

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

No. F.DE.15 (878)/PSB/2022/ 6046-6050

Dated: 28/07/22

Order

WHEREAS, **Mira Model School, B- Block Janakpuri, New Delhi (School Id-1514087)** (hereinafter referred to as "School"), run by the Oberoi Education Society (hereinafter referred to as the "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 DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 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 authorized 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 objective 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 schools situated on the land allotted by DDA at concessional rates that:

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

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

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

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

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by 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 & 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 very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard 08.07.2022 to present its justifications/ clarifications on fee increase proposal. Based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted during the personal hearing with the school. During that hearing compliances against order no. F.DE-15/(53)/PSB/2019/778-782 dated



22.01.2019 issued for academic session 2017-18 were also discussed and school's 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 findings noted are as under:

A. Financial Observations

1. As per the Directorate's Order No. DE/Act/Duggal.com/203/99/23033/23980 dated 15.12.1999, *the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution.* The Supreme Court also through its judgment on a review petition in 2009 restricted transfer of funds to the society.

Further, DoE in its Order No. F.DE-15/(53)/PSB/2019/778-782 dated 22.01.2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that school had incurred certain expenditure on behalf of the society amounting to INR 18,00,827 and reported the same as amount receivable from the society in its audited financial statements for the FY 2016-17. Accordingly, the school was directed to recover this amount of INR 18,00,827 from the Society which is still pending for recovery.

Moreover, on review of the audited financial statements of FY 2018-19, it has been noted that the above amount recoverable from society has been increased from INR 18,00,827 to INR 44,20,385 as on 31.03.2019. Thus, it appears that the school has been incurring expenditure on behalf of the society resulting an indirect transfer of school funds to the society.

Therefore, the total amount of INR 44,20,385 which is recoverable from the society is hereby added to the fund position of the school, considering the same as funds available with the school and with direction to the school to recover this amount from the society within 30 days from the date of this order.

2. Direction no. 2 included in the public notice dated 4 May 1997, "it is the responsibility of the society who is established the school to raise such fund 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 judgment dated 30th October 1998 in the case of Delhi Abhibhavak 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. issued by the directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

Accordingly, based on the aforementioned public notice and honorable High Court judgment the cost relating to land has to be made by the society being the property of the society and school funds collected from students is not to be utilized for the same.

Directorate in its Order No. F.DE-15/(53)/PSB/2019/778-782 dated 22.01.2019 issued to the school post evaluation of fee hike proposal for FY 2017-18, directed the school to recover INR 18,71,489 from the society, on account of expenditure incurred on the construction of school building and basketball ground which is still pending for recovery. This capital expenditure was incurred by the school during FY 2015-16



and 2016-17 out of the school funds without complying with the requirement of Rule 177 of DSER, 1973. As the school has not recovered any amount from the society till date. This amount has been added to the fund position of the school considering the same as funds available with the school with the direction to the school to recover this amount from the society within 30 days from the date of this order.

3. 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*
- a. award of scholarships to students,*
 - b. establishment of any other recognised school, or*
 - c. 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."*

Based on the above-mentioned provisions, the school fund can only be utilized for payment of award of scholarship, if there is saving calculated in the manner specified above.

Review of the audited financial statements revealed that the school has paid scholarships of INR 1,15,300 in FY 2017-18 & INR 62,400 in FY 2018-19 without complying with the requirement of Sub Rule 2 of Rule 177 of DSER 1973. From the records submitted by the school, it has been noted that the school is yet implement the recommendation of 7th CPC in full and has to make an invest in the plan asset for retirement benefits in accordance AS-15 issued by ICAI.

Further, DoE in its Order No. DoE vide its order no. F.DE-15/(53)/PSB/2019/778-782 dated 22.01.2019 issued to the school post evaluation of fee hike proposal for FY 2017-18, noted that the school had paid scholarships amounting to INR 1,05,600 during the FY 2016-17 without complying Rule 177 of the DSER, 1973. Accordingly, the school was directed to recover INR 1,05,600 from the society which is still pending for recovery.

In view of the above, total payment of scholarship amounting to INR 2,83,300 is hereby added to the fund position of the school considering the same as funds available with the school and with the direction to the school to recover this amount from the society within 30 days from the date of issue of order.



4. 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 Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

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

Further, 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.

On review of the documents submitted by the school, it has been noted that the school has created provision for gratuity and leave encashment in accordance with the actuarial valuation report. The total liability as per the actuarial valuation report was INR 5,87,35,038 for gratuity and INR 1,48,91,933 for leave encashment as on 31.03.2019.

However, the school has not invested any amount in an investment that qualifies as 'Plan assets' within the meaning of Accounting Standard 15 (AS-15). It is also important to bring this on record that during personal hearing of fee hike proposal of FY 2017-18, the school explained that it is in the process of obtaining relevant insurance plan from LIC/other insurer and compliance of which will be ensured during the FY 2018-19. Basis of the school's explanation an amount of INR 4,55,50,158 towards gratuity and INR 1,40,93,308 towards leave encashment was considered in the calculation of available fund of the school for the FY 2017-18. In the aforesaid order the school was specifically directed to comply with the aforesaid direction and submit the proof of compliance within 30 days from the date of issue of this order i.e. order for FY 2017-18.

However, on review of the audited financial statements of FY 2018-19 and FY 2019-20 and based on the discussion with the school, it has been noted that the school is yet to comply with the above-mentioned direction as the school has not invested any amount in plan assets. Instead of complying with the above-mentioned direction, which was considered based on the school's representation, thus the school has come up with different kind of arguments. During personal hearing the school explained that it has invested in FDRs with bank which can be utilized for payment of retirement benefits as and when liability arises.

The investment held by the school in FDRs does not qualify as plan assets within the meaning of AS-15 issued by ICAI, Therefore, total amount of INR 5,96,43,467 which was allowed to the school based on representation made during the previous year, has been considered as available funds with the school.

Accordingly, it has been included while deriving the fund position of the school with the direction to the school to invest the same in plan assets within 30 days from the date of issue of this order.

5. The Directorate's in its Oder No. F.DE-15/(53)/PSB/2019/778-782 dated 22.01.2019 issued for academic session 2017-18, directed the school to create 3 months' salary reserves in accordance with the provisions of the Right to Education Act, 2009. As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR with any scheduled bank.

Accordingly, the school was allowed an amount of INR 3,03,80,000 while deriving the fund position of FY 2017-18. However, on review of the audited financial statements of FY 2018-19 and based on the documents provided by the school, it has been noted that the school has neither created provision for salary reserve in its audited financial statements nor invested any amount in the joint name of Deputy Director, (Education) and the Manager of the School. Therefore, the amount of INR 3,03,80,000 allowed to the school in the previous order has been considered as available funds with the school and has been included while deriving the fund position of the school.

6. 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, 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, 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."*

Based on the presentation made in the audited financial statements of FY 2018-19, it has been noted that the upon utilization of development funds, the school transfer equivalent to the amount of assets purchased



to the reserves & surplus account instead of creating separate development fund utilization account resulting overstatement of the reserve and surplus account with the notional amounts. As per para 99 of the Guidance Note-21 issued by ICAI, this development funds utilization account is to be treated as deferred revenue income and need to be written off in the proportion of depreciation charged to the income and expenditure account.

Further, as per clause 14 of the order dated 11.02.2009, one of precondition for collecting development fee is that the school is required to create depreciation reserve fund. However, on review of the presentation made by the school in audited financial statements for the FY 2018-19, it has been noted that the school has been creating depreciation reserve fund out of the development fund which is not in accordance with the above-mentioned provision. As per para 99 of the GN-21 issued by ICAI, the depreciation reserve fund is mere of an accounting head for better presentation of depreciation in the books of accounts of the school and there is no financial impact of depreciation reserve on the fund position of the school. Thus, if the school is creating depreciation reserve fund out of the development fund it indicates creation of hidden reserve out of the development fund account resulting profiteering and commercialisation of the education which is not allowed at all.

Further, the closing of development fund as on 31.03.2019 was INR 9,19,29,607 as per the audited financial statements while balance of depreciation reserve fund was INR 61,03,222 which was created out of the development fund account as mentioned above. Thus, total closing balance of the development fund balance should have been INR 9,80,32,829 (development fund balance of INR 9,19,29,607 plus depreciation reserve fund of INR 61,03,222) based on the review of the last three years audited financial statements. While the total fund available with the school was INR 7,48,52,692 (cash & bank plus investment) against these funds. This indicates that the school has not been maintaining the development fund correctly and it appears that the school has utilized some parts of its development fund for any other purposes other than for which it was collected. Further, from review of the audited financial statements of the school, it has been noted that over the number of years the school has accumulated development fund and has reflected the closing balance of INR 9,80,32,829 in its audited financial statements of FY 2018-2019. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, Development Fund equivalent to amount collected in FY 2018-19 amounting to INR 1,40,76,028 from students has been considered for deriving the fund position of the school which has been considered sufficient basis the spending pattern of the school in past.

The school is hereby directed, to collect the development fee in future only if it complies with clause 14 of the order dated 11.02.2009 and follow the accounting treatment specified in para 99 of the Guidance Note-21 "Accounting by School" issued by ICAI and pass the necessary rectification entries in its books of accounts with respect to the above-mentioned findings.

7. As per Order no 15072-15871 dated 23 March 1999 "All pre-primary schools being run by the registered society trust in Delhi as branches of the recognized schools by the appropriate authority in or outside the school premises shall be deemed as one institution for all-purpose further the honorable High Court of Delhi in the matter of Social Jurist vs Govt of NCT of Delhi and others concluded "We do not find any proper



reason or rational to keep preschool apart and segregated by those regular schools where preschool facilities exist and admission starts from that stage.”

During the process of evaluation of fee hike proposal for FY 2017-18, it was identified that Mira model school (operating from class 1) was admitting most of the students directly from the preschool Mira nursery which on that basis has been considered as feeder school of Mira model school. Accordingly, the conditions and requirements applicable to Mira model school would apply in same manner to nursery school. However, Mira Model school did not submit details including financial information and fee (existing and proposed) for students enrolled in Mira nursery school along with its proposal for enhancement of fee for FY 2017-2018 which were subsequently obtained from the school. The school is hereby instructed to ensure that complete details of the feeder school should be enclosed with any subsequent fee hike proposal including the financial information similar to the main school. However, while submitting the fee increase proposal for FY 2018-19, it has been noted that the school has submitted the above-mentioned details in its fee hike proposal submitted by the school.

Further, DoE vide its order no F.DE-15/WPC-4109/Part/13/7914-7923 dated 16.04.2016 regarding fee increase proposals for FY 2016-2017 states in case the schools have already charged increased fee prior to issue of this order the same shall be liable to be adjusted by the schools. Based on the information submitted by the school which were taken on record. It was noted that the feeders who had increased the fee during FY 2016-17 and continued to collect increased fee during FY 2017-18 without prior approval of the DoE. Details of increase in fees is enclosed in table below:

Fee Head	Frequency	Amount FY 2015-16	Amount FY 2016-17	Fee Increase	% Increase
Tuition Fee	Quarterly	8400	9300	900	11%
Development Fee	Annually	4500	5500	1000	22%
Annual Charges	Annually	4000	5000	1000	25%
Computer Fee	Annually	2000	2200	200	10%
Activity Fee	Annually	2000	2200	200	10%

Further, the school did not provide details of total increase fee collected from students or feeder school during FY 2016-2017 and FY 2017-2018. However, based on fee structure and details submitted by the school regarding number of students (non EWS) enrolled with the feeder school, increase fee collection of INR 17,46,000 was computed for FY 2016-2017. This amount of INR 17,46,000 has been considered while deriving the fund position of the school with the direction to the school to refund the same within 30 days from the date of this order.

B. Other Observations

1. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 01.02.2009 states “Earmarked levies will be calculated and collected on ‘no-profit no loss’ basis and spent only for the purpose for which they are being charged.”

Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 state that "Earmarked levies shall be charged from the user student only."

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."

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-21 "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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

On review of audited financial statements submitted by the school, it has been noted that the school charges earmarked levies in the name of Educational Tech Fee/Computer fee but has not maintained separate fund accounts for that. The school has been generating surplus from this earmarked levy which has been utilised for meeting other expenses of the school. Details of surplus generated by the school during FY 2016-17 to 2018-19 are as under:

Education Tech	FY 2016-17	FY 2017-18	FY 2018-19
Income	33,27,675	31,59,000	30,82,620
Expenditure	1,83,150	1,24,579	3,73,808
Surplus / Deficit	31,44,525	30,34,421	27,08,812

Based on the above, it can be inferred that the school has introduced new head of fee in order to generate surplus funds. Further the earmarked levy is 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).

