

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

No. F.DE.15 (1127)/PSB/2023/487-492

Dated: 16/01/23

Order

WHEREAS, **Maharaja Agarsain Public School (School ID - 1411187), Ashok Vihar, Phase - IV, Delhi - 110052** (hereinafter referred to as "**the School**"), run by the Agarwal Welfare Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as "**the Act**") with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as "**the Rules**").

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

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

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.



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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

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

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

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

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

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

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 25.08.2022. The school was also provided an opportunity to be heard on 13.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on



various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/ (821)/PSB/2022/5279-5283 dated 30.06.2022 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 the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements

1. Clause No. 2 of Public Notice dated 04.05.1997 states *"It is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 titled Delhi Abibhavak Mahasangh concluded states *"the tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

As per 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 stated *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

Also, Rule 177 of DSER, 1973 states *"Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at after providing for the following, namely:*

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



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

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

The DoE made the following observations in Order No. 15/(821)/PSB/2022/5279-5283, dated 30.06.2022, issued to the school following an evaluation of a fee hike proposal for the academic session 2019-20, and in Order No. 15/(416)/PSB/2018/30078-30083, dated 30.11.2018, issued to the school following an evaluation of a fee hike proposal for the academic session 2017-18.

The school incurred capital expenditures on the construction of the school building for INR 6,81,63,866 [after adjustment of the amount receivable or payable to the society of INR 76,26,800 (i.e., INR 2,22,81,820 minus INR 1,46,55,020 as on 31.03.2019)] from FY 2014-15 to FY 2018-19. The DoE also noted that the above expenditure was incurred by the school without complying with the provisions of Rule 177 of the DSER, 1973, and Clause 14 of the order dated 11.02.2009. It was also noted that the school has not yet implemented the recommendation of the 7th CPC and has not deposited in plan assets an amount equivalent to the liability payable for the retirement benefits.

The documents submitted by the school post personal hearing were taken on record. In the reply the school submitted that expenditure incurred by the school during FY 2014-15 was completely in accordance with Rule 177 of the DSER, 1973 because it had earmarked fixed deposits with bank for that purpose. In view of the above, the directorate is requested to drop this point and its direction to recover the amount spent on the school building from the society.

The school's above submission cannot alter the existing laws and provisions of the DSEAR, 1973, regarding the collection and use of the school funds and development funds. Rule 177 of the DSER, 1973, has already stated that the income derived by an unaided school by way of fees shall be used in the first instance for meeting the pay, allowances, and other benefits admissible to the employees, and thereafter, if there is any saving, the same may be utilised for meeting the capital and contingent expenditures of the school. However, before implementing the recommendation of

the 7th CPC and investing an amount in plan assets for payment gratuity and leave encashment, the school preferred to incur capital expenditure on the construction of the school building, which is not allowed to the school in view of the above-mentioned provisions.

The school not only incurred the above expenditure but also incurred additional expenditures of INR 6,11,675 in FY 2019–20 and INR 1,47,29,526 in FY 2021–22 on the construction of the school building. It is also worth noting that, at a time when the entire world was facing financial difficulties as a result of Pandemic COVID-2019, the school was incurring capital expenditure on the construction of a school building rather than paying full salary to the teachers.

It was also noted that the school, in compliance with the previous orders, transferred the "CWIP of Building" to society for INR 2,22,81,820 in FY 2018-19 and INR 4,28,04,469 in FY 2020-21, and recovered INR 5,12,12,879 from the society during FY 2017-18 to FY 2021-22, leaving a recoverable balance of INR 1,38,73,410 (INR 2,22,81,820 *plus* INR 4,28,04,469 *minus* INR 5,12,12,879) as on 31.03.2022. However, the school has not transferred INR 30,77,577 to the society [i.e., the total recoverable of INR 6,81,63,866 *minus* INR 2,22,81,820 *plus* INR 4,28,04,469 transferred to the society].

Therefore, INR 3,22,92,188 (INR 1,38,73,410 *plus* INR 30,77,577 *plus* INR 6,11,675 *plus* INR 1,47,29,526) is still recoverable from the society on account of school funds utilized by the school for the construction of a school building. Accordingly, the total expenditure recoverable from society amounting to INR 3,22,92,188 has been included while deriving the fund position of the school, with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

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

Para 60 of the Guidance Note – 21 '*Accounting by Schools*' issued by the Institute of Chartered Accountants of India states for accounting of retirement benefits, it is recommended that the principles laid down in AS-15 should be followed.

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

A review of the audited financial statements for FY 2021–22 revealed that the school recorded a liability for retirement benefits of INR 7,06,80,260 as on 31.03.2022 where the total liability as per the actuarial valuation report was INR 7,44,66,159. Thus, the school has not reported the full liability of retirement benefits in the audited financial statements.

The school further submitted that it has invested INR 6,37,43,473 with LIC against the above-mentioned provision and submitted the investment proof as the investment with LIC qualifies as



plan assets within the meaning of AS-15. Therefore, the amount invested by the school of INR 6,37,43,473 has been considered while deriving the fund position of the school, with the direction to the school to report full liability in the audited financial statements and invest the remaining amount in plan assets within 30 days from the date of issue of this order.

3. Section 13 (1) of the Right to Education Act, 2009 states *"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"*. Further Section 13 (2) states *"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.*

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

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of *"Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]"* held that education is a noble profession and emphasized that *"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis"*.

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

Further, the Hon'ble High Court in LPA 196/2004 in the matter of *'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009*, no school or person shall, while admitting a child, collect any Capitation fee/ Donation from the parents. Any school or person who contravenes this provision and receives capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the recommendation of the DoE. Therefore, the school is bound to follow all the instruction/direction issued by the DoE under the obligation of land allotment letter.

Additionally, Rule 50 of DSER, 1973 states *"the school is not run for profit to any individual, group or association of individual or any other person" and "the managing committee observes the provisions of the Act and Rules made there under"*.



Based on the provisions mentioned above and the pronouncement of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission only but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of new head of fee in the fee structure whether at the time of the admission of the students or otherwise.

In this regard the Directorate vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents otherwise than the specified head of fees. Therefore, any demand of capitation fee or introduction of the new head of fee in the fee structure of the school other than the notified head of fees will be considered as *commercialization of education*, which cannot be permitted at any cost.

Review of the documents submitted by the school revealed that the school has been charging an INR 10,000 as 'CBSE I-curriculum' from the students at the time admission other than the permitted heads of fees. Therefore, the school is hereby directed not to collect this one-time fee from students at the time of admission, with immediate effect. Similar findings were noted by the DoE in its previous order issued to the school post evaluation of the fee hike proposal for academic session 2019-20 but the school has not complied with that until now.

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

4. The DoE Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, has indicated the following the heads of fee/ fund that private unaided recognized school can collect from the students/ parents:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order*"



The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of *Modern School vs Union of India & Other*.

From a review of the documents submitted by the school, it was noted that the school's fee structure includes a "pupil fund," which is collected from all students and based on the details submitted by the school, has been used towards various expenses for welfare and other benefits.

Based on the fact that the fee head "Pupil Fund" has not been defined for recognized private unaided schools and the purpose for which the school has been utilizing it, it may be covered either from annual charges or tuition fees. Therefore, the school is directed not to collect "Pupil Fund" from students with immediate effect.

5. Section 19(1) of the DSEA, 1973 states *"for the purpose of any public examination every recognised higher secondary school shall be affiliated to one or more of the boards or council conducting such examination and shall fulfil the condition specified by the board or council in this behalf"*

Further, Rule 18 (1) of DSER 1973 states *"the courses of study for primary and middle stages shall be such as may be specified in consultation with the committee and the textbooks for such courses of study shall be such as may be recommended by the Director in consultation with the committee....."*

Also, Rule 18 (2) of DSER, 1973 states *"the course of study and textbooks for the secondary stage and senior secondary stage shall be such as may be specified or recommended by the Affiliation board"*

Furthermore, The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:

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

The Directorate, in its Order No. 15/ (821)/PSB/2022/5279-5283 dated 30.06.2022 issued to the school post-evaluation of the fee hike proposal for academic session 2019-20, noted that the school

had started two courses (CBSE and Cambridge Assessment International Education) without taking an NOC from the concerned district deputy director and had started charging differential fees from the students. The school has been charging differential fees from the students even without disclosing them in the full statement of fees filed U/s 17 (3) of the DSEA, 1973. As a result, the school was ordered to refund or adjust the excess fee charged to the students without disclosing the same in the statement of fee and without obtaining prior approval from the Director of Education.

The documents submitted by the school post personal hearing were taken on record. The school submitted in its reply that the school started both courses simultaneously and charges deferential fee, it may be noted that the school was granted affiliation for implementation of CBSE (i) curriculum with effect from 2013-14 vide CBSE Letter No. PRO&DIR (A.R.T &I)/CBSE-I Affiliation/2013/37 dated 14.02.2013 with the condition that the fee charged from the students studying in CBSE (i) curriculum is commensurate to the facilities being provided. Subsequently, it was withdrawn w.e.f. 2017-18.....

The above reply submitted by the school is out the context and therefore, the school is once again directed the comply with the above direction.

6. Clause 24 of DoE Order dated 11.02.2009 states *"Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, P&L Account and Receipt & Payment account every year."*

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

1. *"the financial statement of the Schools should be prepared on accrual basis.*
2. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School's Balance sheet.....*
3. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed...."*

A review of the audited financial statements of the school revealed that the school has been recording income on a cash basis while expenditures are being recoded on an accrual basis. Thus, the school is not following generally accepted accounting principles (GAAP). As a result, the school is hereby directed to keep its books of accounts in accordance with GAAP beginning with the next fiscal year and to make any necessary adjustments to its books of accounts. Compliance with this direction shall be verified while evaluating the fee increase proposal for the subsequent year.

7. Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated 11.02.2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and*



equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development fund Account."

Para 99 of Guidance Note-21 '*Accounting by school*' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "*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*".

Based on the above-mentioned provisions, upon utilization of development funds, the school needs to create the '*Development Fund Utilisation Account*' (or by any other name), which may be treated as deferred income. And this deferred income should be written off in proportion of depreciation charged to the revenue account. By following the aforesaid accounting treatment specified in Para 99 of the GN-21 cited above, the depreciation reserve fund would be mere an accounting head, and the school is not required to maintain equivalent investments against the depreciation reserve.

From the review of the presentation made by the school in the audited financial statements for FY 2021-22, it has been noted that upon purchase of assets out of the development funds, the school transfers an amount equivalent to the cost of the assets to "*Asset purchased fund (Development Fund)*" and writes off in the proportion of depreciation charged on the assets purchased out of development funds. By following the aforesaid adjustments, the closing balances of the development fund utilised account and the depreciation reserve fund correspond to the cost of assets purchased with development funds.

Further, the school has reported a development fund balance of INR 1,43,47,586 as on 31.03.2022 while the cash/bank balance against the development was nil. This indicates that the school has utilized the development fund balance for meeting other expenditures of the school without making appropriate accounting entries in the books of accounts. Therefore, closing balance of development funds has not been considered while deriving the fund position of the school and the school is directed to review and rectify its books of accounts and submit the compliance report within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

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



- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

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

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

Based on the discussion with the school during the personal hearing, it has been noted that the school refunds the principal amount only to the students at the time of their leaving from the school, which is not in accordance with the above-mentioned provisions. Therefore, the school is hereby directed to ensure the refund of the caution money along with interest thereon. Accordingly, the outstanding balance of caution money as on 31.03.2022 of INR 18,55,726 has been considered while deriving the fund position of the school.

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

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

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

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

Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

In view of the above, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. However, the school didn't submit the independent auditor reports for FY 2019-20 to FY 2021-22.

Therefore, the school is hereby directed to provide complete set of audited financial statements as financial statement without audit report has not been considered as complete set of audited financial statement. However, the compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year and the financial statements submitted by the school for FY 2019-20, FY 2020-21 and FY 2021-22 has been considered in the evaluation of fee increase proposal.

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

From review of the audited financial statements of 20, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

5. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. However, from the audited financial statements, the expenditure incurred by the school towards uniform and textbooks cannot be determined. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	3,230
EWS Students*	675
% of EWS students	20.89%

**Included EWS and other non-fee paying students.*

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 amount to **INR 19,99,14,313** out of which cash outflow for the FY 2022-23 is estimated to be **INR 16,59,23,369**. This results in a surplus of **INR 3,39,90,944** after meeting all expenditures. The details are as follows:



Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	1,15,69,752
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22 (Refer Note No. 1 Below)	12,13,25,931
Liquid fund as on 31.03.2022	13,28,95,683
Add: Amount Recoverable from society for amount incurred on building construction (Refer Financial Suggestion No. 1)	3,22,92,188
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	10,80,70,286
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 2 Below)	1,30,08,134
Add: Additional income of annual charges and development fund (Refer Note No. 2 Below)	29,32,760
Less: Non-Cash Income (Refer Note No. 3 Below)	54,46,899
Total available funds for FY 2022-23	28,37,52,152
Less: FDR in joint name with DOE	1,06,790
Less: FDR in joint name with Registrar Delhi High Court	1,81,31,850
Less: Student Security Deposit as on 31.03.2022	18,55,726
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 2)	6,37,43,473
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 (Refer Financial Suggestion No. 3)	-
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 4 Below)	-
Estimated Available Funds for FY 2022-23	19,99,14,313
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 5 and 6 Below)	15,68,58,472
Less: Arrears of 7th CPC of INR 3,08,49,513 minus amount of INR 2,17,84,616 allowed as per previous year's order	90,64,897
Estimated Surplus	3,39,90,944

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

S. No	Particulars	Amount (INR)	Remarks
1	FDR in Joint name of Manager and DDE	36,044	Considered separately.
2	FDR in Joint name of Manager and DDE	36,959	Considered separately.
3	FDR in Joint name of Manager and DDE	33,787	Considered separately.
4	FDR in name of CBSE	8,33,600	Considered separately.
5	FDR in name of CBSE	1,58,891	Considered separately.
6	FDR in name of High court	1,81,31,850	Considered separately.
7	FDR For fee refund	2,22,55,079	Available to school for utilization.
8	FDR reserved for scholarship	9,97,000	Available to school for utilization.
9	Deposit with LIC	6,37,43,473	Specific funds. Hence considered separately.
10	FDR reserved for student security deposit	18,55,726	Considered separately.
10	FDR in the School Name	1,22,22,665	Available to school for utilization.
11	Accrued interest on FD's	10,20,857	

S. No	Particulars	Amount (INR)	Remarks
	Total	12,13,25,931	

Note 2: The Department vide its order No.F.No.PS/DE/2020/55 dated 18.04.2020 and order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

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

- (i) *“to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21”.* And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.
- (iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

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

Particulars	Income as per AFS of FY 2021-22	Income Considered in the calculation	Remarks
Tuition Fee	8,29,39,351	8,29,39,351	
Annual Charges	75,83,403	89,21,651	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	90,35,569	1,06,30,081	

Note 3: Liability written back and deferred income of depreciation amounting to INR 54,46,899 which was reported as income in Income and expenditure account of AFS-2021-22 being notional in nature has not been considered which deriving the fund position.

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "*Registration fee and all one Time Charges*" levied at the time of admissions such as admission and caution money. The second category of fee comprises '*Tuition Fee*' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of '*Annual Charges*' to cover all expenditure not included in the second category and the fourth category consist of all '*Earmarked Levies*' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

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



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

Note 5: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Expenditure as per AFS for FY 2021-22	Expenditure as per Budgeted of FY 2022-23	Disallowed	Remarks
Salary Arrears	-	3,08,49,513	3,08,49,513	Considered separately
Salaries	8,60,17,124	14,62,47,405	1,86,82,800	The school proposed salary expenditure inclusive of salary arrears. As the salary arrears has been considered separately, the excess amount proposed by the school amounting to INR 1,86,82,800 has not been considered.
Transportation charges – vehicle owned by school	7,68,952	10,00,000	10,00,000	Neither Income nor expenses related to transport has been considered in the above table.

Note 6: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

- ii. In view of the above examination, it is evident that the school does has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has incurred INR 3,22,92,188 towards amount incurred on building construction 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 DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are available with the school for meeting financial implication for the academic session 2022-23.

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 **Maharaja Agarsain Public School (School ID - 1411187), Ashok Vihar, Phase - IV, Delhi - 110052** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is 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.

