

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

No. F.DE.15 (1148)/PSB/2022/ 637 - 641

Dated: 20/01/23

Order

WHEREAS, **Dashmesh Public School (School ID- 1001205) C-Block Vivek Vihar, New Delhi- 110095**, (hereinafter referred to as **"the School"**), run by the **Dashmesh 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 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 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 fee increase for the academic session **2022-23**. Accordingly, this order dispenses the proposal for fee increase submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate 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 DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

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 19th September 2022 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 noted.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase and subsequent documents submitted by the school as a result of the personal hearing, were evaluated thoroughly by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:



A. Financial Suggestions for Improvement

1. 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, up gradation 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 income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

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

Para 99 of Guidance Note-21 Accounting by Schools 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 Guidance Note-21 also 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 balance;
- (d) Restrictions, if any, on the utilisation of specific assets."
- (e) Also, as per para 67(ii) of the Guidance Note-21 "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to income and expenditure account. If the school follows the accounting treatment specified by para 99 of the guidance note, the depreciation reserve fund would be mere an accounting head and school is not required to invest equivalent for that. However, review of the audited financial statements of FY 2021-22 revealed that the school is not following para 99 of the GN 21 cited above as the school has created the deferred income account upon purchase of assets out of the development fund but has not transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets.

Further, it has also been noted that the school has been utilizing development funds which is not in accordance with clause 14 of order dated 11-02-2009. As per clause 14 of the order dated 11.02.2009, the development funds can only be utilized for purchase upgrade and replacement of furniture, fixture, and equipment only and not for other purpose. Therefore, the school is hereby directed to ensure that the development fee should be collected and used in accordance with clause 14 of the order dated



11.02.2009 and prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/fund and report historic cost of fixed assets in same.

Moreover, the review of audited financial statements for FY 2021-22 revealed that the school has maintained separate bank account for development fee collection, but it is not equivalent to the development fund unutilised presented in the audited financial statements at the year-end which is in contravention of aforesaid clause 14 of order dated 11.02.2009.

However, balance of development fund amounting to INR 38,51,152 as on 31.03.2022 has been considered while deriving the fund position of the school along with the directions to the school to comply with the aforesaid requirements.

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

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

On review of the financial statements, it has been noted that the school has been collecting caution money from the students. But only principal amount is being refunded to the students at the time of his or her leaving from the school which is not in accordance with the clause 18 of the order dated 11.2.2009 and clause 3 of the Public Noted dated 04.05.1997. The school is hereby directed to comply with the above-mentioned provisions with respect to caution money collected from the student. Further, the amount refundable of INR 13,71,105 as on 31.03.2022 as reported in the audited Financial Statements has been considered while deriving the fund position of the school.

B. Other Suggestions for improvement

1. The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:
 - a. It is reiterated that annual fee-hike is not mandatory.
 - b. School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
 - c. If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

Based on review of the fee receipts and fee structure submitted by the school, it has been noted that the school has increased their fee structure in academic session 2020-21 and 2021-22 without seeking approval from the DoE. Accordingly, the school is hereby directed to either refund the increased fee



to the students or adjust the same against future dues from the students and submit the compliance report within 30 days from the date of the issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee increase proposal for the subsequent academic session.

2. As per clause 2 included in the Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 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.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Also, Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized 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 recognized 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 after providing for the following, namely:*

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

Accordingly, based on the above-mentioned public notice and judgement of the Courts, the cost relating to land and construction of the school building must be met by the society, being the property of the society and the school funds i.e., fee collected from students should not be utilized for the same.

From review of the audited financial statements of FY 2021-22, it has been noted that the school has reported building value of INR 2,78,646 (at WDV) however corresponding capital receipts/corpus fund is not reflecting in the audited financial statements. Further the school has not disclosed the source from which building was constructed. Hence the school is directed to provide the complete details about the funds which was used to construct the school building and pass the necessary accounting entries in the books of accounts.

3. As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided school whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. Further, as per the directions of the Hon'ble Supreme Court in **Modern School vs. Union of India & Ors.** (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

- a) It is reiterated that annual fee-hike is not mandatory.



- b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
- c) If any school has collected fee in excess of that determined as per procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

Clause 9 of order No 1978 dated 16.04.2010 states, "*School shall not introduce any new head of accounts or collect any fee thereof other than those permitted*". And Fee/Funds collected from the parents /students shall be utilized strictly in accordance with rules 176 and 177 of the DSER, 1973.

On review of the fee receipts and fee structure submitted by the school for FY 2019-20 to 2021-22, it was noted that the school was collecting fees under different heads of income other than those permitted by the department. The following heads of income are mentioned below in tabular form:

Particulars	Nursery	Prep	I-V	VI-VIII	IX-X
Prospectus	0	150	150	150	150
Term Fees	1,320	1,320	1,595	1,980	3,560
Insurance	100	100	100	100	100
Relief Fund	5	5	5	5	5

However, in accordance with the above-mentioned provision the collection of prospectus fee, term fee, insurance fee, and relief fund fee are not the specified head of the fee. Therefore, the school is directed not to charge fee under such heads with immediate effect.

4. 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.*"

Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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.*"

Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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 states "*Earmarked levies shall be charged from the user student only.*"

Rule 176 states "*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 at 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 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 incurrance 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.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of Transport fees, Activity fees, Medical fees, My Guardian Fees, Smart Board fees and Computer fees from the students but has not maintained fund-based accounting. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

(Figures in INR)

Particulars	Transport Fees	Activity Fees	Medical Fees	My Guardian Fees**	Smart Board Fees	Computer Fees*
For the year 2019-20						
Fee Collected during the year (A)	62,28,625	29,49,515	2,38,440	12,03,900	30,04,280	21,43,475
Expenses during the year (B)	43,49,172	15,74,125	6,53,748	-	6,11,503	13,80,558
Difference for the year (A-B)	18,79,453	13,75,390	(4,15,308)	12,03,900	23,92,777	7,62,917
For the year 2020-21						
Fee Collected during the year (A)	1,15,415	22,24,411	26,560	7,61,139	16,69,459	2,32,410
Expenses during the year (B)	1,92,496	3,70,412	-	-	2,18,500	7,71,409
Difference for the year (A-B)	(77,081)	18,53,999	26,560	7,61,139	14,50,959	(5,38,999)
For the year 2021-22						
Fee Collected during the year (A)	30,630	23,31,605	21,060	9,58,998	26,51,274	1,08,374

Expenses during the year (B)	2,81,617	9,95,652	9,431	-	2,09,865	4,21,759
Difference for the year (A-B)	(2,50,987)	13,35,953	11,629	9,58,998	24,41,409	(3,13,385)
Total (Surplus)	15,51,385	45,65,342	(3,77,119)	29,24,037	62,85,145	(89,467)

* Computer Fee is collected from all students in Class I to X

** The above table is not showing the actual surplus/losses of last 3 financial year from the My Guardian fees in the absence of complete details of income and expenditures furnished by the school.

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Activity fees, Medical fees, My Guardian fees, Smart Board fees and Computer Fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge such fee as earmarked levy with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also 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 must 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 in the subsequent proposal of fee increase by 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 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.

5. 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.*"

An appropriate charge to the income and expenditure account for a year should be made through a provision for accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons say less than 50, 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 post personal hearing, it has been noted that the requirement of AS-15 is applicable to the school as it has employed more than 50 staff in a year. Whereas the school has not calculated liability as on 31st March, 2022 towards gratuity and leave encashment in accordance with the actuarial valuation report as well as the school has not made any investment in plan assets. Moreover, the school is accounting leave salary expense on payment basis i.e., without accruing the liability in the books of accounts.

Therefore, the school is directed to make provision for gratuity and leave encashment in the audited financial statements based on the actuarial valuation report and invest the same in an investment which qualify as plan assets within the meaning of AS-15 within 30 days from the date of issue of this order.

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

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

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

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

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India] held that *"education is a noble profession and emphasized that every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis"*.

The Hon'ble Supreme Court categorically held that *"though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"*

Further, the Hon'ble High Court in LPA 196/2004 in the matter of *'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009*, held that no school or person shall, while admitting a child, collect any Capitation fee/ Donation from the parents. Any school or person who contravenes



this provision and receives capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the sponsorship of the DoE. Therefore, the school is bound to follow all the instructions/directions issued by the DoE under the obligation of land allotment. Additionally, Rule 50 of DSER, 1973 states "*the school is not run for profit to any individual, group or association of individual or any other person*" and "*the managing committee observes the provisions of the Act and Rules made there under*".

Based on the provisions mentioned above and the pronouncements of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of any new head in the fee structure etc. whether at the time of the admission of the students or otherwise. In this regard the Directorate vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Clause no. 9 of the aforesaid order states "*No fee, fund or any other charge by whatever name called, shall be levied or realized unless it is determined by the Managing Committee in accordance with the directions contained in this order*".


Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents other than the specified head of fees provided in the abovementioned order. Therefore, any demand of capitation fee or introduction of the new head of fee other than the notified head of fees would be termed as *commercialization and exploitation of education*, which is not permissible at any cost.

From the documents submitted by the school, it has been observed that the school has been collecting one-time charges of INR 2,200 per student in the name of "Orientation fees" from the nursery and prep class students at the time of admission which is in the nature of the capitation fee and therefore, not in accordance with aforesaid provisions. Accordingly, the school is directed to stop collecting one-time charges i.e., "**Orientation fees**" from the students immediately.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by the DoE from time to time. The manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure the admission process is transparent. They are jointly and severally responsible in their personal capacity for the levy and collection of the capitation fee and any other unauthorized fee. Therefore, non-compliance by the school with this direction within the stipulated time frame shall be viewed seriously and necessary action against the school shall be initiated without providing further opportunity to be heard.

7. During the personal hearing the school was asked to share the fixed assets register for the FY 2019-20 to 2021-22 for verification. However, the school has submitted the ledgers for fixed assets and explained that school has only maintained ledgers for fixed assets.

The school shall prepare a Fixed Assets Register (FAR) that captures date, asset name, amount, supplier name, invoice number, manufacturer's serial number, location, depreciation, asset



identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

Therefore, the school is directed to prepare the fixed assets register with the above details and submit the compliance report within 30 days from the date of issue of this order.

8. 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."

On review of audited Financial Statements for the FY 2021-22, it has been noted that the depreciation on fixed assets have been provided at the rates prescribed in the Income Tax Rules, 1962. Therefore, the school is directed to provide depreciation on assets in accordance with the guidance note cited above.

9. 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 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 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.



The review of the audited financial statements submitted by the school, revealed 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 observation therefore, the school management are directed 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 2022-23 amounting to INR **2,42,59,625** out of which cash outflow in the FY 2022-23 is estimated to be INR **2,73,42,562**. This results in deficit of INR **30,82,937** for FY 2022-23 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	72,89,565
Investments as on 31.03.22 as per audited financial statements (Refer Note 1 Below)	31,510
Liquid Funds Available with the School as on 31 Mar 2022	73,21,075
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	1,88,01,599
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 below)	33,59,208
Net available funds for FY 2022-23	2,94,81,882
Less: Development Fund as on 31.03.2022 (Refer Financial Suggestion No. 1)	38,51,152
Less: Caution Money as on 31.03.2022 (Refer Financial Suggestion No. 2)	13,71,105
Estimated availability of funds for FY 2022-23	2,42,59,625
Less: Budgeted expenses for the session 2022-23 (after making adjustment) (Refer Note 3 below)	2,14,89,404
Less: Salary arrears as per 7 th CPC (Refer Note 4 below)	58,53,158
Net Deficit	30,82,937

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

Particulars	Amount (in INR)	Remarks
FDR with school	31,510	Available with the school for utilization.

Note 2: 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.

On review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 100% of the tuition fees and 85% of annual charges and development fees in its audited financial statements of FY 2021-22 on receipts basis. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up on accrual basis to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Table A

Particulars	Income as per Fee Reconciliation submitted by the school for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	97,99,155	97,99,155	
Annual Charges	18,78,064	22,09,487	Annual charge and Development fee of FY 2021-22 has been increased to 100% as the school has collected these after allocating 15% discount during FY 2021-22.
Development fees	13,11,091	15,42,460	
Total	1,29,88,310	1,35,51,102	

All the other income as per audited financial statements of 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 except donation amounting to INR 11,000 being a non-recurring item and Transportation fee amounting to INR 30,630.

Note 3: All amount budgeted by the school has been considered while deriving the fund position of the school for the FY 2021-22 except depreciation amounting to INR 9,69,493 being a non-cash item,

transport expense amounting to INR 2,03,700 (no income and expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis) and in respect of the following heads, the school has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2021-22 for which the school has not offered satisfactory explanation/ Justification. Therefore, the below mentioned expenditure in excess of 10% over the previous year have not been considered while deriving the fee increase proposal of the school.

Particulars	FY 2021-22	FY 2022-23	Net Increase/ (Decrease)	% Change	Amount disallowed in excess of 10% (in INR)
Repair and maintenance	7,22,373	45,94,000	31,47,451	436%	30,02,796
Housekeeping & Security	7,24,176				
Total	14,46,549	4594000	31,47,451		30,02,796

Note 4: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3 (17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

As per school's reply during hearing, it was held that the school has not implemented 7th CPC till date and no provision for the 7th CPC salary arrears have been provided in the books of accounts. Further, the school had not applied for fee increase in during the years (i.e., FY 2016-17 to FY 2019-20). From that it seems the school has sufficient funds to meet expenditure during the above-mentioned period. Moreover, from the review of the last 3 FY's establishment expenditure, it has been noted that the salary expense has been reduced from INR 1.22 Crore in FY 2019-20 to INR 1.03 crore in FY 2021-22 whereas the salary arrears claimed by the school has been increasing which is contradictory. Therefore, as per the data submitted by the school 7th CPC salary arrears for the period 01.04.2020 to 31.03.2022 amounting to INR 97,34,861 has been restricted to INR 58,53,158 i.e., (30% of salary expense of FY 2020-21 and FY 2021-22) while deriving the fund position of the school.

- ii. In view of the above examination, it is evident that the school does not have surplus fund to meet its budgeted expenditure for the academic session 2022-23 at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

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

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 along with certain financial and other suggestions that the sufficient funds are not available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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 2022-23.

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 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 14% to be effective from 01 Oct 2022.

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

Accordingly, it is hereby conveyed that the proposal for fee increase for the academic session 2022-23 of **Dashmesh Public School (School ID- 1001205) C-Block Vivek Vihar, New Delhi-110095**, is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 14% to be effective from 01 Oct 2022.

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

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



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

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

This is issued with the prior approval of the Competent Authority

Nandini
(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Dashmesh Public School
C-Block Vivek Vihar, New Delhi- 110095
School Id - 1001205
No. F.DE.15 (1148)/PSB/2022/ 637-641

Dated: 20/01/23

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.

Nandini
(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi