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

No. F.DE.15(292)/PSB/2021/ 5197-5201 Dated: 13/12/21

ORDER

WHEREAS, every school is required to file a 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 in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as ***'the Rules'***). Such estimate will also provision for donation, gratuity, reserve fund and other items under rule 177(2) and savings thereafter, if any, in terms of the proviso to the rule 177(1).

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 to the Director (Education) to examine the audited financial accounts and other records maintained by the school at least once in each financial year. Section 18(5) and 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 Hon'ble Supreme Court in the judgment dated 27 Apr 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, Director 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 Jan 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.

AND WHEREAS, accordingly, this Directorate vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 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 the their proposals, if any, for prior sanction of DoE for increase in fee for the session 2018-2019 and 2019-2020.

AND WHEREAS in response to this directorate's circular dated 27 Mar 2019 referred to above, **The Indian Heights School, Sector 23, Dwarka, New Delhi - 110077 (School ID: 1821238)** submitted its proposal for enhancement of fee for the academic session 2019-2020 in the prescribed format.

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 Indian Heights School, Sector 23, Dwarka, New Delhi - 110077 (School ID: 1821238)** for the academic session 2019-2020, necessary records and explanations were called from the school through email. Further, school was also provided an opportunity of being heard on 13 Dec 2019 at 03:30 PM 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, the reply of the school, documents uploaded on the web portal for fee increase and all subsequent documents submitted by the school were thoroughly evaluated and key findings noted are as under:

A. Financial Discrepancies

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and Hon'ble High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973. Based on the fact that the school did not implement the recommendations of 7th CPC and did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school*".

   The financial statements of the school for FY 2016-2017 to FY 2018-2019 revealed that the school has incurred expenditure on additions to building out of school funds totalling to INR 1,39,63,544 in the aforesaid financial years, which was not in accordance with the aforementioned provisions. Also, the financial statements for FY 2016-2017 to FY 2018-2019 indicated that the school had appropriated development fund totalling to INR 57,51,902 to partly meet the cost towards additions to building quantified above. While as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and 2004 judgement of Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others, development fund could only be utilized towards purchase, up-gradation and replacement of furniture, fixture and equipment, utilisation of development fund for construction/ addition to building is a non-compliance by the school. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

   On account of above, adjustment in the fund position of the school (enclosed in the later part of this order) has been done to the extent of additions made in the past three financial years (based on audited financial statements submitted by the school for evaluation of the fee increase proposal for FY 2019-2020). Therefore, the amount of INR 1,39,63,544 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

2. Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   1. *award of the scholarships to students,*
   2. *establishment of any other recognised school, or*
   3. *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

   (2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:-

   (a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,
   (b) the needed expansion of the school or any expenditure of a development nature,
   (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,
   (d) co-curricular activities of the students,
   (e) reasonable reserve fund, not being less than ten percent, of such savings."

From the audited financial statements for FY 2018-2019 provided by the school, it was noted that the school had reported expenditure on repair and maintenance of building amounting to INR 52,86,476. Further, from the ledger account of Building Repair and Maintenance and supporting invoices provided by the school, it was noted that during FY 2018-2019 the school had issued work order to a contractor for renovation/ additions/ alternation and incurred expenditure amounting to INR 41,30,000, which was not in the nature of repairs, rather indicate towards expenditure of developmental nature on building. However, this expenditure on development of building was incurred by the school without ensuring compliance of Rule 177, as the school was making payment of salary as per the recommendations of 7th CPC and has not secured funds towards retirement benefits of staff i.e. gratuity and leave encashment.

Therefore, the amount spent on development of building, which was reported by the school as building repair and maintenance amounting to INR 41,30,000 is hereby added in the fund position (enclosed later in the order) with the direction to the school to recover the same from the Society within 30 days from the date of this order. Further, the school has budgeted an expenditure of INR 80,00,000 towards repair and maintenance of building, furniture, etc for FY 2019-2020, but has not provided the breakup of proposed expenditure of INR 80,00,000. Therefore, in absence of details regarding proposed expenditure, amount of INR 41,30,000 incurred towards expenditure of developmental nature on building during FY 2018-2019 has been adjusted from the budgeted expenses of FY 2019-2020 and the same has not been considered as part of budgeted expenses in the fund position of the school (enclosed in the later part of this order) on the same rationale as mentioned herein above. Also, the school is directed not to incur developmental expense on building without ensuring compliance of Rule 177.

3. Directorate, vide its order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 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 the their proposals, if any, for prior sanction of DoE for increase in fee for the session 2018-2019 and 2019-2020.

Directorate's order no. F.DE-15/PSB (PMU)/Fee Hike/2017-2018/14073-082 dated 7 April 2017 regarding fee increase proposals for FY 2017-2018 states "*Schools are strictly directed not to increase any fee until the sanction is conveyed to their proposal by Director of Education.*" Further, Directorate's order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16 Apr 2016 regarding fee increase proposals for FY 2016-2017 stated "*In case, the schools have already charged any increased fee prior to issue of this order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal.*"

Further, the land allotment letter issued by Delhi Development Authority (DDA) provides that "*The School shall not increase the rates of tuition fee without the prior sanction of the Director of Education Delhi Admn and shall follow the provisions of Delhi School Education Act /Rules, 1973 and other instructions issued from time to time.*"

Based on the fees structure and fee receipts of students submitted by the school, the school collected increased fee from students of all classes (Nursery to XII) during FY 2019-20120. While the school submitted the fee enhancement proposal to the Directorate for the first time during FY 2019-2020, it went ahead and increased the fees without prior approval of the Directorate, which is in contravention of aforementioned orders/conditions. Based on the information placed on record by the school, it increased the fee from students as under:

Class	Annual Fee (Yearly)		Tuition Fee (Monthly)		IT Fee (Yearly)		Club & Activity Charges (Yearly)	
	2018-2019	2019-2020	2018-2019	2019-2020	2018-2019	2019-2020	2018-2019	2019-2020
Nursery	13,100	14,400	5,600	6,160	3,500	4,000	3,500	4,000
KG	12,100	13,300	5,400	5,940	3,000	4,000	3,000	4,000
I-III	12,100	13,300	5,500	6,050	3,000	4,000	3,000	4,000
IV – V	12,100	13,300	5,500	6,050	3,000	4,000	3,000	4,000
VI - VIII	12,100	13,300	5,900	6,490	3,000	4,000	3,000	4,000
IX – X	12,100	13,300	5,900	6,490	3,000	4,000	3,000	4,000
XI	13,100	14,400	6,100	6,710	3,000	4,000	-	-
XII	12,100	13,300	5,800	6,380	3,000	4,000	-	-

Increased fee collected by the school during FY 2019-2020 has not been considered while deriving the fund position of the school (enclosed in the later part of this order) and the school is directed to immediately refund/adjust increased fee collected by it and submit evidence of adjustment/refund within 30 days from the date of this order. Also, the school is strictly directed not to collect increased fee from students in future without prior approval of the Directorate.

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

   Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   4. *award of the scholarships to students,*
   5. *establishment of any other recognised school, or*
   6. *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

   (2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:-

   (f) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,
   (g) the needed expansion of the school or any expenditure of a development nature,
   (h) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,
   (i) co-curricular activities of the students,
   (j) reasonable reserve fund, not being less than ten percent, of such savings."

   During review of audited financial statements of the school for FY 2016-2017 to FY 2018-2019, it was noted that school has purchased the vehicle (luxury car) of INR 35,29,655 during FY 2016-17. School has utilised the school funds to the extent of INR 20,49,655 and remaining balance of INR 14,80,000 was paid through a secured loan from bank.

   The school explained that the vehicle was purchased to meet the needs of the school. It has been observed that the school purchased vehicle without ensuring compliance to the requirements of Rule 177 and has submitted proposal for increase of fee from students after mis-utilising school funds towards unnecessary capital expenditure, which translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance.

   Against the vehicle loan taken by the school from Bank, it has repaid the principal amount and interest to bank from school funds during FY 2016-2017 to FY 2018-2019 as under:

Financial Year	Principal (INR)	Interest (INR)
2016-2017	82,194	75,576
2017-2018	2,57,372	1,21,883
2018-2019	3,17,931	92,394
Total	**6,57,497**	**2,89,853**

Accordingly, the amount spent by the school on purchase of vehicle utilising school funds during FY 2016-2017 to FY 2018-2019 amounting to INR 29,97,005 (INR 20,49,655 plus INR 6,57,497 plus INR 2,89,853) is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Also, the school is directed to recover the amount of principal and interest payment to bank subsequent to FY 2018-2019 from the Society within 30 days from the date of this order and not to make any further payment of principal and interest against vehicle loan.

The school is further directed to ensure that capital assets (other than eligible assets against development fund) are not procured from school funds unless savings are derived in accordance with Rule 177.

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

During review of audited financial statements of the school for FY 2016-2017 to FY 2018-2019, it was noted that the school had taken loan for purchase of vehicles (bus for transport service) and has been repaying the secured loan taken towards purchase of buses to the bank in instalments. Further, the school is not following fund based accounting and has not created fund account against transport service provided to students by the school. The income and expense towards transport service from the audited financial statements of the school for aforesaid period were evaluated and it was noted that the school was charging transport fee, which was not even adequate to cover revenue (operating) expenses for providing the transport service to students keep aside interest and loan repayment. Based on details provided by the school, calculation of deficit is enclosed below:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Income			
Transport Fees (A)	1,38,98,200	1,41,17,400	1,63,74,850
Expenses			
Vehicle Running & Maintenance	94,51,524	95,14,647	77,23,868
Insurance	11,65,926	14,23,520	15,44,471
Hiring of driver & conductor	77,20,659	1,05,21,851	1,21,10,804
Total Expenses (B)	**1,83,38,109**	**2,14,60,018**	**2,13,79,143**
Deficit (C)=(A-B)	**44,39,909**	**73,42,618**	**50,04,293**
Principal Loan Repayment (D)	93,09,813	72,47,889	11,34,940

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Interest on vehicle Loan (E)	14,23,431	4,00,510	38,500
Net Deficit after adjusting loan and interest payment (F)=(C-D-E)	**1,51,73,153**	**1,49,91,017**	**61,77,733**

Note: Depreciation on vehicles (26 Nos.) used for transportation of students is not included as part of "Expenses" in table above, as principal repayment and interest expense on vehicle loan (against 12 vehicles) have been indicated in table above.

Since the purchase of buses were made in previous years, the principal amount and interest paid on the bus loans, being additional burden met out of school funds (fee collected from students), should not have been paid from school funds. Earmarked levies in the form of transport fee are to be charged on no-profit no-loss basis and the school has not able to recover the cost of buses, being paid in instalments, from the transport fee collected from students indicating that the school has shifted the burden of capital cost and interest thereon from all students of the school, who are not even availing the transport service.

Accordingly, the amount of principal and interest/financial expenses thereon in relation to bus loans totalling to INR 1,95,55,083 (interest of INR 18,62,441 and principal of INR 1,76,92,642) during FY 2016-2017 to FY 2018-2019 paid out of school fund is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Also, the school is directed to recover the amount of principal and interest payment to bank subsequent to FY 2018-2019 from the Society within 30 days from the date of this order and not to make any further payment of principal and interest against bus loan. The school is further directed to ensure that transport vehicles are procured only from the transport fund and not from school funds unless savings are derived in accordance with Rule 177.

Based on above, the budgeted repayment of principal amount on loan of INR 19,20,000 and interest expense of INR 1,80,000 during FY 2019-2020 has not been considered as part of the Budgeted Expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order).

6. Based on the documents and audited financial statements for the FY 2017-2018 submitted by the school and taken on record, it was noted that the school had taken an unsecured loan of INR 24,80,000 from Corporation Bank during FY 2017-2018. However, the school did not provide details regarding the purpose/utilization of the unsecured loan.

   It was noted that during FY 2017-2018, the school had made additions to building (Refer Financial Discrepancy No. 1 for details) totalling to INR 93,60,185 by using school funds. Accordingly, it is indicative that the school utilised the unsecured loan towards construction of building, which otherwise would not have been required to be taken in the first place had the school not made additions to building.

   Accordingly, interest cost on unsecured loan during FY 2017-2018 and FY 2018-2019 amounting to INR 3,31,118 paid by the school out of school funds is hereby added to the fund position of the school (enclosed in the later part of this order) with direction to the school to recover the amount of interest paid to corporation bank during FY 2017-2018 to FY 2018-2019 from the Society within 30 days from the date of this order and not to make any further payment of principal and interest from the school funds.

Based on audited financial statements for the FY 2018-2019, the outstanding balance of unsecured loan as on 31 March 2019 amounting to INR 17,83,926 has been adjusted from available funds of the school while deriving the fund position of the school (enclosed in the later part of this order) to arrive at net available funds with the school for incurring expenses of FY 2019-2020. Further, the budgeted repayment of principal amount on unsecured loan of INR 4,70,000 during FY 2019-2020 has not been considered as part of the Budgeted Expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order).

7. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, according to para 7.14 of the Accounting Standard 15 "*Plan assets comprise:*
    (a) assets held by a long-term employee benefit fund; and
    (b) qualifying insurance policies."

   It was noted that the school was not providing for the liability towards staff terminal benefits (gratuity and leave encashment) in its financial statements. Further, it was noted that the school was charging expenses relating to gratuity and leave encashment in the Income and Expenditure Account based on actual expenditure/payment to staff during the year. The school has also not obtained actuarial valuation of its liability towards retirement benefits of the staff and has not made any investment towards same in plan-assets as mentioned in Accounting Standard 15.

   During personal hearing, the school mentioned that due to limited/inadequate funds, the school has not been able to deposit any funds towards gratuity and leave encashment in plan-assets. Further, it was mentioned that the school staff will not be denied any benefits of gratuity and leave encashment, which will be paid as and when it becomes payable.

   The school has not earmarked funds towards staff terminal benefits, while it has incurred expenditure on building and purchase of other capital assets without complying the requirements of Rule 177. Based on the fact that the school has neither obtained an actuarial valuation report regarding its liability towards staff retirement benefits nor has it provided for any liability in its financial statements and has not deposited any amount in plan-assets, the same has not been considered while deriving the fund position of the school (enclosed in the later part of the order).

   The school is directed to obtain actuarial valuation of its liability towards gratuity and leave encashment and record the provision towards retirement benefits in its financial statements in conformity with actuarial valuation report. Also, the school should start creating investments that qualify as 'plan-assets' in accordance with Accounting Standard 15.

8. Incomes (fee collected from students) reported in the Income and Expenditure Account/ Receipt and Payment Account for FY 2018-2019 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2018-2019 in its Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school.

   Following differences were derived based on the computation of FY 2018-2019:

Particulars	Income reported in Income & Expenditure Account (A)	Fee computed based on details no. of students provided by the school (B)	Derived Difference (C)= (A-B)	Derived % Difference (D)=(C/B* 100)
Tuition Fee	8,21,52,222	8,80,28,400	(58,76,178)	6.68%
Development Fee	91,71,048	1,10,83,896	(19,12,848)	17.26%
Annual Fee	1,50,57,208	1,58,26,600	(7,69,392)	4.86%

   The school should perform a detailed reconciliation of the amount collected from students and income to be recognised based on the fee structure and number of students enrolled by the school.

   Since the school has to prepare and submit the reconciliation to the Directorate, no adjustment has been made in the fund position of the school (enclosed is the later part of the order).

B. Other Discrepancies

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

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

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

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

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

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on 'Accounting by Schools' (GN 21) 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 was noted that the school charges earmarked levies in the form of Transport Fee, Health & Club Fee, Lab Fee and IT Fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus or deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**Surplus/(Deficit) (INR)**
	A	**B**	**C=A-B**
Transport Fee^	1,63,74,850	2,25,52,583	(61,77,733)
Health & Club Fee	33,87,665	33,55,417	32,248
IT Fee	37,28,667	22,65,133	14,63,534
Lab Fee	5,16,000	-*	5,16,000

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles. However, the amount of EMI (principal repayment and interest expense) paid during the year in respect of the bus loan taken by the school is included in the expense figure.

* The school has not submitted details of expenses incurred against this fee collected from students.

Thus, the surplus generated by the school from earmarked levies has been applied towards meeting establishment cost/revenue expenditure/meeting deficit against transport fee on account of which fund balance of earmarked levies could not separate from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

While the school is engaging in profiteering and commercialisation by collecting excessive fee from students in the name of earmarked fee such as IT and Lab fee, it has been operating transport facility at huge deficit. The school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directed not to transfer the financial impact (i.e. deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e. it must not adjust the deficit from school funds. The school is instructed to operate transport facility on strict no-profit no-loss basis.

It was also noted that the school did not disclose transport fee collected by from students in its proposal for enhancement of Fee for the academic session 2019-2020.

Further, based on aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students 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 charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. From the records placed on record, it was identified that the school is charging Health & Club Fee and IT Fee from 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 Health & Club Fee and IT Fee together with details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee and/or annual charges, as applicable collected from the students.

Accordingly, the school is directed to stop collecting Health & Club Fee and IT Fee from students with immediate effect.

The school is also directed to maintain separate fund account for each earmarked levy depicting clearly the amount collected, amount utilised and balance amount. 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. Also, the school must disclose all types of earmarked levies in the proposal for enhancement of fee.

2. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of*

INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."

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

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 9 Sep 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.*"

From the submissions of the school, it was noted that the school is not refunding interest along with caution money to students. Also, the school had not treated un-claimed caution money as income after the expiry of 30 days from the date the students were informed to collect their caution money from school.

During the personal hearing, the school mentioned that it has stopped collecting caution money from the students and unclaimed caution money will be booked as income in FY 2019-2020. Also, the school is refunding the caution money to the students who have left the school; however, interest is not refunded to the students.

Thus, based on the explanation provided by the school, the school is directed to ensure that caution money is refunded to the students together with interest. Also, the school should send communications to the ex-students to collect caution money and in case the students do not collect the same within 30 days of sending such communication, the unclaimed amount of caution money should be recorded as income after expiry of 30 days. Compliance of the same will be verified at the time of evaluation of subsequent fee hike proposal of the school.

Accordingly, based on the explanation of the school, the amount reported in the audited financial statements for FY 2018-2019 in respect of outstanding caution money has been considered while deriving the fund position of the school (enclosed in the later part of this order).

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

investment made out of this fund, will be kept in a separately maintained Development Fund Account".

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

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

During the personal hearing, the school represented that it was treating development fee as revenue receipt till FY 2015-2016. However, from FY 2016-2017 it started treating development fund as capital receipt but did not make any adjustment in respect of opening balance of development fund and mentioned that the amount collected previously was utilised in full. Basis the presentation made in the audited financial statements for FY 2016-2017 to FY 2018-2019 and details regarding utilisation of development fund submitted by the school, it was noted that the school was not presenting development fund appropriately in its audited financial statement, as it did not bifurcate between development fund account and deferred income to be recorded after utilisation of the development fund account. Thus, the presentation and disclosure of development fund was inaccurate and not in accordance with Guidance Note cited above. It was noted that the school utilised development funds for purchase of furniture, fixtures, infrastructure development and other equipment but the same was not shown as deduction or utilisation in the development fund account. It was further noted that the school had made deduction of depreciation amount from the development fund account and credited the same in the income & expenditure account i.e. represented as revenue receipt to the extent of depreciation amount, Which again was inaccurate as this deduction should be made from deferred income instead of development fund.

Thus, the accounting treatment and presentation of the development fund in financial statements of the school were not in accordance with the accounting treatment and disclosure requirement prescribed in the guidance note cited above. Therefore, incorrect balance of development fund presented by the school in its audited financial statements for FY 2018-2019 has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

Also, the school has enclosed a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement for FY 2016-2017 to FY 2018-2019 and did not enclose separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve with its audited financial statements. The school submitted an unaudited fixed assets schedule separately after being asked to submit the same.

The school is instructed to make necessary rectification entries relating to development fund and comply with the accounting treatment and disclosure requirements indicated in the Guidance Note. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.

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

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

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total no. of students	1,302	1,413	1,439
Total EWS students	164	201	238
% of EWS students to total students	12.60%	14.23%	16.54%

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

5. As per Appendix II to Rule 180(1) of DSER, 1973, *the school is required to submit final accounts i.e. receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.*

   Para 1 of Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India states "*This Standard on Auditing (SA) deals with the auditor's responsibility to form an opinion on the financial statements. It also deals with the form and content of the auditor's report issued as a result of an audit of financial statements.*"

   On review of audited financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noticed that the school did not submit the Audit Report and Significant Accounting Policies and Notes to the Accounts annexed with the financial statements.

   Accordingly, the school is directed to ensure that the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted to the Directorate, which must be complete (including Audit Report and Significant Accounting Policies & Notes to the Accounts). The school is also directed to ensure that the audit opinion is issued by the auditor on the complete set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account complying with the requirements of SA 700.

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

   Para 58(i) of the Guidance Note on Accounting by Schools (2005) 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.*"

   On review of audited financial statements for FY 2016-2017 to FY 2018-2019, it was noted that depreciation is being charged by the school as per rates specified in the Income Tax Act, 1961 instead of depreciation rates specified in Appendix I to the Guidance Note cited above.

   The school is directed to charge depreciation on fixed assets at the rates prescribed by the Guidance Note. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school. Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by 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:

i. The total funds available for the year 2019-2020 amounting to INR 18,19,26,388 out of which cash outflow in the year 2019-2020 is estimated to be INR 14,97,70,283. This results in net surplus of INR 3,21,56,105. The details are as follows:

Particulars	**Amount (INR)**
Cash and Bank Balance as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	71,23,967
Investments (Fixed Deposits) as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	13,10,796
Total Liquid Funds Available with the School as on 31 Mar 2019	**84,34,763**
<u>Add</u>: Estimated Fees/Incomes for FY 2019-2020 (as per audited financial statements of FY 2018-2019) [Refer Note 1]	13,50,68,597
<u>Add</u>: Amount recoverable from Society on account of funds utilized for construction of building during FY 2016-2017 to 2018-2019 [Refer Financial Discrepancy No. 1]	1,39,63,544
Add: Amount recoverable from the society for school funds utilized for development nature expenditure without the compliance of Rule 177 of DSER,1973 during the FY 2018-19	41,30,000

Particulars	Amount (INR)
[Refer Financial Discrepancy No. 2]	
Add: Amount recoverable from the society for school funds utilised for purchase of vehicle along with principal and interest paid for such vehicle without the compliance of Rule 177 of DSER during the FY 2016-2017 to 2018-2019 [Refer Financial Discrepancy No. 4]	29,97,005
Add: Amount recoverable from the society for interest and principal paid on loan on school bus during the FY 2016-17 to 2018-19 [Refer Financial Discrepancy No. 5]	1,95,55,083
Add: Amount recoverable from the society for school funds utilised for payment of interest on unsecured loan during the FY 2017-18 to 2018-19 [Refer Financial Discrepancy No. 6]	3,31,118
Gross Estimated Available Funds for FY 2019-2020	**18,44,80,110**
Less: FDR submitted with DoE (as per audited financial statements of FY 2018-2019)	4,56,268
Less: FDR submitted with CBSE (as per audited financial statements of FY 2018-2019)	1,54,527
Less: Staff retirement benefits [Refer Financial Discrepancy No. 7]	-
Less: Caution Money Fund balance (as per audited financial statements of FY 2018-2019)	1,59,000
Less: Development Fund bank balance (as per audited financial statements of FY 2018-2019) [Refer Other Discrepancy No. 3]	-
Less: Outstanding balance of unsecured loan from Corporation Bank as on 31 Mar 2019 [Refer Financial Discrepancy No. 6]	17,83,926
Net Estimated Available Funds for FY 2019-2020	**18,19,26,388**
Less: Budgeted Expenses for FY 2019-2020 (as per budget submitted by the school along with its fee increase proposal) [Refer Note 2]	14,97,70,283
Estimated Surplus as on 31 Mar 2020	**3,21,56,105**

Notes:

1. Fees and incomes as per audited financial statements of FY 2018-2019 have been considered with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020 with the exception of Depreciation Income, which has not been considered, as it is a notional income.

2. Per the Budgeted Income & Expenditure for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2019-2020 of INR 16,15,65,000, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2018-2019. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering in the budgeted expenses for FY 2019-2020:

Particulars	FY 2018-2019	FY 2019-2020	Amount allowed	Amount Disallowed	Remarks
Fire Fighting Expenses	-	2,00,000	-	2,00,000	The school did not provide any explanation for this new head of expense proposed by the school. Thus, the same has not been considered.
Promotional Expenses	5,23,711	7,00,000	5,76,082	1,23,918	No reasonable justification/ explanation provided by the school for such increase in expense as compared with FY 2018-2019. Accordingly, budgeted expenses have been for restricted to 110% of the expense incurred during FY 2018-2019.
Remuneration to Auditors	1,18,000	3,00,000	1,29,800	1,70,200	
Computer Maintenance & Website Exp	10,14,097	12,00,000	11,15,507	84,493	
Professional Expenses	4,39,904	16,00,000	4,83,894	11,16,106	
Capital expenditure on Building	22,66,732	20,00,000	-	20,00,000	Refer Financial Discrepancy No. 1
Repair & Maintenance	78,12,013	80,00,000	38,70,000	41,30,000	Refer Financial Discrepancy No. 2
Interest on Loan	3,42,041	1,80,000	-	1,80,000	Refer Financial Discrepancy No. 5
School Bus (Principal amount of EMI)	11,33,644	19,20,000	-	19,20,000	Refer Financial Discrepancy No. 5
Other Loan (Principal amount of EMI)	4,71,080	4,70,000	-	4,70,000	Refer Financial Discrepancy No. 6
Employee Welfare including Retirement Benefits	11,79,324	14,00,000	-	14,00,000	Refer Financial Discrepancy No. 7
Total	**1,53,00,546**	**1,79,70,000**	**61,75,283**	**1,17,94,717**	

In view of the above examination, it is evident that the school has adequate funds for meeting all the budgeted expenditures for the financial year 2019-2020.

ii. 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."* The school has sufficient funds to carry on the operation of the school for the academic session 2019-2020 on the basis of existing fees structure and after considering existing funds/reserves.

Whereas, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, certain financial irregularities that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2019-2020 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

And whereas, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

And whereas, the relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has sufficient funds for meeting the expenses for the financial year 2019-2020. Since the school has accumulated surplus funds, increasing fee from students would result in profiteering and commercialisation of education. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2019-2020.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2019-2020 of **The Indian Heights School, Sector 23, Dwarka, New Delhi - 110077 (School ID: 1821238)** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

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

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

To:
The Manager/ HoS
The Indian Heights School (School Id - 1821238)
Sector 23, Dwarka,
New Delhi - 110077

No. F.DE.15(292)/PSB/2021/ 5197 - 5201 Dated: 13/12/21

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 (South West-B) 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