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

No. F.DE.15(434) / PSB / 2022/2062-2066 **Dated:** 21/04/22

ORDER

WHEREAS, **Modern Convent School (School ID-1821190), Sector-4, Dwarka, New Delhi - 110078** (hereinafter referred to as "**the School**"), run by the **Modern Charitable Foundation** (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 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 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 para's 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/ 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 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate **Modern Convent School (School ID-1821190), Sector-4, Dwarka, New Delhi - 110078** had submitted the proposal for fee increase 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 is justified 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 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 of being heard on 20.01.2020 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing compliances against order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 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. And after evaluation of fee proposal of the school, the key findings and status of compliance against order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2017-18 are as under:

A. Financial Observations

I. Clause 2 of 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, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*"

Accordingly, based on the aforementioned public notice and High Court Judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

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

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

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

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

Therefore, as per Rule 177 of DSER, 1973 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. The aforesaid savings shall be arrived at as per the conditions laid down in Rule 177 of DSER, 1973.

The DoE's in its order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2017-18, noted that in FY 2013-14 to FY 2016-17, the school funds of INR 5,46,54,829 were utilised by the school for construction of building in violation of aforesaid public notice and High court judgement and Rule 177 of DSER, 1973.

And review of the audited Financial Statements of FY 2017-18 and FY 2018-19 revealed that school has spent INR 2,12,78,615 and INR 54,68,674 on construction of school building out of the school funds without complying the above-mentioned provisions. Accordingly, the total expenditure of INR 8,14,02,118 (INR 5,46,54,829 plus INR 2,12,78,615 plus INR 54,68,674) is hereby added to the fund position of the school considering the same fund is available with the school. The school is further directed to recover this amount from the society within 30 days from the date of this order. On account of non-compliance to the direction, the school is liable for necessary action in accordance with section 24(4) of the DSEA, 1973

During the personal hearing, the school has submitted that it has not recovered any amount from the society as the school building was constructed by the society initially and then was transferred to the school, therefore any later expansion in the school building is met from the school fee in accordance with the provisions of the Rule 177 of the DSEA&R, 1973. This explanation of the school is out of context and beyond the legal provisions/ direction. As per the above-mentioned provisions the school cannot incur any expenditure on construction of school building or on purchase of land being the property of the society.

II. As per 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..... capital expenditure/investments have to come from savings.*"

However, in DoE order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2017-18, it was noted that the school incurred capital expenditure of INR 50,78,921 for purchase of a cars and two buses by taking loan from bank and has been repaying the principal and interest out the school funds. Thus, the school's fund utilised by the school towards purchase the aforesaid car and bus including the repayment of principal amount of loan and interest thereon is not in accordance with the provision of Rule 177 of DSER, 1973. . Accordingly, the school was directed to recover the aforesaid amount from the society. During the personal hearing the school explained that it has not recovered this amount from the society.

Apart from the above, the audited financial statements of the school for FY 2017-18 revealed that the school has purchased another 2 buses by taking a fresh loan and 5 buses from the school funds. During the FY 2018-19, the school has purchased 3 buses by taking fresh loans from the bank. Therefore, the school funds utilized by the school for purchase of the theses buses and car including the amount utilised for repayment of loan and interest thereon is recoverable from the society and therefore has been included while deriving the fund position of the school. The summary of the amount spent by the school on purchase of bus, repayment of loan and interest thereon is provided below.

Particulars	Amount in INR
Recovery from the society as per previous year's order	50,78,921
Add: Repayment of loan on loan taken for purchase of buses and car during the FY 2017-18 and 2018-19	54,31,115
Add: Interest paid on loan taken for purchase of buses and car during the FY 2017-18 and 2018-19	1,82,518
Add: School funds utilised for making down payment for purchase of buses during the FY 2017-18 and 2018-19.	1,01,12,568
Total	**2,08,05,122**

In view of the above, the total amount of INR 2,08,05,122 utilised by the school without complying the provision of Rule 177 of DSER, 1973 is recoverable from the Society and accordingly, has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

III. Rule 175 of Delhi School Education Rules, 1973 states "*the accounts with regard to the Recognised Unaided School Fund, shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fees, collections for specific purposes, endowments, gifts, donations, contributions to Pupil's Fund and other miscellaneous receipt.*"

Further, Section 2(v) of "Delhi School Education Act 1973 states ; "school property" means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds' investments and bank balances.

