts, and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by Chartered Accountant.

It has been noticed that Financial Documents/ Certificates Attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non CAs.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e. Unique Document Identification Number which is being implemented in phased manner. It will secure the certificates attested/certified by practicing CAs. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

Accordingly, the Council in the 379th meeting of ICAI held on 17.12.2018 and 18.12.2018, made mandatory for all practicing member to obtain 18 digits UDIN before issuing any audits reports/certification etc. in the following manner:

- All Certification done by Practising CAs w.e.f. 01.02.2019.
- All GST & Tax Audit Reports w.e.f. 01.04.2019.



- All other attest functions w.e.f. 01.07.2019.

However, on examination of the financial statements submitted by the school for evaluation of fee increase proposal for FY 2018-19, it has been observed that the financial statements of the school were certified by the Chartered Accountant without mentioning the UDIN as required by the council. This being the procedural finding therefore, the school management are instructed to ensure this compliance from the Auditor of the school.

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

- The total funds available for the year Academic session 2018-19 amounted to INR **8,12,88,663** out of which cash outflow is estimated to be INR **8,19,55,662** this results in net deficit of INR **6,66,999**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.18 (as per audited Financial Statements of FY 2017-18)	23,10,020
Investments as on 31.03.18 (as per audited Financial Statements of FY 2017-18)	11,21,257
Investment with LIC for Gratuity Fund ((as per audited Financial Statements of FY 2017-18)	53,76,777
Liquid funds as on 31.03.2018	88,08,054
Add: Recovery from the society for repayment of loan (including interest) taken for amount spent on purchase of buses in contravention of Rule 177 of DSER, 1973 (Refer Financial observation No. 1)	23,25,205
Add: Recovery from society against payments made towards construction of building (Refer Financial observation No. 2)	1,71,70,988
Add: Recovery from society towards funds transferred against building rent (Refer Financial observation No. 3)	73,00,000
Fees for 2018-19 as per audited Financial Statements (Refer Note 1 below)	5,25,11,610
Other income for 2018-19 as per audited Financial Statements (Refer Note 1 below)	3,78,851
Available funds for FY 2018-19	8,84,94,708
Less: FDR with ICICI bank for CBSE (as submitted by the school)	2,05,251
Less: FDR with Indian Overseas Bank for DDE (as submitted by the school)	4,15,517
Less: Investment made against provision for Gratuity with LIC (Refer Financial observation No. 4)	53,76,777
Less: Depreciation reserve fund (Refer Note 2 below)	-
Less: Caution money as on 31.03.2018 (Refer Other observation No. 3)	12,08,500
Net Available funds for FY 2018-19	8,12,88,663
Audited Expenses for the Session 2018-19 (Refer Note 3 below)	5,63,89,554
Less: Arrears of salary as per 7th CPC (Refer Note 4 below)	2,55,66,108
Net Deficit	6,66,999

Noté 1: Income as per audited financial statements of FY 2018-19 have been considered.

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

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

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation



in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund of INR 1,38,64,191 as reported by the school in the audited financial statements for the FY 2017-18 has not been considered while deriving the fund position of the school.

Note 3: All expenditure of the school for FY 2018-19 has been considered while deriving the fund position of the school except the depreciation of INR 59,37,870 being noncash item.

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

Further, section 10 of DSEA states “ *the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*”. Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon’ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

On review of audited financial statements of the school and as per explanation provided. The impact of salary arrears amounting to INR 2,55,66,108 which is still pending for payment (as provided by the school) 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. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expense for the financial year 2018-19. 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.”

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was

recommended by the team of Chartered Accountants that along with certain financial and other observations that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural findings which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it has been noted that the School has incurred INR 2,44,70,988 towards capitalization of building and INR 23,25,205 for repayment of loan out of school funds which is in contravention to provisions of DSEAR, 1973. Thus, the school is directed to recover total amount of INR 2,67,96,193 from the society. The amount of above receipt along with copy of 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, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 2% to be effective from 01 July 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not 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 report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2018-19 of **Masonic Public School (School ID-1720155), Vasant Kunj, Delhi-110070**, is accepted by the Director of Education and the school is hereby allowed to increase the tuition fee by 2% to be effective from 1 July, 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and



other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

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

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

This is issued with the prior approval of the Competent Authority.



(Yogesh Pal Singh)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

To

The Manager/ HoS

Masonic Public School (School ID: 1720155)

B-1, Vasant Kunj, Delhi-70

No. F.DE.15(699)/PSB/2022 / 4275-4279

Dated: 07/06/22

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



(Yogesh Pal Singh)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi