

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

1416
No. F.DE.15 0/PSB/2023/ 5188 - 5192

Dated: 06/06/23

Order

WHEREAS, **Lovely Rose Public Secondary School, C-9, Yamuna Vihar, Delhi - 110053 (School Id: 1104311)** (hereinafter referred to as **"the School"**), run by the **Lovely Rose Education Society** (hereinafter referred to as the **"Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as **"DoE"**), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as **"DSEAR, 1973"**). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, 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 12th 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. 15/ (438)/PSB/2022/2122-2126 dated 21.04.2022 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. 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 *"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 investment made out of this fund, will be kept in a separately maintained Development Fund Account"*.

③

The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to comply with clause 14 of the order dated 11.02.2009 for collection and utilization of development fee. But on review of audited financial statements for FY 2019-20, 2020-21 and 2021-22, it is noted that the school has not complied with the provisions of clause 14 of order dated 11.02.2009. The school is treating development fee as revenue receipt and has utilized the same for meeting revenue expenses. Also, the school has not maintained Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and separate bank account is not opened for deposit of development fee.

Accordingly, the school is again directed to comply with clause 14 of the order dated 11.02.2009 for collection and utilization of development fee. As the development fee can only be utilized for purchase, up gradation and replacement of furniture, fixtures and equipment and not for any other purpose. The school is directed to open separate bank account for collection and investment of development fee/ fund and create depreciation reserve account equivalent to the depreciation charged in the revenue account and report the same in its financial statements. The school is also directed to submit the compliance report for this within 30 days from the date of issue of this order.

2. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 state *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 state *"Earmarked levies shall be charged from the user student only."*

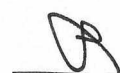
Rule 176 state - *"Collections for specific purposes to be spent for that purpose' of the DSER, 1973 state "Income derived from collections for specific purposes shall be spent only for such purpose."*

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to follow fund-based accounting and to evaluate costs incurred against each earmarked levy so that the earmarked levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies and not to charge Activity Fee as earmarked fee with immediate effect and should incur the expenses relating to these either from tuition fee or from annual charges.

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 name of Activity Fee, Transport Fee and Examination Fee and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income.



Details of collection and utilisation of earmarked levies are as under:

| Particulars | Activity Fee (in INR) | Examination Fee (in INR) | Transport Fee (in INR) |
|--------------------------------------|--------------------------|-----------------------------|---------------------------|
| For the year 2021-22 | | | |
| Fee Collected during the year (A) | 18,21,280 | 2,04,000 | - |
| Expenses during the year (B) | 10,71,671 | 1,64,600 | 86,328 |
| Difference for the year (A-B) | 7,49,609 | 39,400 | -86,328 |
| For the year 2020-21 | | | |
| Fee Collected during the year (A) | 6,62,510 | - | - |
| Expenses during the year (B) | 4,93,104 | 1,59,100 | 14,319 |
| Difference for the year (A-B) | 1,69,406 | -1,59,100 | -14,319 |
| For the year 2019-20 | | | |
| Fee Collected during the year (A) | 23,02,500 | 7,57,000 | 1,67,400 |
| Expenses during the year (B) | 11,10,261 | 3,43,160 | 89,369 |
| Difference for the year (A-B) | 11,92,239 | 4,13,840 | 78,031 |
| Total | 21,11,254 | 2,94,140 | -22,616 |

The earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students of the school, a separate charge cannot be levied towards this service by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee).

Accordingly, the school is directed not to charge Activity Fee as earmarked fee with immediate effect and should incur the expenses relating to these either from tuition fee or from annual charges.

Further, the school is directed to follow fund-based accounting and to evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies in the subsequent fee increase proposal by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

3. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date".

Further, according to para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

- a) assets held by a long-term employee benefit fund; and
- b) qualifying insurance policies."

The Directorate in its Order No. 15/ (438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to get the actuarial valuation of its liability of its retirement benefits (gratuity and leave encashment) and record the same in its audited financial statements and to invest an amount equivalent to the liability of retirement benefit that qualify as 'Plan Assets'.



On review of the financial statements of the school for FY 2019-20 to 2021-22, the school has still not created any provision for gratuity and leave encashment for any of the financial years despite giving direction in the previous order issued for FY 2019-20. Accordingly, the school is again directed to get the actuarial valuation of its liabilities for retirement benefits (gratuity and leave encashment) and record the same in its audited financial statements. The school is also directed to invest an amount equivalent to the liability of retirement benefit that qualify as 'Plan Assets' within 30 days from the date of this order.

Further, the school has budgeted an amount of Rs. 7,65,200 for retirement benefits in the budget income and expenditure for FY 2022-23. Since the school has not deposited any amount in the plan assets in compliance of AS-15, this amount has not been considered while calculating the funds position of the school.

4. Section 2(m) defines that "Manager" in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school".

Further, Rule 59 of DSEAR, 1973 states, "Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee: (j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided; (k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties and responsibilities of the manager; (l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf; (m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school; (r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager. Thus, the manager of the school cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973. The post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Hence, the Manager of the School cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

On review of records submitted by the school, the school is paying salary to the director in 2020-21 and 2021-22 @ INR 80,000 per month. Accordingly, the total salary paid by the school of INR 19,20,000 is recoverable from the manager/ society of the school within 30 days from the date of issue of this order. Accordingly, INR 19,20,000 is hereby added while deriving the fund position of the school considering the same as funds available with the school.



Other Suggestions for Improvement

1. Para 67(ii) of Guidance Note-21 issued by the Institute of Chartered Accountants of India, states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

The Directorate in its Order No. 15/ (438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to disclose fixed asset at gross value on the face of balance sheet on the assets side and the accumulated depreciation on liability side of the Balance Sheet. Further, the school is directed to follow correct accounting treatment with respect to the development fee collected in accordance with the above-mentioned provisions.

On review of audited financial statements for FY 2019-20 to 2021-22, the school has reflected its fixed assets on written down value basis which is not in compliance with Para 67(ii) of Guidance Note - 21.

Clause 14 of the order dated 11.02.2009 state *"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 investment made out of this fund, will be kept in a separately maintained Development Fund Account"*

Further 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."*

However, the school has not followed the accounting treatment and presentation as prescribed in para 99 of the Guidance Note.

Accordingly, the school is directed to follow correct accounting treatment indicated in Guidance Note 21 issued by the Institute of Chartered Accountants of India and to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note.

2. 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 school 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.

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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.

The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to comply with the provisions of Delhi School Education Act and Delhi School Education Rules and implement 7th CPC recommendations.

However, as per the minutes of SMC meeting held on 28.06.2022 submitted by the school along with the proposal of fee enhancement, it has noted that the school does not have sufficient funds to pay salaries to staff even according to 6th CPC which is not in accordance with the provisions indicated above. Therefore, the school is directed to comply with the abovementioned provisions.

3. The Directorate of Education, vide Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999, indicated the head of Fee that recognised private unaided school can collect from the students/ parents is as under:
- Registration Fee
 - Admission Fee
 - Caution money
 - Tuition fee
 - Annual Charges
 - Earmarked levies
 - Development fee

Further, as per Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and DE 15/Act/Duggal.com /203/99/23033-23980 dated 15.12.1999, the fee and fund collected from the students can be utilised as under:

Registration Fee and Admission Fee: Registration fee of Rs. 25 per student and admission fee of Rs. 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: 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

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

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

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 provision of the same.

Development Fee: It is to be treated as capital receipts and utilised towards purchase, upgradation and replacement of furniture, fixture and equipment.

The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to determine its fee structure in accordance with the provisions indicated above.

On review of the audited financial statements of the school for FY 2019-20 to 2021-22, it has been noted that the school has not determined its fee structure in accordance with the above-mentioned provisions, as the school is utilising development fee for payment of salary and meeting other revenue expenditure of the school. Therefore, the school is again directed to determine its fee structure in accordance with the provisions indicated above and submit the same to DoE for approval.

4. On review of audited financial statements, it was noted that the school incurred printing & stationery expenses of INR 12,86,204 in FY 2021-22 as compared to FY 2020-21 where the printing & stationery expenses were INR 20,783. Review of the ledger account of Printing & Stationery expenses for FY 2021-22 revealed that out of the total expenses of INR 12,86,206, INR 8,78,804 were paid through cash mode which is 68% of the total expenses. The school is directed to avoid cash payment of expenditure and ensure to implement payment through banking channels.
5. Physical verification of fixed assets is a process conducted to verify that the assets actually exist in hand and in value and ensure the accuracy of related financial records.

The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, directed the school to get the physical verification done by the head of the school every year.

However, the school has not submitted any reply or document related to compliance with the physical verification of its fixed assets. Accordingly, the school is directed to get the physical verification done by the head of the school every year and strengthen the control over fixed assets. This being a procedural finding no financial impact has been given.

6. The Directorate in its Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20, mentioned the following documents which the school was asked to submit. The school has not submitted the compliance report in response to the order dated 21.04.2022. Therefore, the genuineness relating to any items connected with these observations cannot be verified. The list of documents not provided by the school is as under:
 - a. Copy of ledger account of society for FY 2016-17 to 2018-19
 - b. Calculation sheet of fee refunded to students in FY 2016-17 along-with proof of fee refunded to student excess charged by the school
 - c. Copy of fee structure, class wise break-up of total fee-paying students, non-fee-paying students, EWS students, number of new admissions and number of students left during FY 2016-17 to 2018-19.

- d. Reconciliation of fees for FY 2017-18 and 2018-19 along-with the reasons of variations if any with the amount of fee shown under various heads in financial statements.
- e. Copy of fee receipts (two receipts each class each year) and fee collection registers for FY 2017-18 and 2018-19.

