

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

No. F.DE.15 (13/9)/PSB/2023/ 3179-3183

Dated: 13/04/23

Order

WHEREAS, ASN Sr Sec School (School ID - 1002273), Mayur Vihar, Phase-I, New Delhi - 110091 (hereinafter referred to as "**the School**"), run by the Sanatan Dharm Adarsh Shiksha Sansthan (REGD.) (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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 Delhi School Education Act, 1973 (hereinafter read as "**the Act**") with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as "**the Rules**").

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) 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 hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at 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 enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by 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 DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 22.02.2023. The school was also provided an opportunity to be heard on 02.03.2023 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on

various issues noted. In the aforesaid personal hearing, compliance of Order No. FD.E 15/ (635)/PSB/2022/3845-3849 dated 31.05.2022 issued for FY 2019-20 were 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 the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements

1. Clause No. 2 of 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 titled Delhi Abibhavak Mahasangh concluded states *"the tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

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.*

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. In this regard, it is also important to mention that society was allotted an institutional land at very low cost compared to the price of commercial and as well as residential land of that nearby locality. The reason for allotment of land as such low cost was the society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. In its offer the society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, the DoE had recommended to the land-owning

agencies for-allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such posh location.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE. Society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the main source (i.e., land) which was required to establish and run the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause was included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The DoE in its Order No. FD.E 15/ (635)/PSB/2022/3845-3849 dated 31.05.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had incurred capital expenditure on construction of building amounting to INR 1,74,58,171 in FY 2014-15 to FY 2016-17 and INR 1,25,13,453 in FY 2017-18 and 2018-19. The expenditure was incurred without complying with the aforesaid mentioned provisions. Therefore, the school was directed to recover INR 2,99,71,171 i.e. (INR 1,74,58,171 plus INR 1,25,13,453) from society which is still pending for recovery.

Further, review of the audited financial statements revealed that, instead of recovering the aforesaid amount the school had incurred additional expenditures of INR 91,71,606; INR 12,50,738 and INR 1,70,28,223 in FY 2019-20; 2020-21 and 2021-22 on construction of school buildings and in order to avoid recovery, the school has changed its nomenclature and capitalized the same under "Finishing- Furnishing & Fittings, Sports field block, etc.". However, from review of the document submitted by the school, this expenditure is related to construction of the school building. In accordance with the above provisions, construction of school building is the responsibility of the society and school funds should not be used for the same. Such expenditure incurred by the school is tabulated below:

Particulars	Amount INR		
	FY 2019-20	FY 2020-21	2021-22
Computer Lab Fitting	4,31,421	-	19,00,578
Music & Mandir Fitting	5,23,686	-	9,35,835
Science lab Fitting	7,87,053	-	7,41,010
Sports Field Block	22,83,766	-	27,79,946
Art & Craft Lab fitting	5,61,769	-	13,11,160
Sports & activities room fittings	9,46,123	-	12,24,920
Furnishing & Fittings	36,37,788	12,50,738	81,34,774
Total	91,71,606	12,50,738	1,70,28,223

Therefore, the total expenditure incurred by the school on construction of the school building amounting to INR 5,74,22,191 (INR 2,99,71,171 plus INR 91,71,606 plus INR 12,50,738 plus INR 1,70,28,223) is recoverable from the society being the responsibility of the society. Accordingly, INR 5,74,22,191 has been included while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the

department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without providing further opportunity to be heard to the school.

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

Section 18(4) of DSEA, 1973 states "*Income derived by unaided school by way of fees shall be utilized only for such educational purpose as may be prescribed*". And Rule 176 of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

The DoE in its Order No. FD.E 15/ (635)/PSB/2022/3845-3849 dated 31.05.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20 and it's earlier orders, noted that school had spent INR 40,43,760 on purchase of buses and repayment of loans thereon. As the expenditure was incurred without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 40,43,760 from society which is still pending for recovery.

Further, on review of audited financial statements for FY 2019-20 to 2021-22, noted that instead of recovering the aforesaid amount from the society school had repaid the outstanding balance of INR 14,42,750. Also, the school had purchased a bus amounting to INR 27,00,000 in FY 2021-22 for which payments have been done from the "*Transport fund Depreciation Reserve*". However, the amounts are credited from the "*General fund account*" only. The expenditure has been incurred by the school in contravention to aforesaid provisions. Given the fact that the school did not implement the recommendation of the 7th CPC fully and has not invested the amount in qualify assets for payment of retirement benefits in accordance with AS-15.

Therefore, the expenditure incurred by the school of INR 81,86,510 (INR 40,43,760 plus INR 14,42,750 plus INR 27,00,000) non-compliance with the above-mentioned provisions is recoverable from the society and has been included in the fund position with the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

3. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:
- a. assets held by a long-term employee benefit fund; and
 - b. qualifying insurance policies."

Further, the para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

Review of the audited financial statements of FY 2021-22 revealed that the school has not recorded liability for retirement benefits in accordance with the actuarial valuation report. As per the actuarial valuation report the total liability for retirement benefits were INR 11,48,83,680 (INR 8,49,88,061 for gratuity plus INR 2,98,95,619 for leave encashment). However, the school has recorded the liability of INR 10,88,64,287 (INR 8,17,36,162 for gratuity plus INR 2,71,28,125 for leave encashment) resulting in short provision by INR 60,19,393.

Against the total liability for retirement benefits, the school has invested INR 1,67,49,092 (INR 1,08,28,610 for gratuity plus INR 59,20,482 for leave encashment.) with LIC. As investment with the LIC qualify as plan asset within the meaning of AS-15. Therefore, amount invested by the school with LIC has been considered while deriving the fund position of the school with the direction to the school to recognize the liability in accordance with the actuarial report and invest the remaining amount in plan assets within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

1. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:
 - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
 - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
 - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

Therefore, the School is hereby directed to 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 documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

2. *Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed".*

Further, Rule 180 (1) of DSER, 1973 states "every recognized private school shall submit returns and documents in accordance with Appendix-II".

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, DoE specified vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, the format of returns and other documents required to be submitted by the private unaided recognized schools. The aforesaid order also specified format for the financial statements to be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

Based on the aforesaid provisions, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. The documents submitted by the school for evaluation of the fee hike proposal were taken on record. Review of the audited financial statements and Independent Auditors Report for FY 2021-22 the following was noted:

- a. The Independent Audit Report was not issued in the format prescribed by Standard on Auditing 700 (SA-700), as defined by the Institute of Chartered Accountants of India (ICAI). Because most of the content of the Independent Auditors' Report was missing, such as the auditors' and management's responsibilities.
- b. In the audit report the auditor has not given reference to "Receipt & Payment Account." Although, the same has been attested by the auditors, raising a doubt as to whether receipt & payment audit has been carried out or not.

In light of the foregoing, the school is hereby directed to strengthen its process for preparation and presentation of financial statements in accordance with the above-mentioned provisions. However, the audited financial statements submitted by the school have been considered for the evaluation of the fee hike proposal of the school.

3. 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 02.05.2016 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'* states *"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 a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged"*.

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No.F.DE, /15(56)/Act/2009/778 dated 11.02.2009, indicated the following types of fee that a recognised private unaided school can collect from the students/ parents:

- a. Registration Fee
- b. Admission Fee:
- c. Caution Money
- d. Tuition Fee
- e. Annual Charges
- f. Earmarked Levies
- g. Development Fee

Based on the provisions mentioned above, charging of *'Pupil Fund, Technology Fee, Medical Fee, Accumen development fee, '* from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of Pupil Fund, Technology Fee, Medical Fee, Accumen development fee indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.



Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non-compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

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

From review of the audited financial statements of 2022, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

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 27,83,70,294** out of which cash outflow for the FY 2022-23 is estimated to be **INR 29,10,66,704**. This results in deficit of **INR 1,26,96,411** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement (Refer Note 1 below)	16,08,403
Investments as on 31.03.2022 as per Audited Financial Statement (Refer Note 2 below)	1,71,94,918
Liquid fund as on 31.03.2022	1,88,03,322
Add: Amount Recoverable from society for amount incurred on construction of building (Refer Financial Suggestion No. 1)	5,74,22,191
Add: Amount Recoverable from society for amount incurred on purchase of buses (Refer Financial Suggestion No. 2)	81,86,510
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 3 Below)	19,79,86,462
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 3 Below)	26,08,632
Add: Additional income towards Tuition Fees, annual charges and development fee (Refer Note No. 3 Below)	2,91,79,167
Less: Arrears of Annual Charges and Development Fees for FY 2020-21 received in 2021-22 (Refer Note No. 3 Below)	3,25,36,974
Add: Impact of fee hike order for FY 2018-19 and FY 2019-20 (3% +8%) (Refer Note No. 3 Below)	1,43,07,339
Total available funds for FY 2022-23	29,59,56,648
Less: FDR in joint name of CBSE & Manager	4,26,159
Less: Student Security Deposit	-
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022	44,755
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 3)	1,67,49,092
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 5 Below)	-

