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

No. F.DE.15 (1523 **)/PSB/2023/**7397 - 7401 **Dated:** 21/08/23

Order

WHEREAS **St. Joseph's Academy (School ID-1001167), Savita Vihar, New Delhi-110092** (hereinafter referred to as **"the School"**),run by the **St. Joseph's Academy 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, the manager of every recognized 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.'*

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA,1973 and returns and documents submitted under section 18(5) of DSEA,1973 read with rule 180(1) of DSER,1973.

AND WHEREAS, besides the above, the Director(Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools for some of the schools which have been allotted from Director (Education) before any increase in fee.

AND WHEREAS, 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/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, 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 academic session 2022-23.

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, the order dispenses the proposal for increase of fee submitted by the school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 09thMay2023to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20 was also discussed with the school and the school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. Clause 7 of order No. DE. 15 /Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 states "*Development 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of*

this fund, will be kept in a separately maintained development fund account". And this was also upheld by the Supreme Court in case of Modern School vs. Union of India &Ors through its judgement dated 27 April 2004.

Also, 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."*

The Directorate vide order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, noted that during FY 2016-17 to 2018-19, school utilised development fund/fee amounting to INR 79,08,464 and INR 19,65,949 for installation of solar system and repair & maintenance respectively in contravention of the clause 14 of the order dated 11.02.2009 and thus, it was directed to the school to ensure utilization of development fund in accordance with clause 14 of order dated 11.02.2009 and also, to comply with para 99 of Guidance Note 21 issued by ICAI.

In the compliance report, the school submitted that "the school has no other source of income except tuition fee and development fee/fund and both are collected from the students. And the funds available in the development fund account were utilised for installation of Solar System in the interest and welfare of the students..." The submission of the school is incorrect and not allowed in view of the clause 14 of the order dated 11.02.2009.

Thus, the school is hereby directed to ensure that the development fund is to be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009. Any other capital expenditure should be met out of savings computed in accordance with Rule 177 of DSER, 1973.

Further, on review of the receipt and payment account for development fund it has noticed that the school has transferred funds to school funds. The utilisation of those transferred funds is not shown. The school was asked to submit the utilisation of the below mentioned development fund. However, the school has not provided any details of utilisation. The details of development fund transferred to school funds as follows.

Particulars	**FY 2019-20**	**FY 2020-21**	**FY 2021-22**	**Total (in INR)**
Transfer to School funds	1,45,83,427	2,51,920	(5,55,133)	1,42,80,214

The school has not submitted the breakup and supporting documents for the utilisation of above funds due to which whether it has utilised of revenue or capital expenditure cannot be decided. Thus, the school is again directed to ensure that the development fund is to be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009 and submit the concerned documents showing utilisation of transferred funds till date. School is directed to ensure that other capital expenditure, if any, should be met out of savings computed in accordance with Rule 177 of DSER, 1973.

2. As per 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

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*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.*"

The Directorate's Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, the school directed to obtain actuarial valuation report and to deposit the amount determined by the actuary in plan assets as per the requirements of AS-15. The school is yet to comply with the direction of the Directorate.

On review of the compliance report and other submitted documents it is noted that the school has submitted the actuarial valuation report for gratuity and leave encashment liability as on 31.12.2021. The leave encashment liability was INR1,17,25,096 and Gratuity liability was INR 3,32,48,466 (total amounting of INR 4,49,73,562) but the school has not provided the gratuity and leave encashment liabilities in the financial statements for FY 2021-22. Also, no amount is invested with LIC or other agency which could be termed as 'plan assets' in compliance of AS-15. Therefore, amount of gratuity and leave encashment has not been considered while deriving the fund position of the school.

Also, an amount of INR 75,00,000 is budgeted by the school for FY 2022-23 for gratuity and leave encashment but since no amount is invested in the 'plan assets' the budgeted amount has not been considered in the fund position of the school. the School is directed to ensure to provide for the gratuity and leave encashment liabilities in the books of accounts and to make equivalent investments in the plan assets in compliance of AS-15 within 30 days from the date of issue of the order.

