

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

No. F.DE.15(1561) / PSB / 2023 / 8208-8212

Dated: 25/09/23

ORDER

WHEREAS, Adarsh Vidya Bhawan Public School, I.P. Extn. Patparganj, Delhi-110092, (School ID-1002283) (hereinafter referred to as "the School"), run by the Adarsh Vidya Sansthan Society (Regd.) (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed'*.

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

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

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

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"27....

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

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

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

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

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

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

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 27th March 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/(484)/PSB/2022/2684-2688 dated 10.05.2022 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 DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. As per Clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 *“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 and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.”*

Further, as per clause 2 of 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 Feb 2005 issued by this Directorate states “Capital expenditure cannot constitute a component of the financial fee structure.” Further, Rule 177 of DSER, 1973 states that “income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And the aforesaid savings shall be arrived at after providing for the following, namely:

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

Accordingly, based on the aforesaid provisions, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and not from the school funds.

The Directorate’s vide order No. F.DE.15(265)/PSB/2019/1375-1379 dated 29.03.2019 issued for FY 2017-18, order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and order No. F.DE.15/(484)/PSB/2022/2684-2688 dated 10.05.2022 issued for

FY 2019-20 directed the school to recover INR 84,31,507 from the society towards utilisation of school funds for construction of building, tennis court, splash pool and toilets during FY 2014-15 to 2018-19. However, no amount is recovered from the society.

Further, on review of the audited financial statement for FY 2019-20 to 2021-22, it is noted that the school has incurred INR 8,75,838 on splash pool in FY 2019-20 out of development fund which is in contravention of clause 14 of Directorate's Order dated 11.02.2009 as well as aforesaid judgements and Rule 177 of the DSER, 1973. Also, the school has incurred INR 34,80,498 and INR 12,15,400 on badminton court in FY 2020-21 and FY 2021-22 respectively. The aforesaid expenditures incurred by the school are in contravention of Clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973.

Accordingly, INR 1,40,03,243 (INR 84,31,507 plus INR 8,75,838 plus INR 34,80,498 plus INR 12,15,400) has been added to the funds position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order.

2. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:
 - a. Assets held by a long-term employee benefit fund; and
 - b. Qualifying insurance policies.

Further, as per 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.*"

On review of audited financial statement for FY 2021-22, it is noted that the school has obtained actuarial valuation report only for its gratuity liability and has made provision for gratuity as per actuarial valuation report. Further, the school has made provision for leave encashment but has not obtained actuarial valuation report. Further, the school has not made investment in plan assets within the meaning of AS-15.

Similar observation was also noted in Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/2684-2688 dated 10.05.2022 issued for FY 2019-20 and the school was directed to comply with requirements of AS-15 relating to recognition of liability as determined by the actuary and make equivalent investments in the plan assets. However, school failed to comply with the directions.

Therefore, the school is again directed to obtain actuarial valuation report and make provision for leave encashment in its books of accounts as per the actuarial valuation report. Also, the school is directed to deposit the amount in the plan assets with LIC (or other agency) as determined in actuary valuation report for gratuity and leave encashment and ensure that the

amount deposited in plan assets is equivalent to the provision for gratuity and leave encashment.

3. Rule 107 - "Fixation of Pay" of the DSER, 1973 states:-

"(1) The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum of the scale of pay. Provided that a higher initial pay, in the specified scale of pay may be given to a person by appointing authority.

(2) The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school."

The Directorate's Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/2684-2688 dated 10.05.2022 issued for FY 2019-20 noted that the school was paying salary to principal INR 2,38,000 per month (as per 6th CPC) which appear quite excessive as compared to salary paid to principal in government schools and the school was directed to calculate the amount of excess salary and increments paid to the principal during FY 2014-15 to till date and recover the same from her within 30 days from the date of the order.

From the documents submitted (salary statement and service book) by the school for the FY 2021-22, it has been noted that the school is paying salary to Principal of INR 2,84,000 per month (as per 6th CPC) which has increased from the salary mentioned in the previous order.

In its compliance report, the school has explained that fixation of pay is based on qualification, experience and skill set. It is not practically possible to consider government school's salaries as comparable benchmarks on account of subjectivity in the matters of experience, qualification and skill set. Further, section 10 of Delhi Education Act, 1973 stipulates that the scale of pay and allowance, medical facility, pension, gratuity and other prescribed benefits of the employees of recognised private school shall not be less than those of the employees of the corresponding status in the school run by the appropriate authority, hence the act itself provided only minimum pay which is required to be paid to staff and restricted to pay excess salary considering the qualification and experience of the staff.

The school have not explained how many staff are getting salary computed on this preferential sort of calculations wherein salary is being paid in excess of the defined parameters and salary is determined in an arbitrary basis. The contention of the school is without any basis and thus, not acceptable. Therefore, the school is directed to submit documents to show that the special increments and increased grade pay given to the principal are in accordance with the provision of DSEA& R, 1973 and Recruitment Rules. Please clarify whether the principal is related to any member of the society or is also member of the society. Also, the school is directed to calculate the amount of excess salary and increments paid to the principal during FY 2014-15 to till date and recover the same from her within 30 days from the date of the order.

B. Other Suggestions for Improvement

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 States "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for*

DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.”

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

Rule 176 - ‘Collections for specific purposes to be spent for that purpose’ of the DSER, 1973 states *“Income derived from collections for specific purposes shall be spent only for such purpose.”*

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

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

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

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account (‘Restricted Funds’ column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account (‘Restricted Funds’ column).

On review of audited financial statement for FY 2019-20 to 2021-22, it is noted that the school charges earmarked levies in the name of Transport Charges, Digital Learning Fee and Activity fees from the students and the school has maintained fund-based accounting for Transport Charges and Digital Learning Charges only. Further, the school has been generating surplus which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. The details of surplus/deficit of earmarked levies during FY 2019-20 to 2021-22 are as under:

Particulars	Transport Fees	Activity Charges*	Digital Learning Fee
For the year 2019-20			
Fee Collected during the year (A)	68,78,700	19,39,980	22,02,150

Particulars	Transport Fees	Activity Charges*	Digital Learning Fee
Expenses during the year (B)	73,92,993	-	31,84,800
Difference for the year (A-B)	-5,14,293	19,39,980	-9,82,650
For the year 2020-21			
Fee Collected during the year (A)	96,830	22,36,600	-
Expenses during the year (B)	7,33,548	-	-
Difference for the year (A-B)	-6,36,718	22,36,600	-
For the year 2021-22			
Fee Collected during the year (A)	1,90,180	-	-
Expenses during the year (B)	1,50,857	-	-
Difference for the year (A-B)	39,323	-	-

*The expenses in respect of Activity Fee cannot be ascertained separately from the income and expenditure account.

Similar observations were also noted in the Directorate's Order No. F.DE. 15/(481)/PSB/2022/ 2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/ 2684-2688 dated 10.05.2022 issued for FY 2019-20.

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and 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 should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the above-mentioned provisions, earmarked levies are to be collected only from the user students availing of the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is directed not to charge Digital Learning Fee from the students.

Further, the Directorate in its Order No. F.DE.15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/ 2684-2688 dated 10.05.2022 issued for FY 2019-20 noted that the school is charging activity fee of INR 12,000 as one-time charges and the school was directed not to charge this fee as this would tantamount to profiteering and commercialisation of education. However, in view of above table, it is noted

that the school has not stopped collecting activity fee, therefore, the school is again directed not to collect activity fee.

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

Accordingly, the school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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

As per Para 67 of Guidance Note 21 on Accounting by School "The financial statements should disclose, inter-alia, the historical cost of Fixed Assets".

As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16 April 2016 "The Director hereby specify that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."

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

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that fixed assets purchased out of General fund are shown at WDV and fixed assets purchased out of the development fund are shown at Gross Value which is not in accordance with above-mentioned provisions. Further, the school has complied with the provisions of para 99 of Guidance Note 21. Further, the school has not charged depreciation as per the rates mentioned in Guidance Note 21. Accordingly, the school is again directed to follow uniformity in the disclosure of fixed assets in the audited financial statements. Also, the school is directed to charge depreciation at the rates prescribed in Guidance Note 21.