Particulars	Amount (INR)
Less: Technology Fund as per audited financial statements of FY 31.03.2022	70,684
Less: EWS Fund as per audited financial statements of FY 31.03.2022	46,251
Less: Sports & Cultural Fund as per audited financial statements of FY 31.03.2022	59,297
Less: Transportation Fund as per audited financial statements of FY 31.03.2022	34,285
Less: Tours & Excursion Fund as per audited financial statements of FY 31.03.2022	1,658
Less: Accumen Development Fund as per audited financial statements of FY 31.03.2022	61,283
Less: Pupil Fund as per audited financial statements of FY 31.03.2022	17,658
Less: Examination Fund as per audited financial statements of FY 31.03.2022	75,233
Estimated Available Funds for FY 2022-23	27,83,70,294
Less: Budgeted Expenditure as provided by the school (Refer Note No. 6 and 7 Below)	26,46,70,882
Less: Arrears of 7th CPC & DA (Refer Note No. 8 Below)	2,63,95,822
Estimated Deficit	1,26,96,411

Note 1: As per Audited Financial Statements for FY 2021-22, the bank balance of the School is of INR (1,31,33,777) which includes balance of bank account of Saving Account with Indian Bank of INR (1,47,15,297). It has been reviewed that the school intentionally reduce its Salary payable for the month of March from this savings account to reduce its liquid fund to negative. However, the salary disbursement request was submitted to bank on 13.04.2022. Therefore, this balance has been excluded from the above balance.

Note 2: The detail of fixed deposit held by the school as per the audited financial statements of FY is provided below:

S. No	Particulars	Amount INR	Remarks
1	LIC Investment	1,67,49,092	Considered separately.
2	FDR in name of CBSE & Manager	4,26,159	
3	FDR - In school Name	19,667	Available to school for utilization.
	Total	1,71,94,918	

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 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 government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, 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 commercialisation, directed to the management of all the petitioners private unaided recognised 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.
- (iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

From review of the audited financial statements for FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order after deducting the income of FY 2020-21 to make comparative income with the FY 2022-23. The detailed calculation has been provided below.

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	12,74,77,618	14,99,73,668	
Annual Charges	1,66,73,548	1,96,15,939	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	2,11,97,447	2,49,38,173	

Similarly, arrears of annual charges and development fund amounting to INR 3,25,36,974 has been excluded while calculating fund position of the school for academic session 2022-23.

Note 4: Calculation of impact of fee hike order of FY2018-19 & 2019-20:

Particulars	Amount
Total Fees For FY 2018-19 (Excluding Other Income)	17,34,22,286
Fees Hike Rate applicable from 01st July, 2022 as per Order of FY 2018-19 & 2019-20	11.00%
Amount of Fees Hike for 9 months (01.07.2022 to 31.03.2023)	1,43,07,339

Fees includes Tuition fees, annual charges & Development fee.

Note 5: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the

establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

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

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

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

Note 6: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Expenditure as per Budgeted of FY 2022-23	Disallowed	Remarks
Salaries	23,75,00,000	7,60,04,118	Amount proposed by the school appeared excessive as compared to the expenditure incurred by the school during FY 2019-20, 2020-21 and 2021-22. Therefore, excess amount of INR 7,60,04,118 has not been considered while deriving the fund position of the school considering the cost of inflation and salary arrears.
Repair Maint. of Art & Craft Block	10,00,000	10,00,000	The school has introduced new head of expenditure but has not provided any justification as to what was the need of these expenditures. Post discussion with the school during the personal hearing it has not been considered.
Professional Expenses	30,00,000	30,00,000	
Furnishing & Fittings	52,00,000	52,00,000	Related to construction of school building as mentioned in point no. 1 above. Therefore, has not been consider.

Note 7: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

Note 8: Salary arrears of INR 2,63,95,822 for FY 2020-21 and 2021-22 as submitted by the school has been considered while deriving the fund position.

- ii. In view of the above examination, it is evident that the school has not adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states 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 along with certain financial suggestions that were 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 this order), 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, it is noticed that the school has incurred INR 6,56,08,701 incurred on construction of building, payment for buses and in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. The school is hereby further directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of this order.

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 6% to be effective from 01 April 2023.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the school.

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 this order to the D.D.E (PSB)

Accordingly, it is hereby conveyed that the proposal for fee hike of **ASN Sr Sec School (School ID - 1002273), Mayur Vihar, Phase-I, New Delhi - 110091** filled 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 accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 6% to be effective from 1 April, 2023.

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

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

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

To
The Manager/ HoS
ASN Sr Sec School (School ID - 1002273),
Mayur Vihar, Phase-I, New Delhi - 110091

No. F.DE.15 (1319)/PSB/2023 / 3179-3183

Dated: 13/04/23

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. DE's nominee concerned
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

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