

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

No. F.DE.15 (1080)/PSB/2022/10082-10087

Dated: 19/12/22

**Order**

WHEREAS, **Bal Bharati Public School (School ID – 1411223), Pushpanjali Enclave, Pitampura, Delhi-110034** (hereinafter referred to as “**the School**”), run by the Child Education 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. The school was also provided an opportunity to be heard on 31.08.2022 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. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 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 7.24 of Duggal Committee report states *"school should be prohibited from discharging any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a philanthropic activity. One only wonders what is then the contribution of the society that professes to run the school"*.

Further, Clause No. 2 of the 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"*. Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Additionally, 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"*.

Further, 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.

Based on the above-mentioned provisions, cost relating to land and construction of 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 or construction of school building. In this connection, it is also important to mention that society was allotted an institutional land plot and that the cost of the land was very low compared to the price of commercial and even

residential land in the nearby location. The land was allotted at a very low price because society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. 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 the above fact, DoE had recommended for allotment of land to society on noble grounds; otherwise, it would not have been possible for society to acquire such a prime land at the prime location at such low price.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of 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 and 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 main source (i.e., land) which was required to establish the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause has been included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow all the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The DoE, through Order No. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee increase proposal for academic session 2019-20, noted that the school incurred capital expenditure of INR 1,68,52,639 for the development of campus and INR 90,98,517 towards construction of swimming pool and rainwater harvesting system from FY 2014-15 to 2016-17. It was also noted that the school incurred above expenditures without complying with the provisions of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 2,59,51,156 from the society.

The representation submitted by the school in response to the aforesaid findings vide dated 31.08.2022, was taken on record. The school explained that INR 44,90,503 was incurred for construction of the swimming pool in FY 2016-17, whereas the remaining expenditures of INR 2,14,60,653 were related to the preparation of the school campus and rainwater harvesting and were incurred out of the development funds. The school also mentioned that it was not related to any new addition to the school's building as the major components of these expenditures was related to furniture and fixture and submitted the supporting documents thereof. On review of the same expenditure of INR 2,14,60,653 which was related to repair and maintenance were considered.

And the remaining expenditure of INR 44,90,503, which was related to construction of the swimming pool, has been included while deriving the position of the school with the direction to the school to recover this amount from society within 30 days from the date of the issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

2. As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, "*no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or*



*trust or any other institution". This was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs. Union of India & Others.*

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"*.

Based on the above-mentioned provisions, the school can only provide financial assistance to any other school or institution run under the same management, if there is saving calculated in the manner specified under Rule 177 of the DSER, 1973. In other words, the school first of all needs to meet its own expenditure and thereafter, if there is any saving, the same may be utilized for one or more purposes specified under Rule 177.

The Directorate through Order No. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, observed that the school transferred INR 2,15,17,844 to other institutions managed by the same society for various activities like expedition charges, Montessori activity expenses, teacher training expenses and orientation expenses from FY 2016-17 to FY 2018-19. These transfers were made by the school at fixed rate per students/teacher. With respect to this transfer, the school was asked to provide detailed calculation about how the rate per student/teacher has been fixed which the school did not provide. In the absence of necessary information, it could not be concluded whether the above transfer was made arm's length price or not.

The documents submitted by the school post-personal hearing were taken on record, based on the information provided by the school, such as comparative quotations and supporting bills, etc. It has been noted that these expenditures were incurred after following the due process of procurement. Accordingly, the aforesaid recovery of INR 2,15,17,844 has been nullified.

3. Para 49 of Accounting Standard 15 'Employee Benefits' issued by The Institute of Chartered Accountants of India states *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."*

Further, Para 57 states *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date"*. Also, Para 7 of the Accounting Standard defines Plan Assets as under:

- (a) Assets held by a long-term employee benefit fund; and
- (b) Qualifying insurance policies.

