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

No. F.DE.15(478)/PSB/2022/ 2653-2657 **Dated:** 10/05/22

ORDER

WHEREAS, **The Heritage School, Plot no.8, Sector-23, Rohini, Delhi-110085 (School ID-1413276),** (hereinafter referred to as "**the School**"), run by the **Lord Krishan Educational 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 Heritage School, Plot no.8, Sector-23, Rohini, Delhi-110085 (School ID-1413276)** 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 29.10.2019 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. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued for academic session 2017-18 were also discussed and school submissions were 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. Financial Observations

1. Direction No. 2 included in the Public Notice dated 04.05.1997 states "*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, the Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Alibaba Mahajanga concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Clause 7.24 of Duggal committee report states "*it is also be ensured that the schools, do not discharge any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the School*".

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

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

Accordingly, based on the aforementioned provisions, the cost relating to the land and construction of the school's building has to be met by the society, being the property of the society and the school funds i.e., fee collected from students should not be used for the same.

On review of the audited financial statements of the school for the FY 2017-18 & 2018-19, it was noted that school has capitalised INR 13,91,507 under the head of building during FY 2017-18 and spent INR 12,92,265 on construction of basketball court during the FY 2018-19 out of the school funds without complying with the above-mentioned provisions. The school has incurred the above expenditure in addition to the expenditure incurred on repair and maintenance building amounting to INR 83.02 lacs in FY 2017-18 and INR 66.31 lacs in FY 2018-19.

The Directorate's in its order no. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued post evaluation of proposal for enhancement of fee for academic session 2017-18, noted that school incurred expenditure on renovation of building and EDPM flooring out of the school funds and capitalised under the head building by INR 2,90,83,477 in FY 2014-15 to FY 2016-17 which was not in accordance with the aforementioned provisions. Accordingly, the school was directed to recover the said amount from the society which is still pending for recovery.

The representation submitted by the school against the findings mentioned in the aforesaid order dated 04.04.2019 were taken on record. The school submitted that *"as the land has been allotted by DDA for opening a school only, it cannot be used by the society for any other purpose. For all intent and purposes the land and building can only be used by the school and it can never be used by the society for any other purposes. The school also submitted that though the expenditure has been capitalised under the building head, but no new space was constructed by the school. School emphasised that before calculating the savings as per Rule, the fee can be utilised for the needed expansion of the school, expenditure of a developmental nature, expansion of the school building, expansion or construction of any building for the establishment of hostel or expansion of hostel accommodation as provided in clauses (b) and (c) of Rule 177(2)"*.

The school further explained that due the shortage of funds, it could not implement the recommendation of 7th CPC and could not invest an amount equivalent to the liability for retirement benefits in plan assets as per the requirement of Accounting Standards-15. Besides the payment of the salary to its staff in accordance with the recommendation of 7th CPC and investing an amount in plan assets equivalent to the provision of gratuity and leave encashment, the school preferred to incur capital expenditure on the construction of building etc. which otherwise is the liability of the society. Thus, it appears that the school has deliberately tried to exhaust its funds in the insolation to get the fee hike from the DoE at the time implementation of the 7th CPC. Accordingly, the explanation provided by the school in the representation as well as during the personal hearing is not correct. Therefore, the school should refrain itself from incurring the expenditure which translate in creation of wealth for the society.

Accordingly, the capital expenditure incurred by the school of INR 3,17,67,249 (INR 2,90,83,477 as per the previous order plus addition to building of INR 13,91,507 and INR 12,92,265 on construction of basketball) is hereby added to the fund position of the school considering the same as funds available with the school with the direction to recover this amount from the society within 30 days from the date of issue of this order.

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*" Further, Rule 177 of DSER, 1973 states "*income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by*

such school may be utilised by its management committee for meeting capital or contingent expenditure of the school………. ".

Based on the above, provisions the school can incur the capital expenditures only after complying the requirement of Rule, 177 of DSER, 1973. However, the Directorate in its Order No. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019, noted that school incurred capital expenditure for purchase of 2 cars for INR 37,47,577 without complying with the requirement of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover the said amount from the society which is still pending for recovery.

During the personal hearing, the school explained that it has not recovered any amount from the society and in fact nothing is recoverable from the society because the above-mentioned cars are used for transporting students/staff safely and securely to attend/participate in various inter school/intra-school competitions/debates/sports and games/cultural events etc., for ensuring safety of teachers who sometimes may leave in late hours and is also used for visiting various statutory authorities.

The above explanation provided by the school does not appears logical because from the review of the records submitted by the school, it was noted that the school has been incurring expenditure on transportation of staff, which has been booked under 'miscellaneous expenditure'. The miscellaneous expenditure of the school is ranging from 48 lacs to 58 lacs in last three financial year i.e., from FY 2015-16 to FY 2018-19. It has also been noted after use the above vehicles the 'miscellaneous expenditure' of the school was not reduced. Therefore, the explanation provided by the school is not tenable. Accordingly, the total expenditure of INR 37,47,577 is hereby added to the fund position of the school with the direction to the school to recover the same from the society within 30 days from the date of issue of this order.

3. As Section 18(4) DSEA,1973 states. "*(a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and (b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received".*

Further, the fees/ funds collected from the parents / students shall be utilised strictly in accordance with Rules 176 and 177 of the DSER-1973.

The review of the audited financial statements of the school revealed that the school has spent INR 4,01,167 (IRN 2,93,500, INR 93,167 and INR 14,500 during the financial year 2016-17 to 2018-19) for membership and subscription. Thus, based on the abovementioned provisions, the aforesaid payment towards membership and subscription cannot be treated as educational expenditure.

Therefore, the amount paid by the school as membership and subscription fee has been included in calculation of fund position of the school with the direction to the school to recover this amount from the school management/ society within 30 days from the date of issue of this order. The school is further directed to not incur such type of expenditure out the school funds.

4. Rule 59 of the DSER, 1973 states "members of the managing committee not entitled to any remuneration, honorarium or *allowance but may be permitted to draw allowances for attending meetings of the managing committee at a rate not exceeding the rate of daily allowance or travelling allowance admissible to the non-official members of the committees, boards, and the like in accordance with the orders issued by the Government of India from time to time:*

Provided that if the head of school or a teacher happens to be a member of the managing committee, he shall draw his remuneration in his capacity as the head of school or teacher, as the case may be,

Provided further that the allowances paid to the members of the managing committee for attending meetings thereof shall not be a charge on the school fund".

Based on the above-mentioned provisions no payment to the members of the managing committee is allowed out of the school funds. However, from the review of the documents submitted by the school, it was noted that school paid INR 10,92,900 during the FY 2018-19 to the following members of the managing committee which is not in accordance with the above-mentioned provisions. Therefore, the amount paid by the school to these members are recoverable from the concerned members /society. The details of such payment has been provided below:

Name	Designation	FY 2018-19	Services
Sunil Aggarwal	Consultant	9,20,400	Consultancy charges relating to day-to-day matters of the school @ INR 65,000 per month.
K. L. Sobti	Legal Advisor	1,72,500	Legal Advisor for School related matter @ INR15,000 per Month.
Total		**10,92,900**	

Further, the details of actual amount paid to the above-mentioned members during the FY 2016-17 and FY 2017-18 has not been provided by the school. In the absence of this information, it has been assumed that the school has paid the same amount during the FY 2016-17 and FY 2017-18 as well. Accordingly, INR 32,78,700 (INR 10,92,000 X 3 years) has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the concerned members/society within 30 days from the issue of this order.

Further, the school is also directed not to pay any remuneration to the members of the managing committee in the subsequent year out of the school fund. Accordingly, the budgeted expenditure of the school has been reduced by INR 10,92,900 while deriving the fund position of the school.

5. Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009, "*Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment's. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue*

accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account"

Further, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

The audited financial statements for the FY 2017-18, revealed that the school incurred INR 40,35,426 out of the development fund of purchase of bus. During the personal hearing, the school explained that it had to incur this expenditure due to fire broke out in the service station where old buses went for repair and maintenance. The school has already logged the FIR and filed the insurance claim against this loss. As per the audited financial statements of FY 2018-19, the school received INR 25,61,334 from the insurance company towards full and final settlement. Therefore, the school is required to credit account of development fund account with the amount received from the insurance company and the balance amount of INR 14,74,092 which is not recoverable from the insurance company is recoverable from the society. Accordingly, amount of INR 14,74,092 has been included while deriving the fund position of the school considering the same is available with the school.

6. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."* Further, the Accounting Standard defines the Plan Assets as under.

   (a) Assets held by a long-term employee benefit fund; and
   (b) Qualifying insurance policies.

And para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service".*

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than twenty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"plan assets"* as per AS-15 issued by ICAI.

Review of the documents submitted by the school revealed that the school has got the actuarial valuation report of its liability towards gratuity and leave encashment and reported the same in the audited financial statements. As per the audited financial statements, the total liability towards retirement benefit was INR 3,81,36,089 as on 31.03.2019 against which the school had invested INR 1,56,46,161 in plan assets with LIC. Therefore, the actual investment made by the school in plan assets has been included while deriving the fund position of the school with direction to the school to invest the remaining amount in plan assets within 30 days from the date of issue of this order.

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

Further, as per para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

Further, Para 102 of the abovementioned Guidance Note states "in respect of funds, the schools should disclose the following in the schedules/notes to accounts.

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

Further, the para 67 of the Guidance Note-21 states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

The review of the audited financial statements of the FY 2018-19 revealed that the school has created depreciation reserve fund from general reserve and subsequently utilised this for purchase of fixed assets for INR 44,52,474 leaving the closing balance of INR 90,486 as on 31.03.2019 while the development fund utilisation balance was INR 10,71,99,282. This indicates that the school has not been maintaining depreciation reserve fund in line the accounting treatment specified in the Guidance Note-21 cited above.

Further, it has been observed that the school has been reporting the value of fixed assets at net value i.e. after deduction of the accumulated depreciation from the cost of the assets and also has created depreciation reserve fund account. This clearly indicates that the school has created depreciation reserve fund only for the name's sake and has not been maintaining development fund utilization account and depreciation reserves fund in accordance with the Guidance Note-21 issued by the ICAI.

Therefore, the school is directed to follow correct accounting treatment with respect to utilisation of development fund and creation of depreciation reserve fund in accordance with the Guidance Note - 21 and rectify its balances accordingly and submit the compliance report within 30 days from the date of issue of this order. As the above finding is a procedural finding which is important for better presentation of the financial statements. Therefore, the development fund balance of INR 2,84,297 as per the audited financial statements as on 31.03.2019 has not been considered while deriving the fund position of the school.

B. Other Observations

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

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

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

Based on the documents provided by the school, it was noted that the school has been charging earmarked levies in the form of Transport Fees, Science Fee, computer fees, online Education and Digital communication and information technology fee etc. from the students. However, the school has not maintained separate fund accounts for these earmarked levies. The school either generates surplus or deficit from these earmarked levies and utilises the same for meeting other expenses of the school in case there is surplus or has been met from other fees/income in case there is loss. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school has been provided below.

Particulars	Science Fees	Computer Fees	Transportation Fees	Online Education and Digital Communication Fees*	Information Technology Fees*
For the year 2016-17					
Fee Collected during the year (A)	3,47,130	27,720	19,40,090	61,01,440	19,06,700
Expenses during the year (B)	3,14,074	1,66,115	24,81,730	41,04,817	11,44,790
1) Difference for the year (A-B)	**33,056**	**-1,38,395**	**-5,41,640**	**19,96,623**	**7,61,910**
For the year 2017-18					
Fee Collected during the year (A)	3,34,710	43,560	26,92,720	63,73,750	19,97,729
Expenses during the year (B)	4,45,153	85,611	27,03,130	47,35,849	9,19,204
2) Difference for the year (A-B)	**-1,10,443**	**-42,051**	**-10,410**	**16,37,901**	**10,78,525**
For the year 2018-19					
Fee Collected during the year (A)	4,15,800	46,575	24,67,150	63,79,742	19,99,622
Expenses during the year (B)	4,51,430	2,26,261	30,00,334	59,75,345	19,30,598
3) Difference for the year (A-B)	**-35,630**	**-1,79,686**	**-5,33,184**	**4,04,397**	**1,69,024**
Total= 1+2+3	**-1,13,017**	**-3,60,132**	**-10,85,234**	**36,34,524**	**18,40,435**

* The expenditure relating to Online Education & Communication and Information Technology has not been routed through income expenditure account as the school has directly reported the same in the audited financial statements of FY 2018-19.

The earmarked levies are usually 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 at the school, a separate charge should not be levied for that 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). From the record submitted by the school, it was noted the school has been collecting Online Education & Communication fee and Information Technology fee from all the students which loses the character of earmarked levies. Therefore, the school is directed not collect earmarked levies in the name of Online Education & Communication fee and Information Technology fee with immediate effect.

As the school has not been following fund-based accounting in accordance with the provision cited above. The total fee (including earmarked fee) have been considered in the calculation of fund availability of the school. The school hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilised 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 structure for earmarked levies during the subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

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.

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

The Directorate in its Order No. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, directed to the school to provide reconciliation of salary of principal from the date of joining and subsequent increments. Because it was noted that the gross salary of principal was computed @ INR 3,21,271 (grade pay of INR10,000) for the month of December 2017 which was appearing excessive in comparison to the salary paid to principals in government schools.

The school explained in its representation filed against the aforesaid order that the principal has been working for a long time and has received annual increments as per experience and tenure of services but has not submitted the details about the salary at the time joining and subsequent increments which was given to her from time to time. In the absence of detailed reconciliation, it could not be concluded whether excessive salary is being drawn by the principal of the school. Therefore, the school is directed to provide detailed calculation of salary paid to the principal of the school from the date of joining along with the increments.

3. As per the affiliation bye laws prescribed by Central Board of Secondary Education (CBSE), there should be 1.5 teachers per section to teach various subjects. Information relating to teaching staff, students enrolled, and section were obtained from the school and included in the below table:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
No. of Section (all classes) {A}	58	57	58
Teaching staff FY {B}	148	143	145
No. of teachers as prescribed by CBSE (No. of sections X 1.5) {C=A*1.5}	87	86	87

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Derived overstaffing at school (based on CBSE norms) {D=B-C}	61	57	58
Derived Teacher-Section Ratio {E=B/A}	2.55	2.51	2.5

The above calculations indicate that the school has on an average Teacher-Section Ratio of 2.50, which is higher than the ratio prescribed by CBSE. During the personal hearing, the school explained that in order to provide quality education, it has appointed teachers based on needs of the students. The school prepares plans for each lesson in detail, which is discussed with in-charge of the subjects and quality output is delivered to students after lot of brainstorming. Also, the school tries to document learning curve and patterns of the students and work on the weaknesses of students, for which additional time is required.

As salary expense is the major component of the total cost of the school, the school is again directed to make an assessment of the staff to ensure effective utilisation of the same in accordance with the norms specified by CBSE.

4. As per Order No. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 wherein it was noted:

- No tagging of the assets was done in Fixed Assets Register (FAR) and physically on fixed assets to identify their location because of which the assets could not be physically verified.
- Item wise details are not mentioned in the FAR. Details of the assets sold/scrapped/shifted out of the school are not mentioned in the FAR.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.

During the personal hearing, the school explained that it is in the process of complying with the above direction and the same would be submitted in due course. This being a procedural finding, no financial impact is warranted in calculation of fund position of the school.

5. As per Order No. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued for evaluation of fee proposal for academic year 2017-18, it was noted that the School had no process in relation to calling of quotations from vendor, approval process, gate inward control and payment, only oral communication is done with the prospective suppliers and no documentation was done for the same. The school was not preparing any comparative statement for evaluating the quotations received from vendors and was not getting the same approved from the purchase committee. Also, the school does not have a process of maintaining gate inward and outward register and stamping the invoice at entry gate. The school is yet to comply with the above direction.

Accordingly, the school is again directed to follow proper procurement process and maintain proper documentation in relation to procurements and purchases done by the school. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

6. Direction no. 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of Rs. 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   On review of the audited financial statements for 2018-19, It was noted that school has not been refunding the caution money to the students along with interest at the time of leaving the school. Further, the school has not provided the calculation of amount of unclaimed cation money payable to the ex-students.

   Therefore, the school is directed to ensure compliance with the aforementioned directions including refund of caution money along with interest to exiting students and treat un-claimed caution money as income after the expiry of 30 days from the date of communication with ex-students to collect the same. Further, the balance of caution money outstanding Rs. 7,82,000 as on 31.03.2019 has been considered while deriving the fund position of the school.

7. From review of the audited financial statements for FY 2016-17 to FY 2018-19 of the school it was noted that, the school has paid INR 74,018 as interest on delay in payment of TDS and VAT. The school management should make all its effort for payment of statutory dues within the due date. Hence, the school is directed to comply with the due dates for statutory compliances. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

8. From review of the audited financial statements of the school , it was noted that the school has reported following income and expenditure on net basis. Therefore, the school is directed to reports its income and expenditure on gross basis instead of net basis.
   i. Income and expenditure on tours
   ii. Income and expenditure on students' workshops
   iii. Income and expenditure on function and festival expenses
   iv. Income and expenditure on sports
   v. Income and expenditure on examination expenses
   vi. Income and expenditure on photograph

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 Academic session 2019-20 amounting to INR **25,49,99,255** out of which cash outflow is estimated to be INR **27,04,49,369**. This results in estimated deficit of INR **1,54,50,114**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement	37,77,120
Investments as on 31.03.19 as per Audited Financial Statements	1,56,46,161
Liquid Funds as on 31.03.2019	**1,94,23,281**
Add: Amount recoverable from society for amount spent on construction of school building **(Refer Financial Observation No. 1)**	3,17,67,249
Add: Amount recoverable from society for purchase of cars out of school funds **(Refer Financial Observation No. 2)**	37,47,577
Add: Recoverable from the society towards payment of membership fee out of the school funds **(Refer Financial Observation No. 3)**	4,01,167
Add: Recoverable from the members/ society towards consultancy charges paid to the members of SMC out of the school funds **(Refer Financial Observation No. 4)**	32,78,700
Add: Recoverable from the Society for purchase of Buses **(Refer Financial Observation No. 5)**	14,74,092
Add: Impact of fee increase allowed to school for FY 2017018 as per previous year's Order	74,90,514
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1 below)**	20,16,10,216
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	25,18,917
Total Available funds for FY 2019-20	**27,17,11,713**
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Observation No. 6)**	1,56,46,161
Less: Development Fund Balance as on 31.03.2019 **(Refer Financial Observation No. 7)**	2,84,297
Less: Caution money as on 31.03.2019 as per audited financial statements **(Refer Other Observation No. 6)**	7,82,000
Less: Depreciation Reserve Fund **(Refer Note 2 below)**	-
Estimated Available Funds for FY 2019-20	**25,49,99,255**
Less: Budgeted expenses for the session 2019-20 (after making adjustment) **(Refer Note 3 below)**	21,77,85,369
Less: Arrears of salary on implementation of 7th CPC from 01.01.16 to 31.03.20 (as provided by the school in its justification for increase of Fee) **(Refer Note 4 below)**	5,26,64,000
Estimated Deficit	**1,54,50,114**

Note 1: Income as per audited financial statements of FY 2018-19 has been taken with the assumption that the income accrued in FY 2018-19 will at least accrue to the school in FY 2019-20 except INR

1,30,49,904 related to amortisation of development fund utilized account and INR 64,357 on account of liabilities written off and short and excess adjustment.