B. Other Suggestions for Improvement

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

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

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

From the review of the audited Financial Statements of FY 2019-20 to 2021-22, it has been observed that the school charges earmarked levies in the form in the form of Computer Fee and Science Fee from students, but the school did not provide the details of earmarked collected and amount of expenditure out of it. The details of earmarked levies charged from the students are as under:

(Figures in INR)

Particulars	Computer Fees	Science Fees
For the year 2019-20		
Fee Collected during the year (A)	3,31,200	6,40,800
Expenses during the year (B)	-	1,14,231
Difference for the year (A-B)	**3,31,200**	**5,26,569**
For the year 2020-21		
Fee Collected during the year (A)	7,200	14,400
Expenses during the year (B)	-	-
Difference for the year (A-B)	**7,200**	**14,400**
For the year 2021-22		
Fee Collected during the year (A)	1,59,400	6,76,800
Expenses during the year (B)	-	-
Difference for the year (A-B)	**1,59,400**	**6,76,800**
Total	**4,97,800**	**12,17,769**

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, school has not been following fund-based accounting in accordance with the principles laid down by aforesaid Guidance Note.

Similar observation was also noted in the Directorate's Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20 and 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. Unintentional surplus / deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

Therefore, the school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus / deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

2. Clause 14 of this Directorate's 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. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development fund Account.*"

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

On review of the audited financial statements for FY 2019-20 to FY 2021-22, it has been noted that the school has prepared the development fund utilisation account with the amount of utilisation development fund for fixed assets, however it has not transferred any amount from development utilisation account to the credit of income and expenditure account in proportion to the depreciation charged to revenue account. Accordingly, not complying with clause 14 of the order dated 11.02.2009. Therefore, the school is hereby again directed to comply with the requirements of para 99 of Guidance Note issued by ICAI.

The Directorate vide its order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, directed the school to comply with the requirements of para 99 of Guidance Note issued by ICAI. The school also directed to not charge development fee more than 15% of tuition fee as in FY 2018-19, the school had charged development fee in excess of 15% of tuition fee in contravention of clause 14 of the order dated 11.02.2009.

Therefore, the school is directed to ensure that development fee to be charged from the students is not more than 15% of the tuition fee.

3. The Directorate vide its order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, the school was directed to roll back the increase fee or adjust the excess amount collected by the school against the future fee receivable from the students.

As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. Accordingly, the Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of

Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016. However, on review of the fee reconciliation statement provided by the school it has been observed that the school had collected increased fee from the students as detailed below.

Particulars	% Increase during FY 2017-18 on fee collected during FY 2016-17	% Increase during FY 2018-19 on fee collected during FY 2017-2018
Tuition fees	9%	6%
Development Fee	9% to 12%	10%
Annual Fee	0%	2% to 5%

Therefore, the school increased fee in all heads in FY 2017-18 & 2018-19 without obtaining prior approval from the Directorate of Education. The school was directed to roll back the increased fee charged from the students and to refund/adjust the excess fee to the students. However, the school has not complied with the above directions.

Therefore, the school is again directed to roll back the increased fee and adjust/refund the excess amount collected by the school against the future fee receivable from the students.

4. The Directorate's Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, it has noticed that the school has taken loan amounting to INR 29,48,508. As per the ledger submitted by the school, the loan was taken for payment of 6th CPC arrears. Based on the fund position of the school, the school has sufficient funds to meet out the establishment cost. The loan taken from the society may be for any other purpose. Therefore, the school is may instructed to not to repay the loan amount to society.

   On review of compliance report, the school assure that the amount of INR29,48,508 raised as loan from Society has not been repaid and also, this amount will not be repaid in future to the society. Accordingly, based on school's submission the school is directed to present this amount as society contribution in the balance sheet.

5. The Directorate's Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20, the school was directed to prepare the FAR with relevant details mentioned above.

   On review of compliance report and the financial statements, it is noted that the school has not prepared Fixed Assets Register (FAR) for keeping track of fixed assets purchased by it. The school should prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and complete details of assets at one place.

   The school is again directed to prepare the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

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"

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 payment account, income and expenditure and balance sheet of the preceding year should be duly audited by Chartered Accountant.

And 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 Practising 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 of 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.

On review of compliance report, the school provide the UDIN-19085006AAAAEN5571 for the financial statement of the school. the submission of the school is taken on record and considered.

7. As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016 "The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under

Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."

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

On review of audited Financial Statements for the FY 2019-20 to FY 2021-22, it has been noted that the depreciation on fixed assets have been provided on written down value method at the rates prescribed in the Income Tax Rules, 1962.

Similar observation was also noted in the Directorate's Order No. F.DE. 15/(182)/PSB/2021/3343-47 dated 09.09.2021 issued for FY 2019-20 and the school was directed to provide depreciation on assets in accordance with the guidance note cited above.

The school is again directed to provide depreciation on assets in accordance with the guidance note cited above.

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 2022-23 amounting to **INR 18,54,92,098**out of which cash outflow in the FY 2022-23 is estimated to be INR**11,84,20682.** This results in net balance of Surplus amounting to INR**6,70,71,416**for FY 2021-22 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	3,11,22,122
Investments as on 31.03.22 as per Audited Financial Statements	5,55,54,143
Liquid Funds as on 31.03.2022	8,66,76,265
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 below)	11,16,76,163
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 below)	9,65,389
Add: Additional Income of Annual Charges and Development Fund(Refer Note 3 below)	25,63,350
Total Available Funds for FY 2022-23	**20,18,81,167**
Less: FDR on joint name of School Manager and DOE and FDR on joint name with Secretary, CBSE as on 31.03.2022(Refer Note 1 below)	34,42,708
Less: Development Fund (Refer Note 4 below)	1,29,46,361
Less: Retirement benefit [Refer Financial suggestion for improvement no.2	
Net Available Funds for FY 2022-23 (A)	**18,54,92,098**
Less: Budgeted expenses for the session 2022-23 (Refer Note 5 below)	**11,84,20,682**
Total Estimated Expenditure for FY 2022-23 (B)	**11,84,20,682**
Net Surplus (A-B)	**6,70,71,416**

Note 1: The detail of fixed deposit held by the school as per the audited financial statements for the FY 2021-22 is provided below:

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Dy Director Education and Manager of the school	34,42,708	Deducted while calculating available funds of the school.
Total	**34,42,708**	

Note 2: All the fee and other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23.

Note 3: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

(i) *"to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of* ***unutilized facilities*** *by the students during the relevant period of academic year 2020-21".* And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 85% /100% of the tuition fees and no annual charges and development fees collected by the school in FY 2020-21.Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fees have considered from the budget for FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	9,71,33,711	9,71,33,711	As per reconciliation provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% in compliance of the Directorate's order dated 01.07.2021 and thus, difference amount of INR 25,63,350 has been considered.
Annual Charges	15,79,291	18,57,989	
Development Charges	1,29,46,361	1,52,31,013	
Total	**11,16,59,363**	**11,42,22,713**	

Note 4: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacement of furniture and fixtures and equipment charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's 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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 7,76,74,567 in its audited financial statements of FY 2021-22. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school. However, development fund equivalent to amount collected in FY 2021-22 amounting Rs. 1,29,46,361 from students has not been considered as fund available with school.

Note 5: All budgeted expenditure proposed by the school amounting to INR **13,78,14,382** has been considered while deriving the fund position of the school except the following:

Head of Expenditure	**2022-23 (in INR)**	**Amount disallowed (in INR)**	**Remarks**
Staff retirement Benefits reserve	75,00,000	75,00,000	Refer financial suggestion for improvement no. 2
Depreciation	60,00,000	60,00,000	Depreciation being non-cash expenditure, has not been considered in the calculation of funds availability position of the school.
School App Expenses	12,45,000	12,45,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Smart class Fee	31,48,700	31,48,700	
Science Lab Exp.	10,00,000	10,00,000	
Computer Science Lab Expenses	5,00,000	5,00,000	
Total	**12,44,04,904**	**1,93,93,700**	

ii. In view of the above examination, it is evident that the school have adequate funds to carry on its operation for the academic session 2022-23 on the existing fee 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 the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate the proposal of the school for session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in the order).

AND WHEREAS, the fee proposal of the school 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 sufficient funds are available with the school for meeting financial implication for the academic session 2022-23.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **St. Joseph's Academy (School ID-1001167), Savita Vihar, New Delhi-110092** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, 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 the 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.

(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
St. Joseph's Academy (School ID-1001167),
Savita Vihar, New Delhi-110092

No. F.DE.15 (1523)/PSB/2023/7397-7401

Dated: 21/08/23

Copy to:

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

(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi