

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

No. F.DE.15 (1500)/PSB/2023/ 6760-6764

Dated: 27/07/23

Order

WHEREAS, Crescent Public School, Saraswati Vihar, Pitampura, New Delhi - 110034 (School Id-1411217) (hereinafter referred to as "the School"), run by the Crescent Public School 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, the order dispenses the proposal for increase of fee submitted by the school for the academic session 2022-23.

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 09th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings.*"
Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which 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 out of this fund, will be kept in a separately maintained Development Fund Account.*"

The Directorate in its Order No. F.DE. 15/(227)/PSB/2019/1260-1264 dated 29.03.2019 issued for FY 2017-2018 and Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 noted that the school had purchased buses amounting to INR 30,25,000 and INR 13,06,620 during the FY

2014-2015 and FY 2017-18 respectively without complying with the aforesaid provisions. As per the said orders, the school was directed to recover this amount from the society. However, the recovery is still pending.

The Directorate in its Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 also noted that the school has not created transport fund account till FY 2017-2018 and the school had created transport fund account during FY 2018-2019 onwards.

However, on review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school was charging transport fee in FY 2019-2020 and FY 2020-21, which was not even adequate to cover revenue (operating) expenses for providing the transport service to students and during FY 2021-22, the school has transferred the accumulated deficit of Transport Fund to General Fund. The details of transport fee collected and expenditure incurred by the school for providing transport facility are enclosed below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Income			
Transport Fees (A)	15,35,100	-	-
Expenses			
Running and Maintenance Expenses	4,77,183	3,122	-
Housekeeping -Transport	11,59,800	1,15,980	-
Insurance	1,50,607	64,643	-
Hiring Charges	3,45,000	-	-
Depreciation	5,22,540	3,82,301	-
Total Expenses (B)	26,55,130	5,66,046	-
Surplus/(Deficit) (C)=(A-B)	-11,20,030	-5,66,046	-

Similar observations were also noted in Directorate's Order No. F.DE. 15/(227)/PSB/2019/ 1260-1264 dated 29.03.2019 issued for FY 2017-2018 and Order No. F.DE. 15/(756)/PSB/ 2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 wherein it was mentioned that for FY 2015-16 to 2018-19, transport fee was inadequate to cover revenue (operating) expenses for providing transport facility to students.

Further, it is noted that the school is providing transport facility to the users students despite there being deficit from operation of transport facility. Earmarked levies in the form of transport fee are to be charged on no-profit no-loss basis and the school was not able to recover the cost of buses from the transport fee collected from students indicating that the school has shifted the burden of capital cost of buses to all the students of the school, who are not even availing the transport service.

Therefore, the school is directed to recover INR 43,31,620 from the society within 30 days from the date of the order being the amount spent by the school on purchase of buses and accordingly, this amount has been added to the fund position of the school and with the direction to the school to recover this amount from the Society.

Further, the school is directed to ensure that transport vehicles are procured from the transport funds first and then from school funds unless savings are derived in accordance with Rule 177 of DSER, 1973.

2. Para 7.14 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Plan assets comprise:*
1. *assets held by a long-term employee benefit fund; and*
 2. *qualifying insurance policies."*

Section 10(1) of Delhi School Education Act, 1973 on 'Salaries of employees' states "*The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the*

employees of a recognised private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority."

The Directorate in its Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20, directed the school to keep depositing funds in plan assets for retirement benefits liability to ensure the value of the plan-assets matches the actuarial valuation and to disclose the provisions of gratuity and leave encashment along with corresponding investments in its financial statements.

On review of the audited financial statements for FY 2021-22, it was noted that the school has reported total liability INR 1,06,76,846 toward gratuity and INR 13,08,500 toward leave encashment. However, the school has obtained actuarial valuation report for gratuity liability only and has reported the provision for gratuity as per the report. Further, the school has not made any investment in plan assets towards gratuity and leave encashment liability. Accordingly, the school is again directed to invest an amount equivalent to the liability of retirement benefit and submit the compliance report within 30 days from the date of issue of the order.

The amount proposed by the school in its budget of INR 14,26,979 towards gratuity and leave encashment has not been considered while deriving the fund position of the school.

3. Directorate's order no. F.DE.15/(21)/PSB/2019/922-926 dated 22 Jan 2019 regarding fee increase proposals for FY 2017-2018 states *"Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-2018 and if the fee is already increased and charged for the academic session 2017-2018, the same shall be refunded to the parents or adjusted in the fee of subsequent months"*

As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school states that *"The school shall not increase the rates of tuition fee without the prior sanction of the Directorate of Education Delhi Admin. and shall follow the provisions of Delhi School Education Act/Rules, 1973 and the instructions issued from time to time"*.

Directorate's order no. F.DE. 15/(40)/PSB/2019/2698-2707 dated 27 Mar 2019 regarding fee increase proposals for FY 2018-2019 and FY 2019-2020 states *"In case, the schools have already charged any increased fee prior to issue of the order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal."*

The Directorate in its Order No. Order No. F.DE. 15/(756)/PSB/ 2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 noted that the school had collected increased annual charges from students without prior approval of the Directorate. The school was charging INR 5,600 as annual charges during FY 2016-2017 which was increased to INR 6,150 during FY 2017-2018 and INR 6,750 during FY 2018-2019. It was noted that the school had spent school funds on purchase of buses and other capital items and has been increasing fee from students, which clearly indicates profiteering and commercialisation of education. Even in FY 2021-22 the school has increased the annual charges to INR 8,000 without approval of the DoE.

Accordingly, the school is again directed to calculate the excess fee collected from students from FY 2016-2017 to FY 2018-2019 and immediately refund/adjust the excess fee collected and submit the evidence of refund/adjustment to the Directorate within 30 days from the date of the order.

The school is continuously contravening the directions of the Director, Education and thus, is required to explain why their fee proposal should be not be rejected summarily and appropriate action be initiated in accordance with the provisions of the DSEA&R, 1973.

Further, the school is strictly directed not to increase any fee/charge of any class without approval from the Directorate and adjust the fee of annual charges in accordance with the directions of the Directorate.

B. Other Suggestions for Improvement



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

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

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

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

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

In Directorate's order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20. The school was hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Also, the school was directed to evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport Fees, Computer and Science Fees and Smart Class Fee from students. Though the school has created a separate fund for transport fee but the school has failed to disclose transport fees in the income and expenditure account rather it was presented directly in designated funds maintained by the school as Transport Fund. While this is a revenue receipts collected by school, the school did not route the incomes and expenses in relation to above fee head through income and expenditure account. Based on financial statements for FY 2019-20 to 2021-22, the following were the incomes and expenses against earmarked levies:

Particulars	Transport Fee	Computer & Science fees	Smart Class Fee
For the year 2019-20			
Fee Collected during the year (A)	15,35,100	2,97,500	4,55,250
Expenses during the year (B)	26,55,130	1,18,055	1,77,236
Difference for the year (A-B)	-1,120,030	1,79,445	2,78,014
For the year 2020-21			
Fee Collected during the year (A)	0	2,70,795	5,850
Expenses during the year (B)	5,66,046	64,805	0
Difference for the year (A-B)	-566,046	2,05,990	5,850
For the year 2021-22			

Particulars	Transport Fee	Computer & Science fees	Smart Class Fee
Fee Collected during the year (A)	0	96,000	0
Expenses during the year (B)	0	16,989	0
Difference for the year (A-B)	0	79,011	0
Total	-1,686,076	4,64,446	2,83,864

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

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

Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposals for enhancement of fee ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies.

2. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 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 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."*

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."*

The Directorate in its Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20, directed the school to ensure reporting of development fund utilised, depreciation reserve fund in accordance with Para 99 of Guidance Note 21.

On review of audited financial statements, it is noted that the school has complied with the provisions of clause 14 of order dated 11.02.2009 and para 99 of Guidance Note 21 issued by ICAI from FY 2020-21 onwards.

Further, during FY 2020-21 and 2021-22, the school has utilized development fee for payment of salaries which is in contravention of clause 14 of order dated 11.02.2009. Development fee can be utilised only

for purchase, up gradation and replacement of furniture, fixtures and equipment. Therefore, the school is directed to ensure compliance of clause 14 of order dated 11.02.2009.

3. The Directorate in its Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20, noted that the school was not complying with the DOE Order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 and condition mentioned at S. No. 18 in the land allotment letter which provides for 25% reservation to children belonging to EWS category. Similar observations were also noted in FY 2019-20 to 2021-22. As per school's submission, the details of EWS students and total number of students are as follows:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Total No. of Students	504	466	387
No. of EWS Students	75	75	71
% of EWS students to Total Students	15%	16%	18%

As per table above, it can be noted that the school has not been complying with the directions of the Directorate and conditions of land allotment letter. Therefore, the concerned DDE (District) is requested to look into this matter and ensure compliance with the above directions.

4. The Council of the Institute of Chartered Accountants of India, in terms of the decision taken at the 296th meeting held in June 2010 decided to extend the requirement to mention the firm registration number to all reports issued pursuant to any attestation engagement, including certificates, issued by the members as proprietor of/ partner in the said firm on or after 1 Oct 2010.

The Directorate's Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 noted that the school did not submit the Receipt and Payment Account along with the financial statements for FY 2017-18 and 2018-19. Further, it was noticed that the auditor certified the Balance Sheet and Income and Expenditure Account without mentioning the firm registration number. Therefore, the auditor did not comply with the relevant requirement prescribed the Institute of Chartered Accountants of India.

Similar observations were also noted on review of the audited financial statements for FY 2019-20 to FY 2021-22. Therefore, the school is again directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant must comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

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 year 2022-23 amounting to INR **2,69,08,173** out of which cash outflow in the year 2022-23 is estimated to be INR **2,81,89,032**. This results in net deficit of INR **12,80,858**. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	5,83,332
Investments as on 31.03.22 as per Audited Financial Statements	7,87,682
Liquid Funds as on 31.03.2022	13,71,014
Add: Amount recoverable from society on account of purchase of buses without compliance of rule 177 of DSER, 1973	43,31,620
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	1,96,00,355
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	93,133

Particulars	Amount (in INR)
Add: Additional Income of Annual Charges and Development Fund (Refer Note 4 Below)	8,07,856
Add: Additional Fees due to increase in fee @15% from 01.07.2022 (Refer Note 5 Below)	21,68,600
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 Below)	9,23,620
Total Available Funds for FY 2022-23	2,74,48,957
Less: FDR in the name of Manager & Dy Director Education as on 31.03.2022 (Refer Note 1 Below)	5,37,054
Less: Bank account maintained for specific fee/receipts namely development fund, EWS, Transport fee	3,730
Net Available Funds for FY 2022-23 (A)	2,69,08,173
Less: Budgeted expenses for the session 2022-23 (Refer Note 6 and 7 Below)	2,81,89,032
Total Estimated Expenditure for FY 2022-23 (B)	2,81,89,032
Net Deficit (A-B)	12,80,858

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

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Manager and Dy Director Education	5,37,054	Deducted while calculating available funds of the school.
Total	5,37,054	

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

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

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Annual Charges	4,51,430
Development Fee	4,72,190
Total	9,23,620

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

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

- (i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR, 1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21". And if the

school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 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	1,38,90,735	1,38,90,735	As per the information 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 8,07,856 has been considered.
Annual Charges	25,34,000	29,81,176	
Development Charges	20,43,850	24,04,529	
Total	1,84,68,585	1,92,76,441	

Note 5: The school was allowed to increase fee 15% vide Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @15% from 1st July 2022. Accordingly, additional income on account of fee increase will also accrue to the school in FY 2022-23 and thus, following amount has been considered as funds available with the school:

Fee heads	Actual receipt in FY 2021-22	Grossed Up	Total Expected Fee	Increased fee (with fee increase @15% for 9 months)
Tuition fees	1,38,90,735	-	1,38,90,735	1,54,53,443
Annual Charges	25,34,000	4,47,176	29,81,176	33,16,559
Development Charges	20,43,850	3,60,679	24,04,529	26,75,039
Total	1,84,68,585	8,07,856	1,92,76,441	2,14,45,040
Impact of fee increase				21,68,600

Note 6: All budgeted expenditure proposed by the school amounting to INR 9,06,27,904 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
7th CPC Arrear	4,06,67,417	4,06,67,417	Refer Note 7 Below

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Gratuity and Leave Encashment	14,26,979	14,26,979	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.
Salary Teaching Staff	2,95,56,600	1,09,60,364	Restricted to 130% of expenditure incurred in FY 2021-22
Housekeeping Expenses	34,00,000	18,28,946	Restricted to 110% of expenditure incurred in FY 2021-22
Electricity & water expenses	12,00,000	8,57,166	
Orientation expenses	56,000	56,000	Neither income nor expenses are considered
Computer & Science Expenses	5,45,000	5,45,000	
Smart Class Expenses	5,60,000	5,60,000	
Transportation Expenses	24,50,000	24,50,000	
Capital Expenditure	51,42,000	30,87,000	Restricted to development fee expected to be received in 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.

Further in the previous years' order of the Directorate Order No. F.DE. 15/(756)/PSB/2022/4821-4825 dated 22.06.2022 issued for FY 2019-20, the School was directed to implement the recommendations of 7th CPC for payment of salaries and even allowed the amount of arrears claimed by them at that time and basis that had allowed the school to increase the fee by 15%. However, the school has yet to implement the recommendations of 7th CPC and even not paying salaries at full scale of 7th CPC. The school is again directed to comply the provisions of section 10 of the DSEA, 1973 and release the salaries accordingly. 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 does not have adequate funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,



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

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

AND WHEREAS, it is noticed that the school has incurred INR 43,31,620 in contravention of Rule 177 and other provisions of DSEA&R, 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, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. Further, school is hereby directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of the order.

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC.

AND WHEREAS, the fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 6% to be effective from 01 April 2023.

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

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Crescent Public School, Saraswati Vihar, Pitampura, New Delhi - 110034 (School Id-1411217)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is allowed to increase the fee by 6% for session 2022-23 to be effective from 01.04.2023.

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

1. To increase the fee by 6% from the specified dated i.e. 1.4.2023.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

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

To
The Manager/ HoS
Crescent Public School,
Saraswati Vihar, Pitampura,
New Delhi - 110034 (School Id-1411217)

No. F.DE.15 (1500)/PSB/2023/6760-6764

Dated: 27/07/23

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 West-B) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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