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 **3,10,64,875** out of which cash outflow in the FY 2022-23 is estimated to be INR **2,51,17,831**. This results in surplus of INR **59,47,044** for FY 2022-23 after all payments. The details are as follows:

| Particulars | Amount (in Rs.) |
|---|--------------------|
| Cash and Bank balances as on 31.03.22 as per Audited Financial Statements | 45,97,425 |
| Investments as on 31.03.22 as per Audited Financial Statements | 11,80,634 |
| Liquid Funds as on 31.03.2022 | 57,78,059 |
| Add: Recovery from society of salary paid to the director of the school (Refer Financial Observation No. 4) | 19,20,000 |
| Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below) | 2,13,34,555 |
| Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below) | 1,55,305 |
| Add: Additional Income of Annual Charges and Development Fee (Refer Note 3 Below) | 7,10,042 |
| Add: Additional Fees due to increase in fee @10% from 01.07.2022 (Refer Note 4 Below) | 23,47,547 |
| Total Available Funds for FY 2022-23 | 3,22,45,509 |
| Less: FDR in the name of Manager & DOE as on 31.03.2022 (Refer Note 1 Below) | 11,80,634 |
| Net Available Funds for FY 2022-23 (A) | 3,10,64,875 |
| Less: Budgeted expenses for the session 2022-23 (Refer Note 5 to 7 Below) | 2,51,17,831 |
| Total Estimated Expenditure for FY 2022-23 (B) | 2,51,17,831 |
| Net Surplus | 59,47,044 |

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 | 11,80,634 | Deducted while calculating available funds of the school. |
| Total | 11,80,634 | |

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



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

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

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

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 100% of the tuition fees 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 tuition fee, 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 | 1,52,78,501 | 1,52,78,501 | As per reconciliation provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% in compliance of the Directorate's order dated 01.07.2021 and thus, difference amount of INR 7,10,042 has been considered. |
| Annual Charges | 19,78,400 | 23,27,529 | |
| Development Charges | 20,45,174 | 24,06,087 | |
| Total | 1,93,02,075 | 2,00,12,117 | |

Note 4: The school was allowed to increase fee 10% vide Order No. 15/(438)/PSB/2022/2122-2126 dated 21.04.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @10% 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 @10% for 9 months) |
|-------------------------------|------------------------------|-----------------|---------------------|---|
| Tuition fees | 1,52,78,501 | - | 1,52,78,501 | 1,64,24,389 |
| Annual Charges | 19,78,400 | 3,49,129 | 23,27,529 | 25,02,094 |
| Development Fee | 20,45,174 | 3,60,913 | 24,06,087 | 25,86,544 |
| Activity Fee | 18,21,280 | - | 18,21,280 | 19,57,876 |
| Examination Fee | 2,04,000 | - | 2,04,000 | 2,04,000 |
| Total | 2,13,27,355 | 7,10,042 | 2,20,37,397 | 2,36,74,902 |
| Impact of fee increase | | | | 23,47,547 |

Note 5: All budgeted expenditure proposed by the school 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 |
|---|--------------------|----------------------------|---|
| Salaries and wages including allowances | 3,05,29,056 | 93,64,935 | Restricted to 130% of expenditure incurred in FY 2021-22. |
| Retirement Benefits | 7,65,200 | 7,65,200 | The school has not made investment in Plan assets as is prescribed in AS-15, therefore amount proposed by the school has not been considered. |
| Transport Expenses | 81,170 | 81,170 | Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis |
| Total | 3,13,75,426 | 1,02,11,305 | |

Note 6: Depreciation being non-cash expenditure has not been considered while deriving fund position of the school for the FY 2022-23.

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.

As per school's reply during hearing, it was held that the school has not implemented 7th CPC till date and has not provided any liability towards 7th CPC arrears in the audited financial statements for

2021-22. Further, the school has neither provided calculation on the salary arrears as per 7th CPC for the period Jan 2016 to March 2022 nor provided for salary arrears in the budget estimates for FY 2022-23. Thus, no amount for salary arrears is considered in the above calculations. Thus, the school is again directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school has adequate funds for meeting all the operational expenditure for the academic session 2022-23. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate the proposal of the school for session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order).

AND WHEREAS, it is noticed that the school has incurred INR 19,20,000 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, the fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are available with the school for meeting financial implication for the academic session 2022-23.

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

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

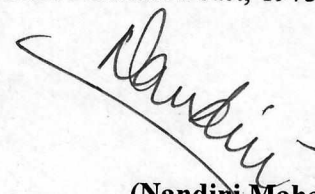
Accordingly, we may send the file along with relevant documents and record to the Director (Education) with the proposal that fee increase proposal for the academic session 2022-23 of **Lovely Rose Public Secondary School, C-9, Yamuna Vihar, Delhi-110053 (School Id: 1104311)** filed by the school in response to the Order No. F.DE. 15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the School has already charged increased fee during FY 2022-23, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of 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 Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

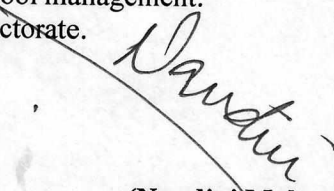
To
The Manager/ HoS
Lovely Rose Public Secondary School,
C-9, Yamuna Vihar
Delhi - 110053 (School Id: 1104311)

No. F.DE.15 ¹⁴¹⁶ (n)/PSB/2023 / 5188-5192

Dated: 06/06/23

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