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

No. F.DE.15(189)/PSB/2021/ 3406-10 Dated: 09/09/21

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, 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 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, **M.B.S. International School (School ID-1821259), Sector-11, Dwarka, New Delhi** submitted its proposal for enhancement of fee for the academic session 2019-2020 in the prescribed format.

AND WHEREAS, in the process of examination of fee hike proposal filed by **M.B.S. International School (School ID-1821259), Sector-11, Dwarka, New Delhi** 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 15 Nov 2019 at 11:30 AM 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. Authenticity of Audited Financial Statements

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

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

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

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practising Chartered Accountants from 1 Jul 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated "*With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing.*"

The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 31 Jul 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.

On review of the final accounts for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the Receipt and Payment Accounts were duly signed by the auditor with reference thereon to the audit report of even date, but in its audit report, the auditor only gave his opinion on the true and fair view on:

- In the case of balance sheet of the state of affairs as at 31 Mar and
- In the case of Income and Expenditure account of the Deficit for the year ended on that date.

Thus, the auditor did not give his opinion on the receipt and payment accounts. The school did not provide reasonable justification for auditor's non-inclusion of receipt and payment account in his audit opinion.

While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2019-2020 assuming the same as unaudited/provisional financial statements.

The school is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the school for FY 2018-2019. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the auditor, the school is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The school must also ensure that the Receipt and Payment Account includes cross reference to the Auditor's Report of even date. The school is further directed to ensure that the audit opinions on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

2. On examination of the financial statements for FY 2016-2017 to FY 2018-2019, it was noted that the financial statements were not appropriately authenticated by the representatives of the school, since the schedules annexed to the financial statements were not signed or initialled by any of the officials of the school. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

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

B. 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.*"

   As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

Directorate's order No. F.DE.15(123)/PSB/2019/1360-1364 dated 29 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the audited financial statements of the school for FY 2014-2015 to FY 2016-2017 revealed that the school had incurred expenditure on school building totalling to INR 51,64,989 from development fund. Further, from the financial statements for the FY 2014-2015 to FY 2016-2017, it was noted that school had taken secured loan from Bank of India, other sources and unsecured loan from various parties for the construction of building. During FY 2014-2015 to FY 2016-2017, The school had paid INR 2,51,09,944 as repayment of bank loan to Bank of India, INR 2,72,78,496 as repayment of unsecured loan and INR 1,17,20,190 as interest on secured loan, totalling to INR 6,41,08,630. Further the school was directed not to repay loan taken against the construction of building. During FY 2017-2018 and FY 2018-2019 also, it was noted that the school has repaid principal amount of loan taken and incurred expenditure of interest on loan.

From the financial statements of FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school has repaid secured loan of INR 43,93,603 and INR 11,71,052 during FY 2017-2018 and FY 2018-2019 respectively and also incurred interest expense on secured loans of INR 32,46,013 during the above mentioned years. Therefore, the school had made the repayment of loan and interest expenses totalling to INR 88,10,669 (INR 43,93,603 plus INR 11,71,052 plus INR 32,46,013) during FY 2017-2018 and FY 2018-2019.

As per the documents available on record, the value of building as on 31 Mar 2019 is INR 6,21,02,080 (Gross).

The school represented that the school has taken bank loan, corpus donation and unsecured loan for the construction. The school commenced its operations in 2009 and has been running since then. Once the school is started and the building is used for study of the students, the year to year maintenance/upgradation /expansion /development is to be borne by the management committee of the school to ensure to provide feasible environment for the students to provide proper growth and development. Once the building has been handed over to the school for its use, all the expenses and expenditure is to be borne by the school from its own sources.

The explanation of the school is not justifies as the expenses incurred towards the construction of the school building and the other basic necessities was the sole responsibility of the society. Further, Rule 177 of DSER, 1973 clearly lays down the conditions (i.e. payment of salaries and benefits [including retirement benefits] admissible to staff as per applicable pay commission) after compliance of which the school can incur expenditure on the needed expansion of the school or any expenditure of a development nature or expansion of the school building or for the expansion or construction of building. Accordingly, the burden of additions to building could not shifted on the students and has to be borne by the Society on account of non-compliance with provisions of DSEA&R, 1973.

Based on the fact that the school did not implement the recommendations of 7th CPC till date, did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of

Accounting Standard 15 till date and did not secure the funds against staff gratuity and leave encashment in group gratuity scheme and group leave encashment schemes of LIC or other insurer till date, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school*".

Therefore, the amount of INR 51,64,989 spent for construction/expansion of building from development fund and INR 7,29,19,299 (INR 6,41,08,630 plus INR 88,10,669) 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. However, the school is directed not to charge any cost in relation to construction of building or towards payment of interest or principal on building loan utilising school funds.

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 for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

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

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

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

   From the financial statements for FY 2017-2018 and FY 2018-2019 provided by the school, it was noted that the school had reported excessive expenditure on repair and maintenance of building amounting to INR 66,07,760 and INR 74,45,695. Further, from the ledger account of Building Repair and Maintenance and supporting documents/ invoices provided by the school, it was noted that during FY 2017-2018 and FY 2018-2019 the school had incurred expenditure on purchase of cement, marble, TMT bars, professional charges for RCC, Brick work, Plastering and Finishing Work etc., which are 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 is not paying salaries as per the recommendations of 7th Central Pay Commission and it has not secured funds towards retirement benefits of staff i.e. gratuity and leave encashment in group gratuity and group leave encashment schemes of LIC or other insurers

Therefore, the amount spent on development of building, which was reported by the school as building repair and maintenance amounting to INR 1,40,53,455 (INR 66,07,760 plus INR 74,45,695) 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 inflated amount towards building repair and maintenance for FY 2019-2020, which has not been considered as part of budgeted expenses in the fund position of the school (enclosed in the later part of this order) since the school cannot incur expenditure of developmental expense on building without ensuring compliance of Rule 177.

3. 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.*"

   Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others mentioned "*Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management.*"

   During review of the financial statements of the school for FY 2018-2019, it was noted that the school had purchased two cars such as Innova and Eco Sports from school funds and development funds amounting to INR 21,42,456 and INR 10,43,300 respectively. Development fund can be utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others.

   During personal hearing the school mentioned that vehicles are required to transport staff and students for various competitions, trainings, seminars, attend hearing for Anil dev Committee and fee hike proposals, in case of emergency, etc. The staff does not use their personal vehicles for any kind of school activities, therefore vehicles are necessary for the school.

   The explanation of the school not in line with the requirements of DSEA&R, 1973. It has been observed that the school has been purchasing vehicles and submitting proposals for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance of DSEA & R, 1973.

Further, the above capital expenditures were incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

Accordingly, the amount spent by the school on purchase of cars of INR 31,85,756 (INR 21,42,456 plus INR 10,43,300) from the school fund and development 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. Further, the school is instructed to ensure compliance of DSEA & R, 1973 before making any purchase of capital asset from the school funds.

4. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, according to para 7.14 of the Accounting Standard 15, "*Plan assets comprise:*
    - *assets held by a long-term employee benefit fund; and*
    - *qualifying insurance policies.*"

   On review of financial statements for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school has not obtained actuarial valuation of its liability towards gratuity and leave encashment and had not recorded the provision for same in its books of account. During personal hearing, the school represented that there is no staff who is going to retire or has completed 5 year of services as on 31 Mar 2019. Further, the school mentioned that the school will get the actuarial valuation done and will consider the same in the next year

   Further, it was noted that the school has not made any investment in 'plan-assets' such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits.

   The school is directed to obtain actuarial valuation reports for both gratuity and leave encashment in accordance with the requirement of Accounting Standard 15, create provisions equivalent to the amount of liability determined by the actuary towards gratuity and leave encashment in its books of account and make earmarked equivalent investments against provision for gratuity and leave encashment in group gratuity scheme and group leave encashment scheme of LIC or any other insurer so as to protect against its the statutory liabilities towards staff.

5. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.
   On review of financial statements for FY 2016-2017, it was noted that there was a payable

balance (credit balance) of INR 15,00,960 as on 31 Mar 2017 towards society. On 1 April 2017, school had taken unsecured loan of INR 1,36,42,597 from various other parties and transferred the same directly to the society bank account. The amount transferred to the society was much higher than the credit balance of the school as on 31 Mar 2017. The school had also incurred interest expenses on the unsecured loan taken to finance the society.

From the financial statements of FY 2017-2018, it was noted that the school has incurred interest expenses of INR 15,66,911 on unsecured loan during FY 2017-2018, which was debited to Society's account. However, it was noticed that the school stopped charging interest expenses against the above-mentioned loans in FY 2018-2019. Further, the audited financial statements of the school for FY 2018-2019 reflected a net receivable balance of INR 55,95,962 from the society, which has resulted in diversion of school funds to the society.

Accordingly, the advance amount of INR 55,95,962 given to the society along with the interest paid of INR 15,66,911 on unsecured loan utilized by the society 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 these amounts from the Society within 30 days from the date of the order. Further, the school is directed to ensure compliance with the provisions of DSEA&R, 1973, orders and directions of the Hon'ble Court in this regard and not to give any advance directly to the society or make any payment on behalf of the society (indirect transfers).

6. On examination of the ledger account and supporting documents/invoices of Redox Systems for FY 2017-2018 submitted by the school, it was noted that the school paid INR 2,41,932 during FY 2017-2018 for SMS pack. The following discrepancies were noted in relation to the expenses incurred by the school from the documents taken on record:

Date	Bill No.	ST No./ GST No.	Amount (INR)	GST Amount	Remarks
02 May 2017	42	AAGCR959JSD001	26,450	3,450	Service tax number mentioned on the invoice but the vendor charged GST in its invoice though GST was applicable with effect from 1 July 2017.
02 May 2017	43	07AAVFR0569G2ZP	1,34,200	20,484	While the invoice was raised by 'Redox System Pvt Limited', but the GST No. and

					PAN mentioned on the same pertains to partnership firm. Further, the vendor charged GST in its invoice though GST was applicable with effect from 1 July 2017.
09 Oct 2017	GST/17-18/053		31,282	4,772	Invoice was raised by the partnership firm, but in the signature field, name of the company 'Redox System Private Limited' was mentioned.
01 Nov 2017	GST/17-18/078		50,000	7,627	
		Total	**2,41,932**	**36,333**	

Since the school is a non-profit organisation and is utilising fees collected from the students, so it become the responsibility of the school to ensure that all the invoices raised on the school are correct in all respect. Since the school failed to do necessary due diligence checks on the vendor (as to who is the contracted party, who is raising invoices and to whom payment is made) the amount of GST paid to the vendor during the FY 2017-2018 is hereby added in the fund position. Thus, the total amount of INR 36,333 pertaining to payments made by the school to Redox systems 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.

7. Directorate's order no. F.DE.15(632)/PSB/2018/30532-30536 dated 14 Dec 2018 regarding fee increase proposals for FY 2017-2018 states "*Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-2018 and if the fee is already increased and charged for the academic session 2017-2018, the same shall be refunded to the parents or adjusted in the fee of subsequent months*".

   As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school states "*The school shall not increase the rates of tuition fee without the prior sanction of the Directorate of Education Delhi Admin. and shall follow the provisions of Delhi School Education Act/Rules, 1973 and the instructions issued from time to time*".

Directorate's order no. F.DE.15 (40)/PSB/2019/2698-2707 dated 27 Mar 2019 regarding fee increase proposals for FY 2018-2019 and FY 2019-2020 states "*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.*"

The school was asked to provide the fee structure of the school since FY 2015-2016, the school provided details of only tuition fees mentioning that no increase in fees is made since FY 2015-2016, the same was verified from fees receipts also. However, on analysis of the financial statements of the school for FY 2015-2016 to FY 2018-2019, it was noted that there were wide variations in various fee heads reflected in the Income and Expenditure accounts of different financial years for which the school failed to provide any explanation/reconciliation.

Fee Head	FY 2015-2016	FY 2016-2017	FY 2017-2018	FY 2018-2019
Tuition Fee	5,88,82,177	6,02,68,127	7,30,83,500	8,35,57,180
Annual Charges	1,01,70,949	96,53,107	1,54,02,125	1,74,91,620
Development fee	53,94,233	72,88,057	1,08,08,950	1,59,24,230
Transportation Fee	1,24,71,715	1,23,88,385	1,61,09,727	1,82,58,693

The school did not provide any clarification/explanation for such variations nor the school provided reconciliation of the fee based on number of students to substantiate that the fees charged students were not increased and the incomes recorded in the Income and Expenditure Accounts were appropriate. During personal hearing, the school explained that it did not increase any fee and provided the fee structure, which indicated that school did not increase fee during the aforementioned financial years.

However, adequate details/backup were not provided by the school to evaluate its representation. Further, the number of EWS students has increased over the years from whom the school is expected to provide free education, yet the fees against above cited heads increased especially during FY 2017-2018 towards which there is no appropriate rationale.

Due to lack of information/clarification and reasons for the increase in fee, the fee income reflected by the school could not be validated.

Therefore, the school is directed to provide a comprehensive reconciliation of the fee reported in the Income and Expenditure Account from FY 2015-2016 to FY 2018-2019 based on the number of students and fee structure of school along with its subsequent fee increase proposal.

Since the school has to prepare and submit the reconciliation, no adjustment has been reflected in the fund position of the school (enclosed in the later part of this order). The same shall be examined at the time of evaluation of subsequent fee increase proposal of the school.

C. 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, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately..

   Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

   From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport Fees and Lab/Computer fees from students. However, the school has not maintained separate fund accounts for these earmarked levies. 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, which was also mentioned in Directorate Order No. F.DE.15(123)/PSB/2019/1360-1364 dated 29 Mar 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. Based on financial statements for FY 2018-2019, the following were the incomes and expenses against earmarked levies:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/Fund Balance (INR)
	A	B	C=A-B
Transport Fees^	1,82,58,693	1,92,10,683	(9,51,990)
Lab/Computer Fees*	2,09,250	58,281	1,50,969

^To provide transport facility to the students, all the vehicles have been hired by the school. School does not own any transport to provide to and fro facility to the students.

* The school did not provide breakup of Lab fee and computer fee separately.

The school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

2. 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 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."*

From the fixed assets schedule enclosed with the financial statements for FY 2018-2019, it was noted that the school has purchased car and library books, which is in contravention of the above-mentioned provisions since development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others. Thus, fixed assets such as vehicles and library books must not be reported as part of fixed assets purchased from development fund.

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

Further, from the financial statements submitted by the school, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. Thus, the school did not comply with the condition cited above.

The school is directed to transfer an amount equivalent to the depreciation from "Development Fund Utilised against Fixed Assets" account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note. The school is also directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments to development fund account. The school is also directed ensure that development fund is utilised only towards purchase of furniture, fixture and equipment. Further, the school is directed to make necessary rectifications in presentation of vehicle and library books, which must not be reflected in the fixed assets schedule relating to assets procured from development fund.

3. As per Order No. F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 Apr 2016, *"The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix –II of 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 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

Further, para 58(i) of the Guidance Note states "*A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note.*"

Basis the presentation made in the financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the school is reporting fixed assets (other than those purchase from development fund) at written down value, which is not in accordance with the disclosure requirements included in the guidance note citied above.

From the financial statements of FY 2016-2017 to FY 2018-2019, it was noted that the school did not charge depreciation at the rates specified in Appendix I to the Guidance Note, which was a contravention of the directions issued by this Directorate.

Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. The school is further directed to follow rates of depreciation specified in the Guidance Note.

Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school. The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

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

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

   Further, Clause 4 Order no .DE/15(150)/Act/2010/4854-69 dated 9 Sep 2010 states "*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 the income shall also be taken into account while projecting fee structure for ensuing academic year*"

   Directorate's order No. F.DE.15(123)/PSB/2019/1360-1364 dated 29 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school was refunding caution money to the students at the time of his/her leaving without interest thereon.

From the information provided by the school, it was noted that the school was not refunding interest along with caution money to students. Further, while discussing with the school during personal hearing, it was mentioned by the school that the unclaimed caution money has been taken to the income and expenditure account during FY 2017-2018 and FY 2018-2019.

Therefore, the school is directed to refund caution money to students at the time of leaving together with interest thereon.

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

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

Particulars	**FY 2016-2017**	**FY 2017-2018**	**FY 2018-2019**
Total No. of Students	947	1,239	1306
No. of EWS Students	48	70	94
% of EWS students to total students	5%	6%	7%

   During the personal hearing the school 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.

6. Review of the proposal for enhancement of fee for FY 2019-2020 submitted by the school indicated that the school did not include/disclose transport fee collected by it from students in its proposal for fee hike submitted for FY 2019-2020.

   The school is directed to include complete details of all fees including earmarked levies collected from students in its proposal for fee hike. Also, the school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

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

i. The total funds available for the year 2019-2020 amounting to INR 24,57,25,030 out of which cash outflow in the year 2019-2020 is estimated to be INR 14,58,91,536. This results in net surplus of INR 9,98,33,494. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	81,90,577
Investments (Fixed Deposits) as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	21,59,682
Total Liquid Funds Available with the School as on 31 Mar 2019	**1,03,50,260**
Add: Fees/Incomes for FY 2019-2020 (based on income reported in financial statements of FY 2018-2019) [Refer Note 1]	13,64,44,122
Add: Amount recoverable from Society towards repayment of loan and interest thereon [Refer Financial Discrepancy No. 1]	7,29,19,299
Add: Amount recoverable towards renovation of building from development fund [Refer Financial Discrepancy No. 1]	51,64,989
Add: Amount recoverable from Society towards expenditure of developmental nature incurred on building [Refer Financial Discrepancy No. 2]	1,40,53,455
Add: Amount recoverable from Society towards expenditure on purchase of cars [Refer Financial Discrepancy No. 3]	31,85,756
Add: Amount recoverable from Society towards receivable balance of society [Refer Financial Discrepancy No. 5]	55,95,962
Add: Amount recoverable from Society towards finance cost incurred [Refer Financial Discrepancy No. 5]	15,66,911
Add: Amount recoverable from Society towards discrepancy in invoices [Refer Financial Discrepancy No. 6]	36,333
Gross Estimated Available Funds for FY 2019-2020	**24,93,17,087**
Less: FDR against specific liabilities (jointly with CBSE and DOE) (as per financial statements of FY 2018-2019)	6,04,682
Less: Staff retirement benefits [Refer Financial Discrepancy No. 4]	-
Less: Development Fund (as per financial statements of FY 2018-2019)	23,35,874
Less: Balance of Caution money as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	6,51,500
Net Estimated Available Funds for FY 2019-2020	**24,57,25,030**
Less: Budgeted Expenses for FY 2019-2020 (as per budget submitted by the school along with its fee increase proposal) [Refer Note 2]	13,90,70,020
Less: Arrears of salary as per 7th CPC for the period Apr 2018 to Mar 2019 (as per separate computation of 7th CPC submitted by the school)	68,21,516
Estimated Surplus as on 31 Mar 2020	**9,98,33,494**

Notes:

1. Fee and income based on income reported in financial statements of FY 2018-2019 have been considered (other than non-cash income such as liability no longer required, profit on sale of assets and excess provision reversed) with the assumption the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020.

2. Per the Budget 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 16,10,36,178 (including arrears of salary as per 7th CPC of INR 68,21,516, which has been considered separately in table above), 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 expenses heads as budgeted were considered. Further, during review of budgeted expenses, other 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 the budgeted expenses for FY 2019-2020.

Expense Heads	**Actuals FY 2018-2019**	**Budget FY 2019-2020**	**Amount Allowed**	**Amount Disallowed**	**Remarks**
R & M – Building	74,45,695	84,00,000	-	84,00,000	Refer Financial Discrepancy no.2
Gratuity	-	9,17,677	-	9,17,677	Refer Financial Discrepancy No.4
Teacher's Workshop	5,22,664	6,50,000	5,74,930	75,070	Reasonable explanation/ justification not provided by the school for such percent increase in expenses. Thus, expenditure restricted to 110% of that incurred during FY 2018-2019
Sports & Games Expenses	12,87,287	22,00,000	14,16,016	7,83,984	
Smart Class Expenses	7,21,857	9,00,000	7,94,043	1,05,957	
Lab Expenses	58,281	1,75,000	64,109	1,10,891	
Functions & festivals	21,57,199	25,00,000	23,72,919	1,27,081	
Students Welfare	21,87,843	36,00,000	24,06,627	11,93,373	
Grand Parents Day Expenses	8,13,589	12,00,000	8,94,948	3,05,052	
Graduation Day Expenses	3,02,304	4,00,000	3,32,534	67,466	
Runathon	2,95,000	4,00,000	3,24,500	75,500	
Transportation Expenses	1,92,10,683	2,22,24,683	2,11,31,751	10,92,932	
Electricity & Water Expenses	26,14,848	30,06,000	28,76,333	1,29,667	
Professional Expenses	6,10,500	8,50,000	6,71,550	1,78,450	
Printing & Stationery	20,09,365	30,00,000	22,10,302	7,89,699	
Office Expenses	3,00,122	3,98,000	3,30,134	67,866	
Property tax (MCD)	3,97,372	4,94,902	4,37,109	57,793	
Conveyance	1,37,504	3,00,000	1,51,254	1,48,746	
Repair and Maintenance- Air conditioners	5,22,338	6,50,000	5,74,572	75,428	

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Repair and Maintenance-Fire Fighting	1,05,250	2,50,000	1,15,775	1,34,225	
Repair and Maintenance-Computer	2,13,493	3,98,000	2,34,842	1,63,158	
Repair and Maintenance-Garden	8,23,556	10,00,000	9,05,912	94,088	
Repair and Maintenance-Generator	1,59,963	2,26,000	1,75,959	50,041	
Total	**4,28,96,713**	**5,41,40,262**	**3,89,96,119**	**1,51,44,144**	

In view of the above examination, it is evident that the school has adequate funds for meeting all the budgeted expenses 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 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 and payment of salaries as per the recommendations of 7th CPC are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

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 payment of salaries as per the recommendations of 7th CPC and 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 **MBS International School (School ID-1821259), Sector-11, Dwarka, New**

Delhi 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/charges during FY 2019-2020. In case, the school has already charged increased fee during FY 2019-2020, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To communicate with 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 ensure that salaries and benefits are paid to the staff in accordance with section 10(1) of DSEA, 1973 and Directorate's order dated 25 Aug 2017.

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 and Others. Therefore, school must not 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. To rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).

7. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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
MBS International School
School ID-1821259
Sector-11,Dwarka, New Delhi-110075

No. F.DE.15(189)/PSB/2021/ 3406 - 10 Dated: 09/09/21

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