

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

No. F.DE.15(527)/PSB/2022/ 3063-3067

Dated: 17/05/22

**ORDER**

WHEREAS, **Bal Bhavan Public School, A Block, Swasthya Vihar, Delhi – 110092 School ID- 1003215** (hereinafter referred to as “**the School**”), run by the Lagan Kala Upvan Society (hereinafter referred to as “**Society**”), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as “**DoE**”), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as “**DSEAR, 1973**”). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

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

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

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

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

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

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

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

AND WHEREAS, in order to examine the proposals submitted by the Schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 22.10.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. No. F.DE.15(21)/PSB/2019/922-926 dated 22/01/2019, issued for academic session 2017-18, was also discussed and submissions taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations 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<sup>st</sup> 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 379<sup>th</sup> 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:

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

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

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

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states *"The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

- (a) All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- (b) Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*

The financial statements for FY 2018-2019 submitted by the school along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were signed on 5 Sep 2019. Further, the audit report issued by the auditor is not in accordance in the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the school, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.



While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2018-2019 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 is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

## **B. Financial Observations**

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.

Directorate Order No. F.DE.15(21)/PSB/2019/922-926 dated 22 Jan 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the audited financial statements for the FY 2016-2017 revealed that the school had made additions to the school building amounted to INR 67,98,354 out of the school funds, which were capitalised as 'Building WIP'. In the aforementioned order, the school was instructed to recover the amount of INR 67,98,354 from the society.

The school represented that the expenditure on building had been incurred from the accumulated funds/surplus available with the school in accordance with Rule 177 and also mentioned that the school had not charged or collected any building fund or development charges from the students for same.



Based on the fact that the school did not implement the recommendations of 7<sup>th</sup> CPC until 1 Oct 2019 and did not secure the funds against staff gratuity and leave encashment in group gratuity and group leave encashment schemes of LIC or other insurers, 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"*.

Since the school did not recover any amount from the Society till date and during FY 2017-2018 transferred the 'Building WIP' to 'Building' account, the above mentioned expenditure on building amounting to INR 67,98,354 pertaining to FY 2016-2017 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. The school is further directed not to incur capital expenditure on building from school funds without ensuring compliance of Rule 177.

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 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."*

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."*

Based on the documents submitted by the school and taken on record, it was noted that the school stopped collecting development fee from students from FY 2016-2017. While the audited financial statements of the school for FY 2015-2016 reflected a closing balance of Development Fund of INR 47,84,460, the school during personal hearing mentioned that this balance was already utilised till FY 2016-2017 and no funds were available with the school towards same. The school mentioned that it was not aware of presentation to be made in the financial statements, which was subsequently rectified in the audited financial statements for FY 2018-2019 whereby previously carried over balance of Development Fund was reflected as 'Development Fund Utilised against Fixed Assets'. Thus, based on the presentation made in the audited financial statements for FY 2018-2019, it was noticed that the school had indicated both opening and closing balances of 'Development Fund' of INR 47,84,460 as "Development Fund Utilised against Fixed Assets". However, the school did not provide any reconciliation in respect of development fund collection and utilisation over the years to substantiate its claim that the development fund was completely utilised by FY 2016-2017.

Further, on review of fee receipts and fee structure for the FY 2019-2020 submitted by the school, it was noted that school has again started collecting "Development Fee" from students without submitting details/reconciliation regarding utilisation of existing development fund. Also, the school had not ensured compliances to the directions given by the Directorate in its Order No. F.DE.15(21)/PSB/2019/922-926 dated 22 Jan 2019 including with relation to recovery from Society, not increasing fee and stopping collection of student fund. Thus, levy of development fee again from students led to increase in fee from students, while the school has not complied with directions in previous order issued to the school post evaluation of the fee increase proposal for FY 2017-2018.

Accordingly, the school is directed to prepare a reconciliation of development indicating collections and utilisation over several years and submit the same along with its subsequent fee increase proposal. Also, the school is directed to collect development fee only after furnishing the details of utilisation of development fund and also ensuring compliance with all the directions given by the Directorate hereinabove in this order including recovering of amounts from the Society, refunding/adjusting the excess fee collected, stopping collection of one-time and student fund, etc. in addition to the statutory compliances enunciated in clause 14 of Order No. F.DE./15 (56)/Act/2009/778 dated 11 Feb 2009 and accounting & disclosure requirements of para 99 and 102 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India in relation to development fund, deferred income and depreciation reserve.

Further, while the school explained that the development fund was completely utilised upto FY 2016-2017, on review of the audited financial statements for FY 2017-2018 and FY 2018-2019, it was noticed that the school had utilized school funds for procurement of various capital items such as digital classes, electric panel, vehicle, camera, laptop, projector machine, etc. amounting to INR 70,04,375 (INR 56,22,203 during FY 2017-2018 and INR 13,82,172 during INR 2018-2019) without complying the requirements prescribed in Rule 177 of DSER, 1973 i.e. without deriving savings.



Based on the fact that the school did not implement the recommendations of 7<sup>th</sup> CPC until 1 Oct 2019 and did not secure the funds against staff gratuity and leave encashment in group gratuity and group leave encashment schemes of LIC or other insurers, 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"*.

Accordingly, the above-mentioned capital expenditure totalling to INR 70,04,375 pertaining to FY 2017-2018 to FY 2018-2019 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. The school is further directed not to incur capital expenditure from school funds unless savings are derived after ensuring compliance of Rule 177.

Also, the school has budgeted an amount of INR 33,00,000 towards capital expenditure in FY 2019-2020, which have not been considered as part of the budgeted expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in later part of this order) on the basis of rationale given above.

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."* The school was directed by the directorate through its Order no. F.DE.15(21)/PSB/2019/922-926 dated 22 Jan 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to recover INR 50,65,492 towards cost of luxury cars purchased by the school during FY 2014-2015.

The school submitted documents relating to sale of car. On review of the documents, it was noted that the school has realized the sale proceeds of INR 20,00,000 from sale of car and deposited the same in the school's bank account in May 2016. However, the school has not recovered the remaining balance of INR 30,65,492 from the society since the total amount spent by the school on purchase of the luxury car was INR 50,65,492.

Accordingly, the remaining balance of INR 30,65,492 to be recovered from 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 the remaining amount of INR 30,65,492 from the Society within 30 days from the date of this order.

4. 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."

The school submitted copies of the invoices for evaluation of the fee increase proposal for FY 2017-2018 to FY 2018-2019. On review of the supporting documents related to repair & maintenance of building for FY 2017-2018, it was noted that the school had reported excessive expenditure on repair and maintenance of building amounting to INR 47,55,501. Further, from the ledger account of Building Repair and Maintenance and supporting invoices provided by the school, it was noted that during FY 2017-2018 the school had incurred expenditure on purchase of 1,220 bags of cement, 8,990 bags of Dust, 35,380 Tiles and consultancy charges for interior decorator, 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 was not paying salaries as per the recommendations of 7<sup>th</sup> Central Pay Commission until 1 Oct 2019 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.

Further, the fixed assets schedule enclosed with the audited financial statements for FY 2017-2018 reflected that the school transferred the closing balance of 'Building WIP' (i.e. building under construction/ work in progress) as on 31 Mar 2017 to the 'Building' account indicating that the building construction was completed during FY 2017-2018, but the school did not indicate any further expenditure during FY 2017-2018. Therefore, high expense on Building Repair & Maintenance with bulk quantities of construction material purchased by the school with consultancy to an interior decorator indicates that the expenditure incurred by the school on the building was of developmental nature or towards construction of the same.

On perusal of audited financial statements for FY 2018-2019, it was noted that the school had reported expenditure on repair and maintenance on building amounting to INR 16,78,033. The school was asked to provide the supporting documents for repair and maintenance of building having invoice value of more than INR 50,000. The school provided the ledger account of Building Repair and Maintenance and one supporting invoice. However, from the ledger account it was noted that there is a single invoice of value of INR 15 lakhs, which was not submitted by the school. Therefore, in the absence of supporting documents for expense of INR 15 lakhs, the genuineness of the expenditure could not be verified and it appears that the school has diverted its funds by inflating the repair and maintenance of building, since the supporting documents were not submitted in relation to the expense.

Accordingly, the amount spent on development of building, which was reported by the school as building repair and maintenance amounting to INR 47,55,501 and non-submission of supporting documents of INR 15,00,000 are 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. The school is further directed not to incur capital expenditure from school funds without ensuring compliance of Rule 177.

5. Sub section (1) of section 13 of Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure."*

Further, Sub section (2) of section 13 of Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

- a) receives capitation fee, shall be punishable with fine which may be extend to ten times the capitation fee charged;*
- b) subjects a child to screening procedures, shall be punishable with fine which may extend to twenty five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contraventions.*

Further, section 2(b) of Right to Education Act, 2009 states" *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

On review of audited financial statements and fee receipts for FY 2017-2018 and FY 2018-2019, it was observed that the school has collected one-time miscellaneous charges of INR 15,000 from students at the time of admission. Further, on review of the fee structure and return & documents submitted by the school under Rule 180 of DSER, 1973, it was noticed that the school neither disclosed one-time miscellaneous charges of INR 15,000 in documents/return submitted under Rule 180 of DSER, 1973 nor did it disclose the same in its fee hike proposal or the documents submitted thereunder to the Directorate.

Hence, one-time miscellaneous charges of INR 15,000 collected by school classify under the definition of capitation fee and indicates non-compliance of the requirements if RTE, 2009. Also, collection of one-time fee from students at the time of admission indicates that the school is engaging in profiteering and commercialisation of education.

During the personal hearing, the school explained that it stopped collecting one-time fee under the name of "miscellaneous charges" from students from FY 2019-2020 and submitted a sample of fee receipts for FY 2019-2020 that indicated that the school is not charging one-time miscellaneous fee from students. However, on review of the fee receipts for FY 2019-2020, it was noted that the school has added this amount of INR 15,000 under the head "Annual Charges" and has already collected increased "Annual charges" from students at the time of admission.

While the school has stopped collecting one-time miscellaneous fee, it has substantially inflated the amount of "Annual Charges" that are collected from students at the time of admission and has thus, tried to camouflage one-time fee under Annual Charges, as the same amount of INR 15,000 which was collected against one-time miscellaneous fee from students at the time of admission was added to the Annual Charges in FY 2019-2020. Thus, this is reflective of the intentions of the school of profiteering and commercialisation of education, which is in contravention of DSEA&R, 1973.

Therefore, the school is directed to stop collecting one-time charges from the students at the time of admission, whether directly or under the guise of Annual Charges, with immediate effect. Also,

the school is directed to provide its explanation within 30 days from the date of this order to the Directorate as to why a fine equivalent to ten times of capitation fee charged during the FY 2017-2018 and FY 2018-2019 should not be imposed on the school for collecting capitation fee from students and not complying with the provisions of RTE, 2009.

Based on the audited financial statements of the school for FY 2018-2019, the school collected a total sum of the INR 19,95,000 as one-time miscellaneous fee from students at the time of their admission. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the above-mentioned fee has been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected from students in respect of one-time charge under the disguise of Annual Charges within 30 days from the date of this order.

6. Para 7.14 of Accounting Standard 15 – ‘Employee Benefits’ issued by the Institute of Chartered Accountants of India states “*Plan assets comprise:*

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

Section 10(1) of Delhi School Education Act, 1973 on ‘Salaries of employees’ states “*The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority.”*

Directorate's Order no. F.DE.15(21)/PSB/2019/922-926 dated 22 Jan 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 noted that the school did not obtain actuarial valuation in respect to its liability towards staff gratuity and leave encashment and did not make any provision towards the same in its audited financial accounts.

The school submitted copy of actuarial valuation report of its liability towards gratuity for FY 2018-2019. It was noted that the school obtained actuarial valuation of its liability towards gratuity of INR 69,21,869 and has recorded the same in the books of the account as on 31 March 2019. However, the school has not determined its obligation towards staff leave encashment and had not recorded the provision for same in its books of account. Further, the school has not made any investment in group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits.

Since the school has started implementation of recommendations of 7<sup>th</sup> CPC from 1 Oct 2019 and the school has not yet created investments equivalent to its liability towards staff retirement benefits in previous years, an amount of INR 13,84,374 (20% of INR 69,21,869) equivalent to the 20% of gratuity liability determined by the actuary as on 31 March 2019 has been considered while deriving the fund position of the school (enclosed in the later part of this order) with a direction to the school to deposit this amount in investments such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers within 30 days from the date of this order to protect statutory liabilities. Further, the school should keep on depositing amounts in group gratuity scheme and group leave encashment scheme of LIC/ other insurers in subsequent years to ensure that the value of the investments matches with the liability towards retirement benefits determined by the actuary.



Also, the school is directed to determine its obligation towards leave encashment and make appropriate provision in the books of account for leave encashment and make earmarked equivalent investments against provision for gratuity and leave encashment with LIC (or any other agency) so as to protect against its the statutory liabilities towards staff.

Accordingly, provision towards leave encashment budgeted by the school during FY 2019-2020 without any corresponding calculations for determining the same has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

7. The school was directed by the Directorate through its Order no. F.DE.15(21)/PSB/2019/ 922-926 dated 22 Jan 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to stop collecting student fund.

On review of fee structure and sample fee receipts for the FY 2019-2020, it was noted that school has merged the head of student fund with Annual Charges, this has resulted in non-compliance of the aforementioned order.

The school represented that the student fund was approved by the School Management Committee (SMC) in which representative of DoE as Director (Education) and Advisory Board Nominee were present and these charges were always categorically mentioned in all the annual submission and returns filed under section 17(3) of DSEA, 1973 and Rule 180 of DSER, 1973. Further, no objection had ever been raised by the DoE against the levy of these charges. If the school is directed, not to charge school fund from the students, then there shall be a huge deficit. The school had requested the directorate to allow the merging of student fund with annual charges.

The explanation and representation of the school is not tenable on factual grounds that the school is charging earmarked levies in the from student fund from all students (Nursery to VIII). Therefore, 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).

Therefore, the school is again directed to stop the collecting student fund, which is being charged under the disguise of increased Annual Charges. For the purpose of evaluation of the fee hike proposal for FY 2019-2020, the increase annual charges of INR 21,62,100 (based on amount collected during FY 2018-2019) has been excluded from the income for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to adjust from fee/refund the amount collected from students in respect of student fund under the disguise of Annual Charges within 30 days from the date of this order. Further, the school is directed not to increase or club fee heads on its own without approval of the Directorate.

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.

8. Directorate's order no. F.DE.15(21)/PSB/2019/922-926 dated 22 Jan 2019 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 7<sup>th</sup> 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 that *"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."*

On review of fee structure and sample of fee receipts submitted by the school for the FY 2016-2017 to FY 2019-2020, the school had collected increased fee from students of class KG in FY 2016-2017, class KG & 1<sup>st</sup> in FY 2017-2018, class KG to 2<sup>nd</sup> in FY 2018-2019 and class KG to 3<sup>rd</sup> in FY 2019-2020 without prior approval of the Directorate. It was noted that the school had spent school funds on purchase of luxury vehicles and other capital items, construction and development of building and has been increasing fee from students, which clearly indicates profiteering and commercialisation of education.

The school explained that there is no increase in the fee paid by these students (of class KG in FY 2016-2017 promoted to class 1 in FY 2017-2018 promoted to class 2 in FY 2018-2019 and then promoted to class 3 in FY 2019-2020) as compared with the fee paid by them in previous classes. The school further explained that it did not decrease the fee collected from students in previous year after they were promoted to next class and has submitted the proposals for fee increase to DOE accordingly.

The contention of the school is incorrect, as it has revised its fee structure for particular classes without prior approval of the Directorate. The school did not provide the exact amount of increased fees collected from students during FY 2016-2017 to FY 2019-2020. Therefore, exact amount of excess fee collected by school could not be derived on account of non-submission of requisite information by the school. This, no adjustment is reflected in the fund position of the school (enclosed in the later part of this order).

Accordingly, the school is hereby directed to calculate the excess fee collected from students from FY 2016-2017 to FY 2019-2020 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to increase any fee/charge of any class without approval from the Directorate

9. 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, difference was 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 difference was 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	2,12,17,848	2,20,80,060	(8,62,212)	3.90%

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).

### C. Other Observations

1. On review of Accounting Policies and Notes to Accounts attached with the audited financial statements for FY 2018-2019, inconsistency was noticed between the accounting policy related to fixed assets and reporting in the Balance Sheet.

The Accounting Policies and Notes to Accounts mentions that fixed assets are carried at cost i.e. gross value, whereas on the face of Balance Sheet, fixed assets were reported at written down value. Therefore, there is inconsistency in the audited financial statements of the school.

Accordingly, the school is directed to ensure consistency between the accounting policy related to fixed assets and reporting done in the Balance Sheet.

2. 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. Students	654	688	690
No. of EWS students	146	150	157
% of EWS students to Total Students	22.32%	21.80%	22.75%

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.

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 5,05,80,267 out of which cash outflow in the year 2019-2020 is estimated to be INR 3,71,50,685. This results in net surplus of INR 1,34,29,582. 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)	9,96,863
Investments (Fixed Deposits) as on 31 Mar 2019 (as per audited financial statements of FY 2018-2019)	-
<b>Total Liquid Funds Available with the School as on 31 Mar 2019</b>	<b>9,96,863</b>
Add: Fees/Incomes for FY 2019-2020 (based on income reported in audited financial statements of FY 2018-2019) [Refer Note 1]	2,78,44,056
Add: Amount recoverable from Society on account of capital expenditure on building incurred during FY 2016-2017 without compliance of Rule 177 of DSER, 1973 [Refer Financial Observation No. 1]	67,98,354
Add: Amount recoverable from Society on account of capital expenditure incurred without compliance of Rule 177 of DSER, 1973 (FY 2017-2018 and FY 2018-2019) [Refer Financial Observation No. 2]	70,04,375
Add: Amount recoverable from the society for purchase of Luxury Car during FY 2014-2015 [Refer Financial Observation No. 3]	30,65,492
Add: Amount recoverable from Society on account of school funds utilized on expenditure of development nature of building without compliance of Rule 177 of DSER, 1973. [Refer Financial Observation No. 4]	47,55,501
Add: Amount recoverable from Society on account of supporting documents not available in relation to expenditure on repair & maintenance of building [Refer Financial Observation No. 4]	15,00,000
<b>Gross Estimated Available Funds for FY 2019-2020</b>	<b>5,19,64,640</b>
Less: Staff retirement benefits [Refer Financial Observation No. 6]	13,84,374
Less: Refund/Adjustment of increased fee collected from students during FY 2016-2017 to FY 2019-2020 [Refer Financial Observation No. 8]	0.00
<b>Net Estimated Available Funds for FY 2019-2020</b>	<b>5,05,80,267</b>
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	3,71,50,685
<b>Estimated Surplus as on 31 Mar 2020</b>	<b>1,34,29,582</b>

**Notes:**

1. Fees and incomes as per audited financial statements of FY 2018-2019 have been considered (other than non-cash income such as profit on sale of asset) with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020 with an adjustment of INR 21,62,100 towards student fund (Financial Discrepancy No. 7) and INR 19,95,000 towards one time miscellaneous charges (Financial Discrepancy No. 5) to be adjusted/ refunded to students (included as income in the audited financial statements of FY 2018-2019), which would not accrue during FY 2019-2020.

2. Per the Budget Estimate 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 4,41,28,780, 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, certain 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	FY 2018-2019	FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Other staff benefits	-	1,80,000	-	1,80,000	The school did not provide any rationale or explanation for this new head of expense proposed by the school. Thus, the same has not been considered
Staff Workshop	3,60,000	6,33,000	3,96,000	2,37,000	No reasonable justification/
Vehicle Insurance and Running & Maintenance	1,86,088	4,00,000	2,04,697	1,95,303	explanation provided by the school for such increase in expense as compared with FY 2018-2019.
Student Welfare	2,38,912	3,49,000	2,62,803	86,197	Accordingly, budgeted expenses for FY 2019-2020 have been restricted to 110% of the expense incurred during FY 2018-2019.
Printing & Stationery	2,77,048	5,57,000	3,04,753	2,52,247	
Office Expenses	92,051	2,83,000	1,01,256	1,81,744	
Professional Expenses	5,60,360	7,23,000	6,16,396	1,06,604	
Leave Encashment	-	2,50,000	-	2,50,000	Refer Financial Observation No. 6
Capital Expenditure (Out of Development Fund)	-	33,00,000	-	33,00,000	Refer Financial Observation No. 2
Depreciation	26,43,536	21,89,000	-	21,89,000	Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered.
<b>Total</b>	<b>43,57,995</b>	<b>88,64,000</b>	<b>18,85,905</b>	<b>69,78,095</b>	

- ii. In the view of the above evaluation, it is evident that the School has sufficient fund to carry out its operations at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states:

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

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 observations 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, it has been noted that the School has paid INR 2,31,23,722 towards construction of building, purchase of Car and Other Assets, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 2,31,23,722 from the society. The receipt of the above amount along with the copy of the bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, the recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting its financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB)

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2019-2020 of **Bal Bhavan Public School (School ID- 1003215), A Block, Swasthya Vihar, Delhi – 110092** 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 2019-20. In case, the school has already charged increased fee during FY 2019-20, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.





2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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



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

To:  
The Manager/ HoS  
Bal Bhavan Public School  
School ID: 1003215  
A Block, Swasthya Vihar,  
Delhi - 110092

No. F.DE.15( 527 )/PSB/2022/ 3063-3067

Dated: 17/05/22

**Copy to:**

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) to ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file



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