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "Registration fee and all one Time Charges' levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and also to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account". Thus, the above direction provides for:

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

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund.

Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not required to deduct from the calculation of the fund position of the school.

From the above, it is clear that the depreciation reserve fund is a notional account of a notional fund for which there is no requirement to have equivalent fund neither in a bank account nor in the form of a fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on the fee structure of the school which would be in contravention of the judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004). In the said judgement the Hon'ble Supreme Court has clearly stated "capital expenditure cannot form part of financial fee structure of the school". Accordingly, charging of depreciation from Income and Expenditure account implies that the school is including a capital component in its fee structure which is not permissible.

Note 3: All budgeted expenditures proposed by the school has been considered except the following expenditures:

Particulars	Amount Disallowed (Amount in INR)	Remarks
Salaries-teaching and non-teaching staff	50,47,431	Reasonable explanation or justification not provided for such unusual increase. Therefore, these expenditures have been restricted upto 110% of actual expenditure incurred by the school in FY 2018-19.
Incremental 7th CPC salaries	2,80,00,000	Considered Separately
Transport staff contractual payments	29,92,137	Reasonable explanation or justification not provided for such unusual increase. Therefore, these expenditures have been restricted upto 110% of actual expenditure incurred by the school in FY 2018-19.
Repair & Maintenance	60,19,163	
Consultancy charges paid to management committee members	10,92,900	Refer Financial Observations No.4
Total	**4,31,51,631**	

Note 4: The Directorate vide Order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No.

F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

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

As per the minutes of meeting of the School Management Committee dated 27.03.2019, it has been noted that School Management has not yet implemented the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds.

While as per Directorate's Order no. F.DE.15(288)/PSB/2019/1575-1579 dated 04.04.2019 issued post evaluation of fee increase proposal of the school for the FY 2017-18, wherein school was allowed to increase its fee after considering the impact of 7th CPC. Accordingly, the school was directed to implement the recommendations of 7th CPC but the school has yet to implement the same. Accordingly, the impact of salary arrears which is still pending for payment (as provided by the school) has also been considered while deriving the fund position of the school with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order and submit the compliance status to DOE.

ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 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, it was recommended by the team of Chartered Accountants that although certain financial observations (appropriate financial impact of which has been taken on the fund position of the school) and certain other observations (appropriate instructions against which have been given in this order) were noted, the fee increase proposal of the school may be accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2019-20.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 07% to be effective from 01 July 2022.

AND WHEREAS, the school has incurred INR 4,06,68,785 capital expenditure on construction of school building, purchase of cars and payment to the member of the school management committee and payment towards membership fee in contravention of the provision of DSEAR, 1973 and orders, and direction issued by the department from time in this regard. Therefore, the school is required to recover this amount from the Society within 30 days from the date of issue of this order and shall submit the copy of receipt along bank statement showing receipt of the amount at the time of evaluation of next fee proposal of the school.

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 2019-20 of **The Heritage School, Plot No.8, Sector-23, Rohini, Delhi-110085 (School ID-1413276)** has been accepted by the Director(Education) and the school is allowed to increase the fee by 07% with effect from 01 July 2022. Further, the management of said school is hereby directed under section 24(3) of DSEA 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

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

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

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

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

To
The Manager/ HoS
The Heritage School (School ID-1413276)
Plot no.8, Sector-23, Rohini, Delhi-110085
No. F.DE.15(478)/PSB/2022/2653-2657 Dated: 10/05/22
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 (North West-B) 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