Also, as per Clause 3 of Order No. 1978 dated 16.04.2010 and Clause 11 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11.02.2009 which states that '*the schools should not consider the increase in fee to be the only source of augmenting their revenue. They should also venture upon other permissible measures for increasing revenue receipts*".

The DoE in its order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2017-18, noted that school has let out swimming pool, book/uniform shop and canteen without any consideration which is a potential loss of revenue to the school. Last year the school had accepted and agreed that it will revise the agreements of let out of swimming pool, book/uniform shop and canteen so that a reasonable amount can be collected out of these facilities.

During the personal hearing the school explained that these facilities is continuing but has not provided any details as revised agreement and amount collected for these arrangements. In the absence requisite detail, no amount has been considered while deriving the fund position of the school. Therefore, the concerned Deputy Director of Education is directed to examine authenticity/ genuineness of these transactions of goods/services procured by the school.

IV. Para 49 of 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, para 57 states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date*". Also, para 7 of 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.

The school during personal hearing submitted that it has got Actuarial Valuation of its liabilities towards retirement benefits (i.e. gratuity and leave encashment) for the FY 2017-18 and 2018-19 and has created equivalent provisions in its books of accounts.

Review of the audited financial statement for FY 2017-18 and FY 2018-19 revealed that the school has created the provision for retirement benefit in accordance with the actuarial evaluation report but has not invested equivalent amount in the plan assets within the meaning of AS-15.

While evaluating the fee increase proposal for academic session 2017-18, the school was directed to build up the fund value of the group gratuity and leave encashment to bring it equivalent to the amount of liability determined by the actuary but the school has yet to comply with the same. As the actuarial valuation report total liability for retirement benefit was INR 6,83,13,006 which the school has recognised in its books of accounts and reported the same in its audited financial statements of FY 2018-19. However, the earmarked investment against this liability is nil. During the personal hearing the school explained that it has fixed deposit with bank which can be utilised for payment of these liability as and when this is arise. Since the school has not followed the direction of the department, therefore not amount has adjusted to this effect while deriving the fund position of the school.

In view of this, the school has been directed to earmarked investment in plan assets within the meaning of AS-15 and submit the compliance report within 30 days from the date of issue of this order.

V. Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "*Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment'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-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.*" *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."

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

From review of the audited financial statements of the school of FY 2016-2017 to 2018-19, it has been observed that the school is not following accounting treatment specified in para 99 of the Guidance Note-21. The financial statements of the school revealed that the school does not charge depreciation on assets purchased out of development fund, while the same has been included in the fixed assets schedule annexed to the Balance Sheet. Further, in 2017-18, the school has utilised depreciation reserve fund for purchase of fixed assets of INR 2,17,356. As depreciation reserve is mere of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by ICAI and not funds available with the school for purchasing assets. Thus, only development fund received from students can be only be utilised by school for purchase of furniture, fixture and equipment. Further, depreciation reserve fund balance should be equal to accumulated depreciation on fixed assets as on 31 March indicated in the audited financial statements.

It has also been noted that the school has been transferring amount from development fund to general reserve without providing reason for doing so accordingly, the school is not following correct accounting treatment with respect to collection and utilisation of development fund account. In view of this, the school is directed to ensure compliance with Clause 14 of Order No. F.DE./15(56)/ Act/ 2009/ 778 dated 11 Feb 2009 and Guidance Note 21 and submit the compliance report with this direction within 30 days from the date of issue of this order. Non - compliance with this direction, the school is liable for necessary action in accordance with section 24(4) of the DSEA, 1973.

B. Other Observations

I. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

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

Rule 176 provides "*Income derived from collections for specific purposes shall be spent only for such purpose.*" Further, as per Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 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.*"

And as per Sub-rule 3 of Rule 177 of DSER, 1973 "*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.*"

The audited financial statements of the school for FY 2018-19 revealed that the school charges earmarked levies in the form of 'Transport Fees', 'Science fee' and 'Computer fee'. The school has created a transport fund from FY 2016-17 but has not created fund based accounting for other earmarked levies such as Computer fee and Science Fee. From the details collected for these earmarked levies it has been noted that the school has been incurring deficit which has been met from other fees/income.

Also, as per Guidance Note 21 'Accounting by Schools' issued by the ICAI, earmarked levies collected from students are a form of restricted funds, and which are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet. The above-mentioned 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 ('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). However, school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note-21.

The similar observation was also noted in order no F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2017-18 wherein the school was directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students but the school has not complied with the above directions until today. Therefore, the school is once again directed to comply with the above direction and submit the compliance report within 30 days from the date of issue of this order. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies. The school submitted in its reply post personal hearing that at times, they have been using to meet shortfall in Tuition Fee vis-à-vis Establishment cost, as Tuition Fee is not sufficient and thus, utilised the earmarked levies for meeting the shortfall. Details of income and expenditure of earmarked levies as per audited financial statements for FY 2017-18 and FY 2018-19 are as follows:

(Amount in INR)

Particulars	Computer Fee^	Science Fee
For the year 2017-18		
Fee Collected during the year (A)	2,18,700	3,23,300
Expenses during the year (B)	8,94,456	13,00,773
Difference for the year (A-B)	**-6,75,756**	**-9,77,473**
For the year 2018-19		
Fee Collected during the year (A)	2,21,400	3,40,900
Expenses during the year (B)	-	12,69,454
Difference for the year (A-B)	**2,21,400**	**-9,28,554**
Total Surplus/ (Deficit)	**-4,54,356**	**-19,06,027**

^School has not followed fund-based accounting for earmarked levies and thus, not showing expenditure incurred exclusively against these earmarked fees and therefore, aforesaid surplus/ (deficit) amount calculated above may get revised upon correct presentation of expenses against these earmarked fees.

II. It was noted that the school was not following adequate procurement procedures, which involves obtaining minimum no. of quotations, comparative statement approved by purchase committee, issuing purchase order/contract, etc. The school mentioned that it is following adequate procurement procedure for purchase of high value items. However, the school did not submit document in relation to procurement processes carried out for validation of its claim.

Accordingly, the school is hereby directed to follow proper procurement process and maintain proper documentation to validate the same. Similar observation was also noted in order no. F. DE-15/ACT-I/WPC-4109/PART/13/875 dated 22.08.2017 which the school has yet to comply. Therefore, the school is again directed to follow proper procurement process and maintain proper documentation to validate the same.

III. The Directorate's in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/875 dated 22.08.2017 and order no. F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2016-17 and 2017-18 noted certain issues regarding procurement of goods and service at arm's length price. The observations included:

a. Purchases made from C-Tech Systems & Megha Computer Services amounting to INR 51,30,410 and INR 1,05,79,390 respectively during FY 2013-14 to FY 2015-16. Further contract issued to Giga Byte Technology. It was noted that these firms were related to each other having same billing address and contact numbers.

b. Madan Lal – Contract awarded for the construction of basement and 4th floor. Estimated Cost of project INR 4 Crores.

c. Arya Facilities Pvt. Ltd. – Contractor for providing manpower to School.

d. Turf purchase and installation agreement with Tiger Turf NZ Ltd. Of INR 48,06,110 and Altus Sports & Leisure Pvt. Ltd. of INR 20,72,597 respectively. The school has also spent INR 37,07,905 on raw material and other expenses on lying of Turf out of which INR 10,65,400 was paid to contractors 'Shyamlal' and 'Sultan'

School was asked to provide the supporting documents for the above-mentioned transactions, but the school did not provide any documentary evidence to examine authenticity/ genuineness of these transactions. In the absence of supporting documents, the compliance could not be evaluated. Therefore, the compliance with the above direction would be verified while evaluating the fee increase proposal of the school for the subsequent year.

IV. The Directorate's in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/875 dated 22.08.2017 and F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2016-17 and 2017-18 noted certain issues against which the school has not provided any details/documents to validate compliance of the directions given in aforementioned order. The observations included:

a. Gupta Enterprises was paid INR 22,99,997 during the three years under inspection and has been paid @ INR 1.20 per copy as photocopy charges. No agreement exists with vendor and no record has been maintained in respect of quantity of photocopies done. The payment is made as invoiced by the vendor on the basis of slips given by school.

b. Jaggi Light and Tent House was paid INR 15,43,546 and Jaggi Caterers Decorators was paid INR 19,78,161 during the three years under inspection. Both vendors seem to be related to each other. Invoices have been raised without any itemized details and service tax has not been properly charged in the invoices.

c. Building Repair & Maintenance: Cash payment of more than INR 1 Crore for 3 years under inspection has been made to the labour but no document has been maintained in respect of the labour deployed on daily basis.

d. ADI Visuals and Neelam Crafts payment made INR 2,75,000 and INR 3,00,000 respectively. Services was taken for annual function, two vendors hired for same service, one was giving service for day one and other was giving service for next two days of function. It seems that both vendors are related.

e. Catering expenses paid to various vendors have big variations as to the rates charged by them.

f. Vendor C-Tech System raised invoices to Modern Convent School only.

g. Service tax has been charged by the unregister vendor under service tax and service tax not charged by vendor registered under service tax.

h. Date was not mentioned on Invoice in some cases.

i. Invoices have been raised by different vendors having same address.

j. Some invoices were not in proper format and were without proper description of services/goods supplied.

k. In some instances payments have been made against 'Estimates' instead of proper invoice.

l. There were some instances where school has not entered into any agreement with the vendors.

m. Invoices raised by the vendor were not in sequence as per the dates prescribed on it.

n. Cash payments made to labour without any record of attendance being maintained by school.

o. Delivery challans are not being maintained by the school.

p. There is overwriting on the invoice raised by the vendors.

q. Accounts being squared up without the receipt of the final invoice from vendor.

r. Extra expenses booked under the head – telephone expenses of INR 1,29,468 on 26.06.2015.

s. Payment of invoices which pertains to previous years.

With respect to the above issued this time again the school has not submitted any documentary evidence for review. However, in its reply submitted by the school post personal hearing the school mentioned that going forward 'the School shall comply with the above direction of the Directorate and maintain proper records of the matters mentioned in the captioned order". Therefore, the compliance with the above direction would be verified while evaluating the fee increase proposal of the school for the subsequent year.

V. The Directorate's in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/875 dated 22.08.2017 and order no F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2016-17 and 2017-18 noted issues in the statutory payments made by the school. The observations included:

a. TDS on salary was not deducted as per the legal provisions prescribed by Income Tax Act, 1961.

b. TDS was not deducted on many transactions as required by the Income Tax Act, 1961.

c. TDS returns pertaining to couple of quarters were not available on record and complete TDS returns were not available in some cases for inspection. It was also noted that TDS challans entered into TDS return were not mapped to the deductee records.

d. TDS returns have been filed late in most of the cases which has led to levy of penalty for late filling of TDS returns and the penalty levied has not been paid too. Moreover, there are defaults in the TDS returns filed by the school.

e. In some instances TDS was deposited later than due date.

f. The school has taken registration under WCT in last quarter of FY 2013-2014, but the school was subject to WCT before that too. School has not deducted and paid WCT on many payments made by it. Moreover, there was delay in deposit of WCT and filing of returns in some cases.

g. The school has not ensured the deduction and payment of PF of all the contractual employees.

h. The school has not paid ESI on due dates and the payment of PF on due date cannot be verified in the absence of relevant documents. The contractors/ service providers/ manpower suppliers are not following PF and ESIC rules and this may lead to whole liability on the school in respect of payment of ESIC and PF in respect of persons deployed in school by vendors.

With respect to the above the school has not submitted any documentary evidence for review. However, in its reply submitted by the school post personal hearing the school mentioned that going forward 'the School shall comply with the above direction of the Directorate and maintain proper records of the matters mentioned in the captioned order". Therefore, the compliance with the above direction would be verified while evaluating the fee increase proposal of the school for the subsequent year.

VI. The Directorate's in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/875 dated 22.08.2017 and order no F.DE. 15(24)/PSB/2019/927-931 dated 22.01.2019 issued for academic session 2016-17 and 2017-18, it was noted that the school has given free-ship to 6 students due to support of their parents/ relatives in the establishment of school. Further, there are two complaints filed against the school in Labour Court. The cases are pending, and the current status of the cases is not known. School was asked to provide the current status of the cases.

The school did not submit required documents regarding the status of pending cases. Thus, the compliance could not be evaluated. The same will be verified at the time of subsequent fee hike evaluation.

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

i. The total funds available for the year **2019-20** amounting to INR **29,10,34,779** out of which cash outflow for the year 2019-20 is estimated to be INR **20,40,36,097**. This results in net surplus of INR **8,69,98,682**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement	40,98,990
Investments as on 31.03.19 as per Audited Financial Statements	27,58,923
Liquid funds as on 31.03.2019	**68,57,913**
Fees for 2018-19 as per audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20) (Refer Note 1)	17,88,18,861
Other income for 2018-19 as per audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	37,82,746
Add: Recovery from society of cost incurred on additions to Building from 2013-2014 to 2018-2019 (Refer financial observations I)	8,14,02,118
Add: Recovery from Society against purchase of vehicles and repayment of loan and interest (Refer financial observations No. I)	2,08,05,122
Less: Retirement benefits (Refer financial observations V)	-
Less: Development fund	7,83,162
Net Available funds for FY 2018-2019	**29,10,34,779**

Particulars	Amount in INR
Less: Expenses for the 2019-20 (Revenue Expenditure + Capital Expenditure) (Refer note 1)	20,40,36,097
Estimated Surplus	**8,69,98,682**

Note 1: Fees and other income as per audited financial statements for FY 2018-19 has been considered as we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20. Further the income and expenditure under transport fee are not routed through income and expenditure account. Hence, the income and expenditure under transport fee has been considered while evaluating the fund position of the school.

Note 2: As per financial observation no. V, the school has not deposited any amount to LIC or similar agency towards gratuity and leave encashment despite being instructed several times by the department. Accordingly, INR 25,00,000 proposed by school towards gratuity and towards leave encashment for the FY 2019-20 has not been considered while deriving fund position of the school.

Note 3: The school has proposed INR 80,00,000 and INR 40,000 towards renovation of building and interest on vehicle loan respectively. The cost of capital expenditure building and interest on loan cannot form part of fee structure of all students and the same need to be met out of the savings, if any, and therefore, the same has been adjusted from the budgeted expenditure. (Refer Financial Observations No.I)

ii. The School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16.04.2010 that,

"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 irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be rejected.

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

AND WHEREAS, as per point no. 2 of Public Notice dated 04.05.1997, it is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society. Thus, renovation and construction expenses incurred on the building should not be met out of the fee collected from students and is required to be recovered from the society. Also, school funds used for repayment of principal amount of loan taken for purchase of vehicle in contravention of Rule 177 of DSER, 1973 are to be recovered from the society. Accordingly, school is required to recover INR 10,22,07,240 from society within 30 days from the date of this order.

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 the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2019-20 of **Modern Convent School (School ID-1821190), Sector-4, Dwarka, New Delhi - 110078** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2019-20. In case, the school has already charged increased fee during FY 2019-20, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

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

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

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

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

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

To:
The Manager/ HoS
Modern Convent School (School ID-1821190)
Sector-4, Dwarka
Delhi – 110078
No. F.DE.15(434) / PSB / 2022/2062-2066 Dated: 21/04/22
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 (South 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