

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

1460
No. F.DE.15 0/PSB/2023/ 5856-5860

Dated: 27/06/23

Order

WHEREAS, **Mayur Public School, I.P. Extension, Delhi – 110092 (School Id: 1002284)** (hereinafter referred to as “the School”), run by the **Mayur Education 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, this 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 09th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 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 2 of Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

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."*

The above-mentioned 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.

The Directorate in its Order No. F.DE. 15/(235)/PSB/2019/1235-1239 dated 29.03.2019 issued for FY 2017-18, directed the school to recover INR 15,69,482 from the society towards the utilisation of school funds on addition to building shed in FY 2015-16 and 2016-17. The school has recognised this amount as recoverable from the society in the books of accounts but the same was not recovered from the society till date. Accordingly, INR 15,69,482 has been included in the calculation of funds available with the school. The school is directed to recover this amount from the society within 30 days from the date of issue of this order.

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

The Directorate in its Order No. F.DE-15/ (235)/PSB/2019/1235-1239 dated 29.03.2019 issued for FY 2017-18, noted based on the review of the audited financial statements of FY 2016-17, that School had incurred capital expenditure of INR 2,21,59,649 during FY 2016-2017 by utilizing Development Fund, Depreciation Reserve Fund and General fund. However, on perusal of the budget estimate for FY 2016-2017 submitted by the school along with the proposal for enhancement of fee for FY 2016-2017 indicated budgeted capital expenditure of INR 1,14,15,000 only. And the same was considered while evaluating the proposal basis the collection of development fee by the school. The school explained that this capital expenditure was required for the development of facilities to the students, but it failed to explain why the expenditure went almost double than the budgeted one.

Basis of the above, it was concluded that the school is incurring huge capital expenditure and submitting proposal for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance of above direction. Further, the above capital expenditures were incurred by the school without

complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, capital expenditure incurred by the school during FY 2016-2017 over and above those fixed assets reported as purchased against development fund of INR 99,15,471 was found excessive and the school were directed to recover INR 99,15,471 from the society which is still pending for recovery.

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, noted that the capital expenditure of INR 36,36,690 was incurred by the school in excess of the balance in development fund, depreciation fund and general fund during FY 2017-18 and 2018-19. Further, as per the above Order, the net amount recoverable from the society was assessed at INR 61,65,987 (i.e. INR 99,15,471 as directed in the order dated 29.03.2019 and INR 36,36,690 as directed in order dated 13.06.2022 minus INR 1,05,64,728 being amount payable to society as on 31.03.2019). The school was directed to recover this amount from the society. The school has recognised this amount as recoverable from the society in the books of accounts but the same was not recovered from the society till date. Accordingly, INR 61,65,987 has been included in the calculation of funds available with the school.

3. 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:
- Assets held by a long-term employee benefit fund; and
 - Qualifying insurance policies

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed the school to make equivalent investments in the plan assets against the liability of gratuity and leave encashment and to disclose the provisions for gratuity and leave encashment along with corresponding investments in the financial statements.

From review of the audited financial statements of the school for the FY 2021-22, it was noted that provision of INR 2,63,32,492 towards gratuity and INR 48,35,248 towards leave encashment were created in accordance with the actuarial valuation report. However, investments in plan assets does not correspond with gratuity liability as at 31st March 2022 and no amounts were deposited in plan assets for leave encashment liability.

Subsequently, the school has made investment with LIC amounting to INR 1,26,60,738 against gratuity liability and submitted a copy of the deposit receipts as proof of the

investments. Therefore, the same has been considered while deriving the fund position the school.

The total amount proposed by the school of INR 39,58,000 towards gratuity and leave encashment is yet to be deposited as plan assets and thus, the same has not been considered while deriving the fund position of the school.

Further, the school is directed to deposit the amount determined as per actuarial valuation with LIC so that the provision for gratuity and leave encashment stand equals the investment amount.

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

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

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

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

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of *Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]* held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

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

Further, the Hon'ble High Court in LPA 196/2004 in the matter of *'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009'* 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:** Registration fee INR 25 per student prior to admission, shall be charged.
- b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states "*admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage*".
- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 per student shall be charged. The caution money thus collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'Activity fee' from the students of the nursery class at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also 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.

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.

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed not to charge capitation fee as mentioned above with immediate effect and recover this amount from the manager/ principal of the school along with the penalty of 10 times and refund/ adjust the same against the subsequent instalment of the fee by the students.

On review of documents submitted by the school, it is noted that the school has charged one-time fee 'Activity fee' from the students of the nursery class at the time of admission. However, during the course of hearing the school has submitted that after receiving the order dated 13.06.2022 it has stopped the collection of activity fees from the students. The school submission is taken on record and it is directed that the school will not charge any fee in the name of 'activity fee'.

5. 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 statements for FY 2019-20 to 2021-22, it has been noted that the school charges earmarked levies in the form of Activity Fee, Examination Fee, Multimedia Charges, Science Kit Fee, Transport Charges and Computer Fee. From FY 2019-20, the school is maintaining separate fund accounts for these earmarked levies but has been generating surplus from earmarked levies, 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. Based on the information provided by the school the surplus/ deficit generated by the school is provided below.

Particulars	Activity Fees	Examination Fees	Multimedia Charges	Science Kit Receipts	Transportation charges	Computer Fee
For the year 2019-20						
Fee Collected during the year (A)	40,84,300	18,40,650	62,46,205	25,55,000	54,89,330	10,07,795
Expenses during the year (B)	40,84,479	18,53,662	62,11,875	25,55,840	55,62,722	10,13,795
Difference for the year (A-B)	-179	-13,012	34,330	-840	-73,392	-6,000
For the year 2020-21						
Fee Collected during the year (A)	54,94,875	2,85,600	85,200	21,200	-	4,800
Expenses during the year (B)	51,87,160	5,21,694	17,41,937	-	22,59,501	-
Difference for the year (A-B)	3,07,715	-2,36,094	-16,56,737	21,200	-22,59,501	4,800
For the year 2021-22						
Fee Collected during the year (A)	59,98,858	11,18,438	32,84,100	-	40,370	5,82,600
Expenses during the year (B)	38,27,883	11,32,098	27,56,858	-	21,85,287	3,04,746
Difference for the year (A-B)	21,70,975	-13,660	5,27,242	-	-21,44,917	2,77,854
Total	24,78,511	-2,62,766	-10,95,165	20,360	-44,77,810	2,76,654

Thus, the earmarked levies are to be collected only from the user students availing 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). From the record submitted by the school, it was noted the school has been collecting Multimedia Fee and Examination fee from all the students which loses the character of earmarked levies. Therefore, the school is directed to stop the collection of Multimedia Fee and Examination Fee from immediate effect.



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. Further, the school is also directed to determine its fee structure in accordance with above mentioned provisions.

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies 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.

6. Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state that *"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 Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Also, 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."*

The above-mentioned 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.

On review of audited financial statements for FY 2019-20, it is noted that the school has incurred INR 37,69,788 for installation of artificial turf grass out of development fund which is in contravention of clause 14 of order dated 11.02.2009 as the utilization of development fund should be earmarked for the purchase, up gradation and replacement of furniture, fixtures and equipment and the artificial turf grass is not covered under this scope. Therefore, the school is directed not to utilize development fund for installation of artificial turf grass.

Further, the installation of artificial turf grass is in contravention of clause 2 of Public Notice dated 04.05.1997 and Rule 177 of DSER, 1973, as this is a permanent structure and the school before incurring this expenditure should have ensured the rights of the employees and have invested the savings in the plan assets maintained with LIC.

Accordingly, the school is directed to recover INR 37,69,788 from the society and hence this amount has been added to the funds available with the school.

B. Other Suggestions for Improvement


1. 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."* Further, Para 102 of the aforementioned Guidance Note states *"In respect of funds, schools should disclose the following in the schedules/notes to accounts:*
 - a. *In respect of each major fund, opening balance, additions during the period, deductions/ utilization during the period and balance at the end;*
 - b. *Assets, such as investments, and liabilities belonging to each fund separately;*
 - c. *Restrictions, if any, on the utilization of each fund balance;*
 - d. *Restrictions, if any, on the utilization of specific assets."*

Also, para 67 of the afore mentioned Guidance Note states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed the school to make necessary entries in accordance with GN 21 Accounting by schools and present development fund account, development fund account and depreciation reserve fund correctly.

However, the school has followed Para 99 and 67 of Guidance Note 21 Accounting by Schools from FY 2019-20 onwards.

2. 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.

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed the school to disclose related party disclosures in its audited financial statements. However, the school has agreed to disclose its related party disclosures from FY 2021-22 onwards in its reply submitted in the compliance report dated 26.08.2022.

From review of the audited financial statements of 2021-22, 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 again directed to include such details in audited financial statements of the subsequent year.

3. The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed the school to follow proper procurement process and submit documentation in relation to procurements and purchases done by the school. However, the school has not submitted any reply regarding this direction in its compliance report.

Accordingly, the school is again directed to follow proper procurement process and submit documentation in relation to procurements and purchases done by the school. Compliance of the same shall be validated at the time of evaluation of subsequent fee increase proposal. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. Para 58(i) of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."* As per notes to Appendix I- 'Rates of depreciation' of Guidance note, *"The rates contained in this Appendix should be viewed as the minimum rates and, therefore, a school should not charge depreciation at rates lower than those specified in this Appendix in relation to assets purchased after the date of the applicability of the Guidance Note. However, if on the basis of a bona fide technological evaluation, higher rates of depreciation are justified, the same may be provided with proper disclosures by way of a note forming part of accounts"*

The Directorate in its Order No. F.DE. 15/(732)/PSB/2022/4568-4572 dated 13.06.2022 issued for FY 2018-19 and Order No. F.DE.15/ (731)/PSB/2022/4563-4567 dated 13.06.2022 issued for FY 2019-20, directed the school to follow rates of depreciation as mentioned in Appendix-I of Guidance note issued by The Institute of Chartered Accountants of India.

On review of the audited financial statements for FY 2019-20 to 2021-22, it has been noted that the school has started charging depreciation as per the rates mentioned in Appendix-I of Guidance Note issued by The Institute of Chartered Accountants of India from FY 2021-22 onwards.

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 12,31,71,534 out of which cash outflow in the FY 2022-23 is estimated to be INR 12,83,17,219. This results in deficit of INR 51,45,685 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	68,75,207
Bank Overdraft Balance as on 31.03.2022 as per Audited Financial Statements	(33,36,692)
Investments as on 31.03.22 as per Audited Financial Statements	1,56,84,094
Liquid Funds as on 31.03.2022	1,92,22,609
Add: Amount recoverable from the society for addition made to Building (Refer Financial Suggestion 1)	15,69,482
Add: Amount recoverable from the society for capital expenditure incurred in excess of development fee collected (Refer Financial Suggestion 2)	61,65,987
Add: Recovery from the society on account of capital expenditure incurred during FY 2019-20 without compliance of clause 2 of Public Notice and Rule 177 of DSER, 1973 (Refer Financial Suggestion 6)	37,69,788
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	10,13,56,763
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	30,82,900
Add: Additional Income of Tuition Fee (Refer Note 4 Below)	34,08,775
Add: Additional Fees due to increase in fee @15% from 01.07.2022 (Refer Note 5 Below)	1,36,94,965
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 Below)	1,47,37,497
Total Available Funds for FY 2022-23	13,75,33,771
Less: FDR in the name of Manager & Dy Director of Education as on 31.03.2022 (Refer Note 1 Below)	17,01,500
Less: Investment with LIC (Refer Financial Suggestion 3)	1,26,60,738
Net Available Funds for FY 2022-23 (A)	12,31,71,534
Less: Budgeted expenses for the session 2022-23 (Refer Note 6 Below)	12,83,17,219
Total Estimated Expenditure for FY 2022-23 (B)	12,83,17,219
Net Deficit (A-B)	51,45,685

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 name of Manager and DoE	17,01,500	Deducted while calculating available funds of the school.
Total	17,01,500	

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	Amount (in INR)
Annual Charges	67,48,616
Development Fee	79,88,881
Total	1,47,37,497

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 annual charges and development fee are collected in full for part of the year from the students. This is in contravention of the order of the Directorate. Since, the school has charged the fee in contravention of Directorate' order, the school is directed to refund the excess amount of fee collected or to adjust the future fee of the students within 30 days from the date of issue of this order.

Further, as per the school submission post hearing, the tuition fee was collected from students in FY 2021-22 after providing intermittent discounts given to the students of different classes in different manner. Therefore, number of fee-paying students are being multiplied with the applicable fee struture to ascertain the amount of gross fee receivable during 2021-22. The difference of fee receivable computed and the actual fee collected and presented for FY 2021-22 comes to INR 34,08,775 which has been considered in the funds availability calculation of the school.



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
Tuition fee	6,57,73,625	6,91,82,400
Annual Charges	1,08,54,639	1,08,54,639
Development Charges	1,13,95,757	1,13,95,757
Total	8,80,24,021	9,14,32,796

Note 5: The school was allowed to increase fee 15% vide order No. F.DE.15/(731)/PSB/2022/4563-4567 dated 13.06.2022 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 Expected Fee	Increased fee (with fee increase @15% for 9 months)
Tuition fees	6,57,73,625	34,08,775 **	6,91,82,400	7,69,65,420
Annual Charges	1,08,54,639*	-	1,08,54,639	1,20,75,786
Development Fee	1,13,95,757*	-	1,13,95,757	1,26,77,780
Total	8,80,24,021	34,08,775	9,14,32,796	10,17,18,986
Impact of fee increase				1,36,94,965

*Annual Charges and Development charges for FY 2021-22 have been considered as per the details submitted by the school.

**As per school submission post-hearing, the tuition fee was collected from students in FY 2021-22 after providing intermittent discounts given to the students of different classes in different manner. Therefore, number of fee-paying students are being multiplied with the applicable fee structure to ascertain the amount of gross fee receivable during 2021-22. The difference of fee receivable computed and the actual fee collected and presented for FY 2021-22 comes to INR 34,08,775.

Note 6: All budgeted expenditure proposed by the school amounting to INR 20,91,85,000 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
Gratuity	39,58,000	39,58,000	Refer Financial Observation No. 3
Leave Encashment			
Deposit for shortfall in LIC Gratuity Fund	48,35,000	48,35,000	Investment in LIC made by the school has already been considered.
Deposit for shortfall in Leave Encashment Fund	1,43,56,000	1,43,56,000	
Staff Welfare	20,86,000	6,06,247	Restricted to 110% of expenditure incurred in FY 2021-22.
Security & Housekeeping Expenses	1,29,94,000	19,80,140	
Co-curricular & Function Expenses	3,53,000	1,10,810	

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Assignment Expenses	9,40,000	2,32,274	
Printing & Stationery Expenses	29,85,000	7,72,737	
Workshop & Seminar Expenses	38,79,000	19,25,510	
Student Welfare Expenses	35,35,000	9,94,091	
Advertisement Expenses	19,93,000	10,62,397	
Legal & Professional Expenses	14,29,000	12,95,900	
Maintenance of Playground	31,13,000	10,92,047	
Other Repair	21,77,000	6,18,408	
Overdraft from PNB to be repaid	33,37,000	33,37,000	Considered separately in the funds availability calculation.
Expenses on Upgradation of Building	26,09,000	26,09,000	This expenditure proposed by the school is in contravention of clause 2 of Public Notice dated 04.05.1997, therefore this has not been considered
Multimedia Expenses	89,23,000	89,23,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Activity Expenses	54,65,000	54,65,000	
Science Lab Kit Expenses	42,92,000	42,92,000	
Computer Education Expenses	15,29,000	15,29,000	
Examination Expenses	19,52,000	19,52,000	
Transport expenses	76,63,000	76,63,000	
Capital Expenditure	1,89,36,000	1,12,58,220	As per discussion with the school during hearing
Total	11,33,39,000	8,08,67,781	

- 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 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 is accepted.



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. Further, school is hereby 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 the 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 5% to be effective from 01 April 2023.

AND WHEREAS, it is noticed that the school has incurred INR 1,15,05,257 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 this 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, 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.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Mayur Public School, I.P. Extension, Delhi – 110092 (School Id: 1002284)** 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 only by the prescribed percentage 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 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
Mayur Public School,
I.P. Extension,
Delhi – 110092 (School Id: 1002284)

No. F.DE.15 ¹⁴⁶⁰ (A)/PSB/2023 / 5856 - 5860

Dated: 27/06/23

Copy to:

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

Nandini

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