The school has reported provision for gratuity and leave encashment of INR 19,74,98,376 (other than INR 78,68,881 towards transport funds) in the audited financial statements of FY 2021-22. This provision was created based on the valuation report provided by the LIC. Against the total provisions of INR 19,74,98,376, the school has invested INR 15,86,22,522 (other INR 59,98,569 towards transport funds) with LIC because the investment with LIC qualifies as plan assets within the meaning of AS-15 issued by ICAI. Therefore, the amount of 15,86,22,522 invested by the school with LIC has been considered while deriving the fund position of the school. And the school is hereby directed to invest the remaining amount in plan assets within 30 days from the date of issue of this order and submit the compliance thereof.

4. Section 18(4) (b) of DSEA, 1973 states "*charges and payments realized, and all other contributions, endowments and gifts received by the school shall be utilized only for the specific purpose for which they were realized or received*".

Further, Rule 177 (1) 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.....*".

The Directorate in Order No. F.DE. (154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that school funds of INR 33,45,789 used by the school for purchase of vehicles during FY 2015-16. The Directorate also noted that the aforesaid vehicles were purchased without complying with the provision of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 33,45,789 from society which is still pending for recovery.

Further, review of the audited financial statements of FY 2019-20 to FY 2021-22, revealed that the school has purchased new cars i.e., Swift for INR 7,61,575 in FY 2019-20 and Jeep Compass for INR 27,89,295 in FY 2021-22 out of transport funds. In its justification, the school submitted that "*School has purchased a car in replacement of earlier car sold, for use by students/staff for participating in various seminars/ competitions*".

The contention of the school is incorrect because the school has been incurring loss from transport facility in the FY 2020-21 and FY 2021-22. Further, the school has yet to invest some amount in plan assets for payment of gratuity and leave encashment in accordance with AS-15. Therefore, the contention of the school is not tenable and justified.

Accordingly, the total expenditure amounting to INR 61,35,084 i.e., (INR 33,45,789 plus INR 27,89,295) incurred by the school in non-compliance with the above-mentioned provisions has been considered as available funds with the school while deriving the fund position with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

5. Section 2 (m) of DSEA, 1973 states "*Manager" in relation to a school, means the person, by whatever name called who is entrusted, either on the date on which this Act comes into force, or*





*as the case may be, under a scheme of management made U/s 5, with the management of the affairs of that school".*

Further, Rule 59 of DSEAR, 1973 provides regarding appointment and qualification of Manager and Rule 59(2)(i) provides the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee is as under:

- (j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided.
- (k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties, and responsibilities of the manager.
- (l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorized by that committee in this behalf.
- (m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school.
- (r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager.

Based on the above-mentioned provision, the post of the manager is filled through nomination or election as per the provisions of Rule 59 of DSEAR, 1973. Accordingly, the manager of the school cannot be treated as an employee of the school as he functions on behalf of the managing committee and cannot be paid a salary as per the provisions of the DSEAR, 1973.

The DoE, in its Order No. F.DE. (154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee increase proposal for FY 2019-20, found that the school was paying INR 1,68,000 P.M. as a salary and reimbursement expense towards conveyance expense and telephone expenses to the manager of the school. Accordingly, the school was directed to recover INR 60,48,000 from the manager/society towards remuneration paid to the manager in the last three financial years, which is still pending for recovery.

The representation submitted by the school in response to the Order No. F.DE (158)/PSB/2021/2988-92 dated 16.08.2021 was taken on record. The school, in its response, submitted that a private unaided recognised school is entitled to pay all its employees and staff members, including the manager, salaries commensurate with their qualifications and merits. The contention of the school cannot be held based on the fact that the school's manager cannot be considered an employee of the school.



Accordingly, the amount of INR 60,48,000 paid by the school to the manager without complying with the above-mentioned provisions has been again considered while deriving the fund position of the school with the direction to the school to recover this amount from society/manager within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

6. 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 'Activity Fee for Orientation Programme' and an "Activity Fee for Skill and Development" other than the permitted heads of fee from students at the time of admission. Accordingly, the school is hereby directed to immediately stop collection of one-time charges from students at the time of admission. 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 direction 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/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 to ensure the admission process is transparent. They are jointly and severally responsible in their personal capacity 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.

7. 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. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019–20, noted that the school had increased their fee structure in academic session 2018–19 without taking prior approval from the DoE. Accordingly, the school was directed to either refund the increased fee to the students or adjust the same against future dues from the students. However, the school has not complied with the above direction. Therefore, the school is hereby again directed to comply with the above-mentioned direction and submit the compliance report within 30 days from the date of the issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

#### **B. Other Suggestion for Improvements:**

1. 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 16,54,000 has been considered while deriving the fund position of the school.

2. 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.

3. 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 2021-22, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

4. 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. 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	6,027
EWS Students*	1,430
% of EWS students	23.72%

*\*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 are **INR 45,53,69,915** out of which expected expenditures of the school would be **INR 50,11,42,825** resulting in net deficit of **INR 4,57,72,910** for the FY 2022-23. The detailed calculation is provided below:



Particulars	Amount (INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements of FY 2021-22	5,51,68,145
Investments as on 31.03.22 as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	26,64,89,637
<b>Liquid fund as on 31.03.22</b>	<b>32,16,57,782</b>
Add: Recovery from the society for construction of building out of school funds (Refer Financial Suggestion No. 1)	44,90,503
Add: Recovery from the Society for purchase of Vehicle and Car (Refer Financial Suggestion No. 4)	61,35,084
Add: Recovery from the manager/society for remuneration paid to the manager (Refer Financial Suggestion No. 5)	60,48,000
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	35,30,01,016
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	1,67,07,410
Add: Additional annual charges and development fund (Refer Note No. 2 Below)	96,90,816
Less: Income from Transportation and activity charges (Refer Note No. 3 Below)	97,37,780
<b>Total available funds for FY 2022-23</b>	<b>70,79,92,831</b>
Less: FDR on joint name with DOE	27,62,816
Less: ATL Grants as per Audited Financial Statements of FY 2021-22	3,77,610
Less: FDR against excess fee collected as per order dated 17.10.2017	3,41,82,400
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 3)	15,86,22,522
Less: Development Fund as per Audited Financial Statements of FY 2021-22 (excluding transportation development fund)	5,50,23,568
Less: Salary Reserve (Refer Note No. 4 Below)	-
Less: Depreciation reserve fund (Refer Note No. 5 Below)	-
Less: Caution money as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 (Refer other Suggestion No. 1)	16,54,000
<b>Estimated Available Funds for FY 2022-23</b>	<b>45,53,69,915</b>
Less: Budgeted expenses for the session 2022-23 (Refer Note No. 6 & 7 Below)	44,37,10,569
Less: Salary arrears (Refer Note No. 8 Below)	5,74,32,256
<b>Estimated Deficit</b>	<b>4,57,72,910</b>

**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.	Investment with LIC out of school fund	15,86,22,522	Considered separately.
2.	FDR against Order dated 17.10.2017	3,41,82,400	Considered separately.
3.	FDR in Joint name of Manager and DoE/CBSE	27,62,816	Considered separately.
4.	Other FDR's	7,09,21,899	Considered as fund available with the school
	<b>Total</b>	<b>26,64,89,637</b>	

**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, has issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed the management of all the private schools not to collect any fee except the tuition fee, irrespective of the fact whether running on 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 the Single Bench of the Hon'ble High Court of Delhi and the interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of the Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again 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 a 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 of the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month's fee or refunded to the parents.
- (ii) The amount so payable by the concerned students shall 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, it has been noted that the school has collected its annual charge and development fee after providing a discount of INR 96,90,816. Therefore, income collected by the school during the FY 2021-22 with respect to annual charges and development fees has been grossed up in order to make comparative income with the FY 2022-23. The school has reported this figure in its audited financial statements as well.

**Note 3:** Income and expense & Cash and Bank Balance related to transportation and activity fund has not been considered while deriving the fund position.

**Note 4:** As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of the Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank. As per the details provided by the school, it has invested an amount of INR 2,95,84,865 in the joint name of the Deputy Director Education and manager of the school in FY 2022-23 has been considered while deriving the fund position.

**Note 5:** 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 fees is comprised of "*registration fee and all one-time charges*" levied at the time of admission, such as admission charges and caution money. The second category of fee comprises the '*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 libraries, laboratories, science, and computers up to class X and the examination fee. The third category of the fee should consist of '*Annual Charges*' to cover all expenditure not included in the second category, and the fourth category should consist of all '*Earmarked Levies*' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fees, 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 fee head has already been defined, and the use of development fees or any other fee heads for investments against the depreciation reserve fund is not mentioned anywhere. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the 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 the charging of development fee, as per the above provisions and the decision of the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., 2004(5) SCC 583. despite the fact that clause 7 of the preceding directive does not require the keeping of any investments in a 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 merely 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 the depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for FY 2021-22 has not been considered while deriving the fund position of the school.

**Note 6:** All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except the following.

Heads	Amount (INR)	Reasons
Expenditure related to transport	5,50,00,404	Neither income nor expenditure has been considered in the above calculation.
Expense against specific activity charges	5,50,88,692	
Smart class related expense	61,75,000	

**Note 7:** While evaluating fee hike proposals, the department considers how much liquid funds would require the school for a particular session for smooth operation of the school without compromising on the quality of education. Thus, while deriving the fund position of the school, all legitimate expenditures of revenue as well as capital in accordance with the provisions of DESAR, 1973 and the pronouncement of court judgement have been considered. Therefore, the balance of other current assets and other current liabilities has not been considered. Because it is obvious that current assets, loans and advances, and current liabilities are cyclical in nature, and this has already been considered in the form of the school's budgeted income and expenditure in previous years. Thus, current assets, loans and advances, and current liabilities will always be reflected in the audited financial statements of the school at the end of each financial year.

**Note 8:** The school proposed salary arrears towards implementation of 7<sup>th</sup> CPC have been to INR 5,74,32,256 after adjustment of salary arrears of INR 2,90,59,615 already allowed to the school in the earlier evaluation of fee hike order.

- ii. In view of the above examination, it is evident that the school does not 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 April 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 the 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 sufficient funds are not available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, the school has incurred capital expenditure for the construction of a school building amounting to INR 44,90,503 in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Furthermore, the school paid the manager of the school INR 60,48,000 in violation of the provisions of DSEA & R, 1973 and purchased vehicles of INR 61,35,084 without complying with rule 176 and 177 of DSER 1973. Accordingly, the school is directed to recover the aforesaid amounts within 30 days from the date of issue of this order. Noncompliance with this directive will be taken seriously in accordance with the provisions of the DSEAR, 1973, with no further opportunity to be 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. The school is hereby further 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 this 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 6<sup>th</sup> CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 14% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of chartered accountants along with relevant materials were put before the Director of Education for consideration, who, after considering all the material on the record, and after considering the provisions of Section 17 (3), 18(5), and 24(1) of the DSEA, 1973, read with Rules 172, 173, 175 and 177 of the DSER, 1973, has found that funds are not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the School.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Bal Bharati Public School (School ID – 1411223), Pushpanjali Enclave, Pitampura, Delhi-110034** 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 accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 14% to be effective from 1 October, 2022.

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





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

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

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

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

To  
The Manager/ HoS  
Bal Bharati Public School  
(School ID – 1411223),  
Pushpanjali Enclave, Pitampura,  
Delhi-110034

No. F.DE.15 (1080)/PSB/2022 / 10082-10087

Dated: 19/12/22

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. DE's nominee concerne.
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

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