3. The Directorate's Order No. F.DE. 15/(265)/PSB/2019/1375-1379 dated 29.03.2019 issued for FY 2017-18, Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/2684-2688 dated 10.05.2022 issued for FY 2019-20 directed the school to maintain the fixed assets register which should include details such as 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 in its compliance report has mentioned that "the school is in process to prepare fixed assets register as required by DoE and will submit in due course."

Accordingly, the school is once again directed to prepare the fixed assets register in the prescribed format and make it available for verification at the time of evaluation of fee increase proposal of subsequent year.

4. As per Form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3 months' salary and this amount should be invested in joint name of Dy. Director (Education) and manager of the school.

The Directorate's Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/(484)/PSB/2022/2684-2688 dated 10.05.2022 issued for FY 2019-20 directed the school to make a reserve in equivalent amount of 3 months' salary of every Financial Year and create corresponding amount of Salary Reserve in the Form of Fixed Deposit in the Joint Name of Dy. Director (Education) and Manager of School.

On review of audited financial statement for the FY 2019-20 to 2021-22, the school has created a salary reserve in its books of accounts but the same is not equivalent to 3 months' salary. Also, the school has not made the equivalent investment in the joint name of Dy. Director Education and the Manager of School.

Accordingly, the school is again directed to make a reserve in equivalent amount of 3 months' salary and create the corresponding amount of Salary Reserve in the Form of Fixed Deposit in the Joint Name of Dy. Director (Education) and Manager of School.

5. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified 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 Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

The Directorate's Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/2684-2688 dated 10.05.2022 issued for FY 2019-20 directed the school to prepare Receipt and Payment Accounts in accordance with the Appendix-II of the Directorate of Education order dated 16.04.2016.

On review of audited financial statements for the FY 2019-20 to FY 2021-22, it is noted that the school has not submitted Receipts and Payment Account. However, in the compliance report the school has mentioned that the school has prepared receipts and payment account as per the Appendix-II of the Directorate of Education order dated 16.04.2016 from FY 2019-20 onwards. It seems that the school has not complied with the above directions.

Accordingly, the school is again directed to prepare and submit the Receipts and Payment Account in accordance with Appendix-II of the Directorate of Education order dated 16.04.2016.

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 12,02,00,947** out of which cash outflow in the FY 2022-23 is estimated to be **INR 12,44,54,249**. This results in net deficit of **INR 42,53,302** 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	52,84,665
Investments as on 31.03.22 as per Audited Financial Statements	2,89,61,105
Liquid Funds as on 31.03.2022	3,42,45,770
Add: Recovery from the society on account of construction of the school building [Refer Financial Suggestion No. 1]	1,40,03,243
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	8,70,30,431
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	6,67,564
Add: Additional Income of Annual Charges and Development Fund (Refer Note 4 Below)	23,67,212
Add: Additional Fees due to increase in fee @15% from 01.07.2022 (Refer Note 5 Below)	82,62,258
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 Below)	1,44,72,089
Total Available Funds for FY 2022-23	13,21,04,390
Less: Loan against FDR as on 31.03.2022	35,29,357
Less: FDR in the joint name of Dy Director Education and Manager of the school (Refer Note 1 Below)	2,40,162
Less: Development Fund (Refer Note 8 Below)	81,33,924
Net Available Funds for FY 2022-23 (A)	12,02,00,947
Less: Budgeted expenses for the session 2022-23 (Refer Note 6 Below)	10,83,81,086
Less: Salary Arrears of 7th CPC (Refer Note 7 Below)	1,60,73,163
Total Estimated Expenditure for FY 2022-23 (B)	12,44,54,249
Net Deficit (A-B)	42,53,302

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

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Manager and Dy. Director of Education	2,40,162	Deducted while calculating available funds of the school.
Total	2,40,162	

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

Note 3: The Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 as per the school's submission are as under:

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Tuition fees	36,71,704
Annual Charges	50,13,836
Development Fee	57,86,549
Total	1,44,72,089

Note 4: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

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

- (i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported tuition fees at 100% and annual charges and development fees at 85% in 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 fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	5,76,60,880	5,76,60,880	As per details provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% and thus, a difference amount of INR 23,67,212 has been considered.
Annual Charges	65,00,369	76,47,493	
Development Charges	69,13,835	81,33,924	
Total	7,47,46,788	7,34,42,296	

Note 5: The school was allowed to increase fee 5% vide Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and 10% vide Order No. F.DE.15/ (484)/PSB/2022/ 2684-2688 dated 10.05.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @15% from 1st July 2022. Accordingly, additional income on account of fee increase will also accrue to the school in FY 2022-23 and thus, following amount has been considered as funds available with the school:

Fee heads	Actual receipt in FY 2021-22	Grossed Up	Total Estimated Fee	Increased fee (with fee increase @15% for 9 months)
Tuition fees	5,76,60,880	-	5,76,60,880	6,41,47,729
Annual Charges	65,00,369	11,47,124	76,47,493	85,07,836
Development Fee	69,13,835	12,20,089	81,33,924	90,48,990
Total	7,10,75,084	23,67,212	7,34,42,296	8,17,04,555
Impact of fee increase				82,62,258

Note 6: All budgeted expenditure proposed by the school amounting to INR 12,79,55,451 has been considered while deriving the fund position of the school except the following:

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Salary - Teaching and Non-teaching staff	7,36,80,100	14,56,229	Restricted to 130% of expenditure incurred in FY 2021-22.
Gratuity & Leave encashment	20,00,000	20,00,000	Refer Financial Suggestion No. 2
Security & Housekeeping Expenses	37,34,600	6,53,508	Restricted to 110% of expenditure incurred in FY 2021-22.
Sports Activity Expenses	10,96,800	9,27,565	
Electricity & Water Expenses	13,65,500	10,45,862	
Printing & Stationery	15,42,600	9,89,020	

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Expenses			
Student welfare	12,12,400	10,81,872	
EWS Students Books & Uniforms	1,15,300	1,15,300	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Transport expenses	68,78,700	68,78,700	
Capital Expenditure	1,34,75,300	44,26,310	Restricted to development fee expected to be received in FY 2022-23
Total	10,51,01,300	1,95,74,365	

Note 7: 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.

Salary arrears amounting to INR 4,04,07,074 for the period Jan 2016 to March 2020 has already been allowed in the Directorate's Order No. Order No. F.DE. 15/(481)/PSB/2022/2668-2672 dated 10.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (484)/PSB/2022/ 2684-2688 dated 10.05.2022 issued for FY 2019-20. Further, salary arrears for the period 01.04.2020 to 31.03.2022 amounting to INR 1,60,73,163 has been considered while evaluating the funds availability position of the school.

Note 8: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacement of furniture and fixtures and equipment charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet

any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase." Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 2,28,17,905 in its audited financial statements of FY 2021-22. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, up-gradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school. However, development fund equivalent to amount collected in FY 2021-22 amounting to INR 81,33,924 from students has not been considered as fund available with school.

- ii. In view of the above examination, it is evident that the school does not have adequate funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the proposal of the school for the session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instruction against which have been given in the order) that the sufficient funds are not available with the school to carry out its operations for the academic session 2022-23.

AND WHEREAS, it is noticed that the school has incurred INR 1,40,03,243 in contravention of Rule 177 and other 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 the order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

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.

AND WHEREAS, the fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23. 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 5% to be effective from 01 April 2023.

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

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

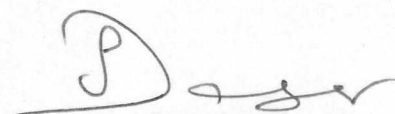
Accordingly, it is hereby conveyed that the proposal for fee hike of **Adarsh Vidya Bhawan Public School, I.P. Extn. Patparganj, Delhi-110092 (School ID-1002283)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is allowed to increase the fee by 5% for session 2022-23 to be effective from 01.04.2023.

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

1. To increase the fee by 5% from the specified date i.e. 01.04.2023.
2. To ensure payment of salary is made in accordance with the provision of Section 10 (1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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



(Jai Parkash)

**Deputy Director of Education
(Private School Branch)**

Directorate of Education, GNCT of Delhi

**To
The Manager/ HoS
Adarsh Vidya Bhawan Public School
I.P. Extn. Patparganj,
Delhi-110092 (School ID-1002283)**

No. F.DE.15 (1561)/PSB/2023 | 8208-8212

Dated: 25/09/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



(Jai Parkash)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi