

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

No. F.DE.15 (154)/PSB/2021/ 3008-3012

Dated: 16/08/21

Order

WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '**the Act**') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '**the Rules**').

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:



"27....

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

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

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

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

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **Bal Bharati Public School (School ID - 1411223), Pushpanjali Enclave, Pitampura, Delhi-110034** had submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2019-20**.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 04.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, compliances against order no. F.DE-15/(118)/PSB/ 2019/30347-51 dated 11.12.2018 issued post evaluation of fee increase proposal for academic session 2017-18 has also been discussed in personal hearing. The school has submitted, vide its reply dated 30.12.2019, that it has challenged the aforesaid order vide Writ Petition No. W.P. (C)

3323 of 2019. The school has not submitted any compliance report against the aforesaid order dated 11.12.2018 and therefore, the compliance of the aforesaid order could not be verified.

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

A. Financial Discrepancies

- I. As per Section 13 of Right to Education Act, 2009, the school should not charge capitation fee from the students at the time of admission. Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India] held that education is a noble profession. **"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that the commercialization and exploitation is not permissible in the education sector and institutions must run on 'no-profit-no-loss' basis".**

Hon'ble Supreme Court categorically held that "Though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"

As per the reply submitted by the school, it has been noted that the school is collecting one-time charges in the name of "Activity Fee for Orientation Programme" and "Activity Fee for Skill Development" at the time of admission from the new student which are in the nature of capitation fee. Further, the Directorate of Education, vide Order No. DE15/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, indicated the head of Fee that recognised private unaided school can collect from the students/ parents is as under:

- Registration Fee
- Admission Fee
- Caution money
- Tuition fee
- Annual Charges
- Earmarked levies
- Development fee

Registration Fee and Admission Fee: Registration fee of Rs. 25 per student and admission fee of Rs. 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: It is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

Annual Charges: Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school

Earmarked Levies: Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in provision of the same.

Development Fee: It is to be treated as capital receipts and utilised towards purchase, upgradation and replacement of furniture, fixture and equipment.

Thus, based on the above-mentioned provisions, it is clear that the school cannot collect one-time charges in the name of "Activity Fee for Orientation Programme" and "Activity Fee for Skill Development" from the students. Accordingly, the school is directed to stop the collection in the name of "Activity Fee for Orientation Programme" and "Activity Fee for Skill Development" from the students.

II. 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.

On review of Fee Receipts of FY 2018-19 submitted by the school, it has been noted that the school has collected "Miscellaneous charges" on quarterly basis from all the students according to the activities / items assigned to particular class and are different for each class. But the school has not provided the list of activities / items assigned to particular class.

Based on the above-mentioned provisions, it is summarized that the school cannot collect miscellaneous charges from the students. Accordingly, the school is hereby directed to stop the collection of miscellaneous charges from the students.

The summary of miscellaneous charges charged by the school are as under:



Particulars	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Pre-school	-	-	7,260	2,050
Pre-primary	1,470	5,225	1,700	2,050
Class 1	1,970	5,225	1,950	1,800
Class 2	1,970	5,225	2,650	1,800
Class 3	1,345	4,725	2,200	2,300
Class 4	1,345	4,725	2,200	2,300
Class 5	1,345	4,725	2,200	2,300
Class 6	2,825	2,675	2,850	2,100
Class 7	2,425	2,675	2,850	2,450
Class 8	2,425	2,675	3,200	2,450
Class 9	2,295	2,675	2,500	1,700
Class 10	2,290	3,325	2,350	2,430
Class 11	2,475	3,250	1,850	1,750
Class 12	2,445	1,900	2,100	1,700

- III. As per Order No.F.DE./15(56)/Act/2009/778 dated 11.02.2009 and DE 15/Act/Duggal . com /203/99/23033-23980 dated 15.12.1999, the fee and fund collected from the students can be utilised as under:

Registration Fee and Admission Fee: Registration fee of Rs. 25 per student and admission fee of Rs. 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: It is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

Annual Charges: Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school

Earmarked Levies: Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in provision of the same.

Development Fee: It is to be treated as capital receipts and utilised towards purchase, upgradation and replacement of furniture, fixture and equipment.

Clause 20 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11/02/2009 states that "no fee, fund or any other charges by whatever name called , shall be levied or realised unless it is determined by the managing committee in accordance with the directions

contained in this order and unless the representatives of the PTA and the nominees of the undersigned are associated with these directions”

In view of the above, the school cannot collect or levy any fees or charges other than those mentioned above. However, as per fee receipts submitted by the school the school is collecting Rs.300 per month from every student as PTA Fund which does not come under the ambit of either tuition fee or annual charges etc as mentioned above.

Therefore, the collection of PTA Fund by the school is not accordance with the above-mentioned provisions. Accordingly, the school is hereby directed to stop the collection of PTA fund immediately and refund the amount corrected to the parent within 30 days from the date of issue of this order.

- IV. As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Further, the Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20.

Moreover, 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.

On review of audited financial statements for FY 2018-19 it has been noted that the school has increased the tuition fee, annual charges and activity fee. The reply submitted by the school post personal hearing has been taken on record, the school explained that it had already filled Full Fee Statement under section 17(3) of DSEA, 1973 for FY 2018-19 with the Directorate of Education on 28.03.2018 after approval of the same in the meeting of School Management Committee held on 23.03.2018. The school was waiting the approval of the Directorate but did not receive any response from DOE. In the mean-time the Hon'ble High Court of Delhi had rendered its land mark judgment in the matter of WPC no. 4374/2018 titled 'Action Committee for unaided Recognized School Vs DoE and Others', the Hon'ble High Court of Delhi has held that *no prior approval of DoE is required to increase the fee*. Based on the aforesaid judgement of Hon'ble High Court of Delhi, the school management has decided in the meeting held on 27.03.2019 to increase the fee for FY 2018-19 and collect the arrears from parents of all fee-paying students.

The break-up of the arrears recognised as income in the income & expenditure account for FY 2018-19 is as under:

Particulars	Amount (in Rs.)
Tuition fee arrears	6,13,67,895
Annual Charges arrears	45,77,000
Activity fee arrears	13,68,825
Total	6,73,13,720

The school has already increased the aforesaid fee in contravention of aforesaid order dated 19.01.2016 of Hon'ble High Court of Delhi. Moreover, it is pertinent to note that the Directorate has filed an appeal against judgement delivered in the matter of WPC no. 4374/2018 titled 'Action Committee for unaided Recognized School Vs DoE and Others', to the Double Bench of Hon'ble High Court of Delhi. The matter is still sub-judice and therefore, school cannot increase the fee in the garb of decision of Hon'ble High Court while the same court in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has passed an order that recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education.

Moreover, the Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, are directed to submit their proposals, if any, for prior sanction for increase in fee for the session 2018-19 and 2019-20. However, the school has not submitted its proposal for fee increase in FY 2018-19 and has increased the fee without approval of the Directorate.

Based on the above-mentioned provision, the action taken by the school is not correct. Thus, the School is directed not to recover increased fee from the students and in case, the increased fee has already been collected, the same needs to be refunded or adjusted in the future fee chargeable from the students. Accordingly, while evaluating the fee increase proposal for FY 2019-20, fee arrears have not been considered in the calculation of funds availability of the school.

- V. As per Para 99 of Guidance note on "Accounting by school" issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "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".

On review of audited Financial Statements for FY 2016-17, 2017-18 and 2018-19, it has been noted that school is not following aforesaid para 99 of Guidance Note -21 and thus,

not transferring any amount from the deferred income account to the credit of income and expenditure account. The Income and expenditure account has been prepared in the columnar form for each fund maintained by the school. The depreciation on fixed assets purchased out of development fund has been charged in the Development fund column in the Income and Expenditure Account and at year end, this amount is transferred from the Income and Expenditure appropriation account to the Development fund account which results into deduction from Development fund. Thereafter, an amount equivalent to the depreciation charged on fixed assets purchased out of development fund is transferred from the Assets purchase fund to Development fund which results to addition in Development fund. This treatment of accounting though provides the correct year-end balance of General fund, Development fund and Assets purchase fund but is not in accordance with accounting presentation suggested by GN-21 in para 99. Thus, school is directed to comply with the provisions of Guidance Note - 21.

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

On review of the audited financial statements of the school, it has been noted that the school has made additions to sports facility center, swimming pool, solar power plant, auditorium equipment, rainwater harvesting system and library books out of its development fund which is contravention of aforementioned provisions. Therefore, the school is directed to ensure the compliance with clause 14 of order dated 11.02.2009 and clause 7 of order dated 15.12.1999. As the development fund can only be utilized for purchase, upgrade and replacement of furniture, fixtures and equipment, the school is directed to purchase other assets out of the savings as computed in accordance with Rule 177 of DSER, 1973.

Details of misutilization of development fund are as under:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Library Books	1,32,691	1,49,385	-
Sports Facility Centre	37,33,479	10,09,760	1,61,302
Swimming Pool	35,14,887	1,46,342	8,93,508
Solar power plant	-	78,84,228	-
Rain water harvesting system	10,93,127	-	12,56,251
Total	84,74,184	91,89,715	23,11,061

- VII. As per clause 2 of Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

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

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

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

Accordingly, based on the aforementioned public notice, High Court Judgement and provisions of Rules 177 of DSER, 1973, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilized for the same.

The financial statements of the school for FY 2014-15, FY 2015-16 and FY 2016-17 revealed that the school has incurred capital expenditure totaling to Rs. 1,68,52,639 towards development of campus expenses and Rs. 90,98,517 towards construction of swimming pool and rain water harvesting in the aforesaid financial years, which is not in accordance with the aforementioned provisions. The school appropriated the cost of construction of swimming pool and rain water harvesting from development fund, which could be utilized only towards purchase of furniture, fixture and equipment. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

As per Directorate's order No. F.DE.15(596)/PSB/2018/30347-51 dated 11.12.2018 issued for evaluation of fee increase proposal for FY 2017-18, the school was directed

to recover the amount spent on the construction work totalling to Rs. 2,59,51,156. However, the school has not complied with the above direction. Accordingly, the school is again directed to recover Rs. 2,59,51,156 from the society within 30 days from the date of this order.

- VIII. Para 57 of Accounting Standard 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, according to para 7.14 of the Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*Plan assets comprise:*

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

Based on the records submitted by the school, it was observed that the actuarial valuation reports for gratuity and leave encashment indicated total liability of Rs. 15,54,84,921 as on 31.03.2019 (against which equivalent provision was created as on 31.03.2019 in its audited financial statements). While the school has invested Rs. 11,53,14,754 with LIC towards gratuity and leave encashment till 31 Mar 2019. Therefore, the amount invested in plan assets by the school has been considered while deriving the fund position of the school with the direction to school to invest equivalent amount in plan assets as required by AS- 15 and submit the compliance report within 30 days from the date of issue this order.

The similar observation was also noted in Directorate vide its Order no. F.DE-15/Act-I/ WPC-4109/Part/13/811 dated 03.07.2017 and Order no. F.DE.15(596)/PSB/2018/3034 7-51 dated 11.12.2018 wherein the school was directed to make earmarked investments equivalent to the provision for retirement benefits with LIC (or any other agency) which the school has yet to comply.

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

Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

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



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

Sub-rule 3 of Rule 177 of DSER, 1973 states *"Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)."*

Further, Sub-rule 4 of the said rule states *"The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."*

Also, 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).

The school explained that it has been following fund-based accounting for the major category of earmarked incomes i.e. Activity fee and Transport fee. But the school has not followed fund-based accounting with respect to Smart class fees, Computer fee, Science fee, Activity Fee for Orientation Programme, Activity Fee for Skill development, Miscellaneous charges which are also reflecting in the audited financial statements. Since, the school has not provided details of expenditure with respect to these earmarked levies, the surplus/deficit from the said earmarked levies cannot be computed.

On the basis of aforementioned orders, 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). The school is charging Smart Class, Activity fee, Miscellaneous Charges from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the Smart Class fees, Activity fee, Miscellaneous Charges and the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy

collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

- X. As per Section 2(m) of DSEA, 1973 states that "Manager" in relation to a school, means the person, by whatever name called who is entrusted, either on the date on which this Act comes into force, or as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school.

Based on the above provisions, the Manager of the school is not entitled to any payment whatsoever from the school funds. The reply submitted by the school post hearing were taken on record and from review of the same, it has been noted that the school has paid remuneration to Manager including conveyance allowance and telephone allowance amounting to Rs. 20,16,000 per annum (Rs. 1,68,000 per month). The total amount paid in last three years come to Rs. 60,48,000. Since, the post of manager is honorary post, therefore, the whole remuneration paid to manager has been disallowed and is recoverable from the society. Accordingly, this amount has been included while deriving the fund position of the school with the direction to recover this amount from the society within 30 days from the date of this order and not to make any subsequent payment to the manger in the form of salary and otherwise.

- XI. 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 school was directed by the directorate through its Order no. F.DE-15/Act-I/WPC-4109/Part/13/811 dated 03.07.2017 to recover the cost of vehicle purchased by the school during FY 2015-16. However, the school has not recovered the same from the society even the same direction was given in Directorate's order no. F.DE-15/(118)/PSB/2019/30347-51 dated 11.12.2018 issued for academic session 2017-18. Therefore, the amount spent by the school on purchase of vehicle of Rs. 33,45,789 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 this order.
- XII. Directorate's order no. F.DE-15/ACT-1/WPC-4109/PART/13/811 dated 03.07.2017 issued post evaluation of fee hike proposal for FY 2016-17 and order no. F.DE-15/(118)/PSB/2019/30347-51 dated 11.12.2018 issued post evaluation of fee increase proposal for FY 2017-18 identified that the school has been making payments to various centres / institutes, which are managed by the same society at a flat rate per student/ teacher in respect of activities/training/orientation, etc. organised by the school at these centres / institutes questioning whether these were at arm's length price.

From review of the audited financial statements of FY 2016-2017, 2017-18 and 2018-19, it has been noted that the school has made payments of Rs. 86,12,200, Rs. 74,83,388 and Rs. 54,22,256 against Expedition charges, Montessori activity expenses, Teacher training expenses and Orientation expenses to various institutions managed by



the same society. Basis the explanation provided by the school, these expenses are charged at the flat rates fixed by centres/institutes for utilising the available facilities at the respective centres/institutes created by the society for the benefit of the students and teachers and constitute all components of cost required for organising/conducting the activity/training. However, the school neither have any breakup of various components comprised in the flat rate charged nor was it able to justify how these rates have been decided. Therefore, it could not be ensured that the expenses incurred by way of transfer of funds to these centres/institutes of the society were at arm's length and that the expenditure is actually incurred. From the rates being charged, it appeared that these rates have an element of profit, which can be considered as an indication of diversion of funds by the school. Further, on account of regular year on year transfer of funds to these centres/institutes, inference may be drawn that the school has been mandated by the society to organise the activities/trainings in these centres/institutes to contribute to the sustainability of these centres/institutes by creating financial burden on the school.

Accordingly, the identified expense of Rs. 2,15,17,844 incurred by way of fund transfer to these centres/institutes during FY 2016-17, 2017-18 and 2018-19 are disallowed, considering the same as diversion of school funds to other institutions under the same management, with the direction to the school to recover this amount from the society within 30 days from the date of this order. The school is also directed to ensure that no funds are transferred by the school subsequently to these centres/institutes.

B. Other Discrepancies

- I. As per clause 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."*

However, on review of audited financial statement for the FY 2017-18 and 2018-19, it has been observed that the school is being refunding only the principal amount of caution money without any interest thereon to the students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009.

Similar observation was also noted in Directorate's order No. F.DE-15/ACT-I/WPC/4109/PART/13/811 dated 03.07.2017 and order No. F.DE-15(596)/PSB/2018/30347-51 dated 11.12.2018 and the school has not complied with the directions mentioned in aforesaid orders. Accordingly, the school is again directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009.



- II. As per the provisions of rule 107- 'Fixation of Pay' of DSER, 1973, "(1) The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum of the scale of pay. Provided that a higher initial pay, in the specified scale of pay, may be given to a person by a appointing authority....(2) The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school."

Directorate's order No. F.DE-15(596)/PSB/2018/30347-51 dated 11.12.2018 issued to the school post evaluation of fee increase proposal for FY 2017-18 indicated that gross salaries of Principal and Vice Principal computed as Rs. 6,06,171 (details of grade pay not provided by school) and Rs. 1,79,439 (with a grade pay of Rs. 8,900) respectively for the month of December 2017 as per the computation of salary in accordance with 7th CPC prepared by the school were appeared excessive in comparison to the salaries paid to comparable staff in government schools.

Further, while evaluating the fee increase proposal for FY 2019-20, the school has not submitted any reconciliation of salary from her date of joining and subsequent increments to conclude whether excessive salary is drawn. Accordingly, the compliance of the above will be examined at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

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

- i. The total funds available for the FY 2019-20 amounting to **Rs. 62,01,62,952** out of which cash outflow in the FY 2019-20 is estimated to be **Rs. 51,40,00,193**. This results in net balance of Surplus amounting to **Rs. 10,61,62,759** for FY 2019-20 after all payments. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	3,88,39,758
Investments as on 31.03.19 as per audited Financial Statements (as per audited Financial Statements of FY 2018-19)	26,84,71,334
Total Liquid Funds Available with the School as on 31 Mar 2019	30,73,11,092
Add: Estimated Fees and other incomes for FY 2019-20 based on audited financial statements of FY 2018-19 of the school	46,73,09,304
Add: Recovery from Society of amount spent on building (Refer Financial discrepancies no. VII)	2,59,51,156
Add: Recovery from Society of remuneration paid to Manager (Refer Financial discrepancies no.X)	60,48,000
Add: Recovery from society of amount incurred on purchase of vehicle (Refer Financial discrepancies no.XI)	33,45,789

Particulars	Amount
Add: Recovery of amount transferred as expenses to other institutions under the Society (Refer Financial discrepancies no.XII)	2,15,17,844
Gross Available Funds for FY 2019-20	83,14,83,185
Less: Development Fund balance as on 31.03.2019 (Refer Note 1)	2,60,33,187
Less: Amount of arrears of Income (Refer Financial discrepancies no.IV)	6,73,13,720
Less: FDR in joint name of Director of Education and Manager of school	24,93,072
Less: Investment with LIC against gratuity/ leave encashment (Refer Financial discrepancies no. VIII)	11,53,14,754
Less: Caution money as on 31.03.2019	1,65,500
Net Available Funds for FY 2019-20	62,01,62,952
Less: Budgeted expenses for FY 2019-20 (Refer Note 2)	44,40,08,734
Less: 7th CPC arrears for the period 01.04.2018-31.03.2019 provided by the school in its audited financial statements for FY 2018-19(Refer Note 1)	4,09,31,844
Less: 7th CPC arrears for the period 01.01.2016 to 31.03.2017 as per previous order No. F.DE-15(596)/PSB/2018/30347-51 dated 11.12.2018 issued to the school post evaluation of fee increase proposal for FY 2017-18	2,90,59,615
Net Surplus	10,61,62,759

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 states "All schools must, first of all, explore and exhaust the possibility of utilizing 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 utilized for years together may also be used to meet the shortfall before proposing a fee increase." Over the number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 2,60,33,187 in its audited financial statements of FY 2018-19 which has been considered for deriving the fund position of the school.

Note 2: The school has implemented 7th CPC on 01.07.2019 w.e.f. April, 2019. In its reply dated 30.12.2019 the school has mentioned that arrears for the period 01.01.2016 to 31.03.2018 are not provided in the books and the school has booked liability of arrear for the period 01.04.2018 to 31.03.2019 only. However, while evaluating the fee increase proposal for FY 2017-18, 7th CPC arrears for the period 01.01.2016 to 31.03.2017 amounting to Rs. 2,90,59,615 were considered. Accordingly, the same has also been taken into consideration while evaluating the fee increase proposal for FY 2019-20.

Note 3: The school has proposed capital expenditure of Rs. 89,00,000 towards development of campus which has not been considered for evaluation of fee increase proposal of the school, being contravention of clause 2 of public notice dated 04.05.1997

Note 4: The school has not made investment with LIC (or any other agency) equivalent to liabilities towards gratuity and leave encashment as per actuarial valuation report as on 31.03.2019. Therefore, the provision proposed by the school towards gratuity and leave encashment in budget for FY 2019-20 has not been considered in the evaluation of fee increase proposal for FY 2019-20.

Note 5: Under the following heads, the school has proposed higher expenditures as compared to the actual expenditure incurred in the previous financial year. The school has not provided any satisfactory explanation or justification for such unusual increase in these expenditures. Therefore, these expenditures have been restricted to 110% of the actual expenditure incurred in the FY 2018-19 considering the rate of inflation. The summary of expenditure disallowed is as under:

Particulars	As per audited FS for FY 2018-19	As per Budget for FY 2019-20	Amount Disallowed in excess of 110% of previous year figures
Salaries & Allowances for Teaching staff			
Contractual/ Adhoc staff	78,48,039	1,60,00,000	73,67,157
Salaries & Allowances for Non-Teaching staff			
Contractual/ Adhoc staff	88,97,101	1,20,71,000	22,84,189
Total	1,67,45,140	2,80,71,000	96,51,346

- ii. The School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after

considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20

AND WHEREAS, it is noticed that the school has utilised Rs. 5,68,62,789 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from the society. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Bal Bharati Public School (School ID - 1411223), Pushpanjali Enclave, Pitampura, Delhi-110034** is rejected by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2019-20 and if the fee is already increased and charged for the academic session 2019-20, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.
3. To rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of India in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.



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

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



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

To
The Manager/ HoS
Bal Bharati Public School (School ID - 1411223),
Pushpanjali Enclave, Pitampura,
Delhi-110034

No. F.DE.15 (154)/PSB/2021/3008-3012

Dated: 16/08/21

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE concerned ensure the compliance of the above order by the school management.
4. Guard file.



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