Unintentional surplus, if any, generated from earmarked levy must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, based on the above evaluation it appears the school has been collecting additional fee from the students which is not in the nature of capitation fee. Therefore, the school management is hereby directed to stop the collection of such fee from students

immediately. 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. Further, the school is also directed to determine its fee structure in accordance with above mentioned provisions

2. 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.”*

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 09.09.2010 states *“In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year.”*

During the personal hearing, the school has mentioned that it has opened a separate bank account for deposit of caution money during FY 2017-2018 and has refunded caution money to the students who existed during FY 2017-2018 onwards.

As confirmed by the school in its explanation, the school is directed to use the bank account open for exclusive use of deposit and refund of caution money further the school should refund caution money to students along with the interest at the time of their leaving the school compliance of the same will be validated at the time of evaluation of subsequent fee increase proposal.

Accordingly, the amount to be refunded to students after adjusting the income to be recorded by school towards unclaimed question money as declared by the school has been considered wild arriving the fund position of the school.

3. Para 58(i) of Guidance note on Accounting by schools issued by the institute of chartered accountants of India states *“A school should charge depreciation according to written down value method at rates recommended in appendix I to the Guidance note”*. Also DoE vide its order no F.DE-15/(53)/PSB/2019/778-782 issued to school post evaluation of proposal for enhancement of fee of FY 2017-18 noted that the school had not charges depreciation on assets as per rates prescribed under appendix I of the guidance note.

From the audited financial account statements of FY 2016-17 to FY 2018-19 it was noted at the school did not charge depreciation as the rates specified in appendix I to the guidance note on fixed assets which was a contravention of the directions issued by DoE. During personal hearing the school explained that the books of accounts are maintained in accordance with the Income Tax Act 1961 and the rates of depreciation prescribed there under are used.



The school is directed to make necessary adjustments and ensure that depreciation is charged on fixed assets at the rate prescribing appendix 1 to Guidance note. The above being a procedural finding, no financial impact is warranted for deriving fund position of the school.

4. DoE vide its order no F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 April 2016 "The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with appendix-II of Delhi school education rules, 1973 shall be as per format specified by the ICAI, established under Chartered accountant act,1949 in Guidance note on accounting by schools 2005 or as amended from time to time by this institute.

The school did not prepare receipt and payment account for FY 2018-2019 and did not enclose the same as part of the audited financial statements of the school. The school is hereby directed to ensure that receipt and payment account as per the prescribed format annexed with the aforementioned order of the DoE is prepared for each financial year and it's submitted to the DoE. The above being a procedural finding, no financial impact is warranted for deriving the fund of the school for the FY 2019-20.

Further, it has been observed that the School has disclosed a head on the name of "Amount received from DoE" of INR 7,28,588 as a liability for the school in the audited financial statements for FY 2017-18. The school has not provided any justification/clarification for the same. Therefore, the school is directed to submit the clarification on such amount within 30 days of the issue of this order. The above being a procedural finding, no financial impact is warranted for deriving the fund of the school for the FY 2019-20.

5. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

6. As per Section 18(5) of the DSEA, 1973, the management 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.

Further, Rule 180 of DSER, 1973 states " (1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in sub-rule (1), shall be submitted to the Director by the 31st day of July of each year.(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 any officers authorised by the Comptroller and Auditor General of India"

And Section 24 (2) of DSA. 1973 states "The Director may arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him".



Whereas Appendix-II to Rule 180 specify that “final accounts i.e, receipts, and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by Chartered Accountant.

It has been noticed that Financial Documents/ Certificates Attested by third person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of complaints of signatures of CAs being forged by non CAs.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e, Unique Document Identification Number which is being implemented in phased manner. It will secure the certificates attested/certified by practicing CAs. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

Accordingly, the Council in the 379th meeting of ICAI held on 17.12.2018 and 18.12.2018, made mandatory for all practicing member to obtain 18 digits UDIN before issuing any audits reports/ certification etc. in the following manner:

- All Certification done by Practicing CAs w.e.f. 01.02.2019.
- All GST & Tax Audit Reports w.e.f. 01.04.2019.
- All other attest functions w.e.f. 01.07.2019.

However, on examination of the financial statements submitted by the school for evaluation of fee increase proposal for FY 2019-20, it has been observed that the financial statements of the school were certified by the Chartered Accountant without mentioning the UDIN as required by the council. This being the procedural finding therefore, the school management are instructed to ensure this compliance from the Auditor of the school.

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

- i. The total funds available for the FY 2019-20 amounting to **INR 17,93,13,912** out of which estimated expenditure in the FY 2019-20 is estimated to be **INR 18,61,15,278**. This results in net deficit amounting to **INR 68,01,367** for FY 2019-20 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	-2,26,59,266
Investments as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	10,62,83,840
Total Liquid Funds Available with the School as on 31 Mar 2019	8,36,24,574
Add: Recovery from the Society for indirect transfers of School funds to the Society. (Refer financial observation 1)	44,20,385
Add: Recovery from Society for amount incurred on addition to building (Refer financial observation 2)	18,71,489
Add: Scholarship paid by the school to be recovered from the society (Refer financial observation 3)	2,83,300
Add: Fees for FY 2018-19 as per Audited Financial Statements (Refer Note 1 below)	10,19,15,439

Particulars	Amount (in INR)
Add: Other income for FY 2018-19 as per audited Financial Statements (Refer Note 1 below)	48,11,775
Gross Available Funds for FY 2019-20	19,69,26,962
Less: Staff retirement benefits for gratuity (Refer financial observation 4)	-
Less: Staff retirement benefits for leave encashment (Refer financial observation 4)	-
Less: Salary Reserve (Refer financial observation 5)	-
Less: Refund/ Adjustment of increased fee collected by feeder school during FY 2016-17, 2017-18, 2018-19 (Refer financial observation 7)	17,46,000
Less: Depreciation reserve fund (Refer Note 2 below)	-
Less: Grant from Niti Aayog as on 31.03.2018	2,37,022
Less: Development Fund (Refer financial observation 6 & note 3 below)	1,40,76,028
Less: Caution money as on 31.03.2019 (Refer other observation no 2)	15,54,000
Net Available Funds for FY 2019-20	17,93,13,912
Less: Budget expenses for FY 2019-20 (Refer note 4 below)	15,00,60,643
Less: Arrears of salary as per 7th CPC (Refer note 5 below)	3,60,54,635
Net Deficit	68,01,367

Note 1: Fee and income as per audited Financial Statements of FY 2018-19 has been considered with the assumption that the amount received in FY 2018-19 will at least accrue during FY 2019-20 except profit on sale of assets.

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 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

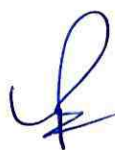
along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- 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 & OINR: 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, the depreciation reserve fund of INR 1,85,86,951 as reported by the school in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the school.

Note 3: the Honorable Supreme Court in the matter of modern school health that development fee for supplementing the resources for purchase upgradation and replacement of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further the DoE circular number 1978 dated 16 April 2010 states "all schools must first of all explore and exhaust the possibility of utilizing the existing funds reserves to meet any shortfall in payment of salary and allowances as a consequences of increasing the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase." Over a number of years, the school has accumulated Development Fund and has reflected the closing balance of INR 9,80,32,829 (refer financial observation no 6 above). Accordingly, the accumulated reserve of Development Fund created by the school by collecting development fee more than its requirement for purchase and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, Development Fund equivalent to amount collected in one year of INR 1,40,76,028 during FY 2018-2019 from students has been considered for deriving the fund position of the school which is considered sufficient basis the spending pattern of the school in past.



Note 4: All expenditure has been considered as per budget estimates provided by the school for FY 2019-20 except depreciation of INR 24,43,532 being a non-cash item.

Note 5: As per 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, 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.

The school provided salary arrears amounting to INR 4,55,45,991 from January 2016 to May 2019 out of which the school has paid INR 94,91,356 during the FY 2018-19. Therefore, net amount of INR 3,60,54,635 only has been considered while deriving the fund position of the school. The school is hereby directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expense for the financial year 2019-20. 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."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural findings which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has utilised INR 65,75,174 in contravention of provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from the society. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

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 is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) 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 7% to be effective from 01 July 2022.

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, 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 of fee increase for academic session 2019-20 of **Mira Model School, B- Block Janakpuri, New Delhi (School Id-1514087)**, is accepted by the Director of Education and the school is hereby allowed to increase the tuition fee by 7% to be effective from 1 July, 2022.

Further, the management of said School is hereby directed under section 24(3) of DSEAR 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
Mira Model School,
B- Block Janakpuri, New Delhi (School Id-1514087)
No. F.DE.15 (878)/PSB/2022/ 6046-6050

Dated: 28/07/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (West A) 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