

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

No. F.DE.15(1291)/PSB/2023/ 2587-2592

Dated: 21/03/23

Order

WHEREAS, N.K. Bagrodia Public School (School ID: 1413198), Ahinsa Marg, Sector-09, Rohini, Delhi-110085, (hereinafter referred to as "the School"), run by the Seth Sagarmal Bagrodia Charitable Trust (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.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the 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 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 recognized 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 recognized 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 authorized by the Director in this behalf and also by officers authorized 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 for some of the 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, 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 fees 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 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

"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/ other land-owning 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 fee increase for the academic session 2022-23. Accordingly, this Order dispenses the proposal for fee increase submitted by school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase is justifiability or not, the DoE has evaluated the fee increase proposal 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 the fee increase proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email and the school was also provided an opportunity to be heard on 12.12.2022 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 clarifications on various issues noted. In the aforesaid personal hearing, compliance of Order No.15/(281)/PSB/2022/4788-4793 dated 24.11.2021 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 DoE and the key suggestions noted for improvement by the school are here under:

A. Financial Suggestion for Improvements

1. Clause No. 2 of Public Notice dated May 04.1997 states *"It is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*. Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 titled Delhi Abibhavak Mahasangh concludes *"the tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

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 then is the contribution of the society that professes to run the school"*.

Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated February 11, 2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development fund Account."*

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.*



Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students shall not be used for the purchase of land and construction of the school building. In this regard, it is also important to mention that society was allotted an institutional land at lower cost compared to the price of commercial and residential land in nearby location. The reason for allotment of land at very low cost was the 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. In its offer 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 noble grounds, the DoE had recommended to the land-owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such location.

In Order No. 15/(281)/PSB/2022/4788-4793 dated November 24, 2021, issued for FY 2019–20, the Directorate noted that the school had used development funds for building renovations worth INR 54,53,975 (i.e., INR 14,96,379 during FY 2016–17 and INR 39,57,596 during FY 2017–18), which was not in accordance with the aforementioned provisions.

Furthermore, it was noted that during FY 2018–19, the school used school funds of INR 64,11,100 to pay "arrears of house tax or property tax" of the school from FY 2004–05 to FY 2018–19. The annual house tax or property tax had already been considered by the DoE while evaluating the fee hike proposal. Any penalties or arrears resulting from noncompliance by the school management committee may not be passed on to the students. Therefore, the school was directed to recover this amount from the society, which is still pending for recovery.

As a result, the total amount of INR 1,18,65,075 (i.e., INR 54,53,975 plus INR 64,11,100) used by the school in violation of the aforementioned provisions has been considered as funds available with the school when calculating the fund position. The school is further directed to recover this amount from the society within 30 days of the date of issue of this order.

2. Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated February 11, 2009, states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development fund Account."*

Further, the Hon'ble Supreme Court in the matter of modern school held that development fee for supplementing the resources for purchase upgradation and replacement of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further the DoE circular number 1978 dated April 16, 2010, states *"all schools must first of all explore and exhaust the possibility of utilizing the existing funds reserves to meet any shortfall in payment of salary and allowances as a consequence of increasing the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase."*



Over the years, the school has accumulated a development fund and reflected a closing balance of more than INR 8 crores, which is more than its requirement for the purchase and replacement of furniture and fixtures. Accordingly, the accumulated reserve of the development fund created by the school by collecting the development fee more than its requirement for purchase and replacement of furniture, fixtures, and equipment has been considered a free reserve available with the school for meeting the financial implication of the 7th CPC to be implemented by the school.

Therefore, the development fee collected equivalent to one year's collection of INR 98,06,766 has been considered in determining the fund position of the school, and the remaining balance of the development fund will be considered as funds available with the school to utilise for the payment of salaries.

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.

Based on the actuarial valuation report, the school has reported gratuity provisions amounting to INR 6,09,89,460 and leave encashment provisions amounting to INR 1,94,26,496 in the audited financial statements for FY 2021-22. Further, the school has invested INR 5,54,82,000 towards gratuity and INR 1,50,81,489 towards leave encashment with LIC and submitted the proof of investment. The investment with LIC qualifies as plan asset within the meaning of AS-15. Therefore, the amount invested by the school, totalling INR 7,05,63,489, has been considered while determining the fund position of the school. The school is hereby further directed to invest the remaining amount in the plan asset within 30 days from the date of issue of this order.

4. The Hon'ble High Court of Delhi dated January 19, 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 March 27, 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 April 16, 2010 has been issued which is as under:

- a) It is reiterated that annual fee-hike is not mandatory.

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

The Directorate, in its Order No. 15/(281)/PSB/2022/4788-4793 dated November 24, 2021, issued for FY 2019-20, noted that the school had increased its fee for the academic sessions 2018-19 and 2019-20 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.

5. Rule 59 of DSEAR, 1973 'Scheme of management of recognised school' states "*Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee:*

(j) no employee of an aided school (other than the head of school) shall be appointed as the manager. the head of school may be appointed the manager of a school, whether aided or unaided.

(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties, and responsibilities of the manager.

(l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially 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.

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.

As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated December 15, 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 or 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.

The Directorate, in its Order No. 15/(281)/PSB/2022/4788-4793 dated November 24, 2021, issued for FY 2019-20, noted that the school had transferred INR 17,66,700 during FY 2016-17 to FY 2018-19 to Mr. S. K. Bhattacharya (member of the school management committee), appointed as Director cum Educational Consultant, to share his vast experience in the field of education. However, the school fails to recognise that such a position is not available under the recruitment rules, nor can the school transfer fund to members of society in any way. Therefore, the school was directed to recover such funds from the society, which are still pending for recovery.

Therefore, the amount of INR 17,66,700 transferred to member of society in contravention of above-mentioned provision has been considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from the member/society within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

1. From review of documents submitted by the school with the proposal of fee hike for FY 2022-23, 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 s

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 assets and documenting complete details of assets in one place. The school is further directed to comply with the directions for preparing the FAR with the 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 on the fund position of the school is warranted.

2. As per Clause 19 of Order No. F.DE/15(56)/Act/2009/778 dated 11.02.2009 "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

Further clause 21 of the aforesaid order "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"



And as per clause 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 “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.”

As per Rule 176 of the DSER, 1973 “Income derived from collections for specific purposes shall be spent only for such purpose.”

Further, sub-rule 3 of Rule 177 of DSER, 1973 provides “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).” And, 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.”

However, as per audited financial statements of FY 2019-20, FY 2020-21 and FY 2021-22, it has been noted that the school charges earmarked levies in the form of (i) Transport Fees, (ii) Smart Class Fees and (iii) ERP & RF ID Charges. However, the school has not maintained separate fund accounts for these earmarked levies. The surplus/deficit generated by the school from these earmarked levies in the last three financial years are as under:

Particulars	Transportation Fees	Smart Class Fees	ERP & RFID Fees
For the year 2019-20			
Fee Collected during the year (A)	60,70,000	31,75,470	27,60,610
Expenses during the year (B)	60,70,750	31,75,470	27,65,484
Difference for the year (A-B)	(750)	-	(4,874)
For the year 2020-21			
Fee Collected during the year (A)	-	-	-
Expenses during the year (B)	27,35,690	-	2,06,139
Difference for the year (A-B)	(27,35,690)	-	(2,06,139)
For the year 2021-22			
Fee Collected during the year (A)	-	-	-
Expenses during the year (B)	25,48,115	4,30,708	4,98,604
Difference for the year (A-B)	(25,48,115)	(4,30,708)	(4,98,604)
Total (Surplus)	(52,84,555)	(4,30,708)	(7,09,617)

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Smart Class Fees and ERP & RF ID Fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge Smart Class Fees and ERP & RF ID Fees as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilized and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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.

3. As per 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 in its audited financial statements related to related parties' disclosure. In the absence of such details, the purpose and genuineness of transactions entered 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	2,822
EWS Students*	617
% of EWS students	21.86%

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

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

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

- 1) "the financial statement of the Schools should be prepared on accrual basis.

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

Review of the audited financial statements for the FY 2019-20 to 2021-22 of the school revealed that the school has been recording income on cash basis while expenses are being recoded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.

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

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

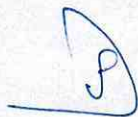
Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, the DoE vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, specified the format of returns and documents submitted to be submitted by the private unaided recognized schools. As per this order the format of the financial statements shall be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time by ICAI.

Based on the abovementioned provisions, every private unaided recognized school is required to get its accounts audited by the Chartered Accountant before submission of return under Rule 180(1) of DSER, 1973. The documents submitted by the school were taken on record. Review of the financial statements for FY 2021-22 the following was noted:

- a. The school didn't provide Independent audit report with its financial statements for FY 2019-20 to FY 2021-22.

In view of the above, the school is hereby directed to get its accounts audited in accordance with above mentioned provisions and resolve all queries raised by the statutory auditor before completion of the audit. The compliance with this direction will be examined while evaluating the fee hike proposal of the subsequent year. However, for the purposes of evaluation of fee hike proposal for the academic session 2022-23, the balance sheet and income and expenditure submitted by the school for FY 2019-20, 2020-21 and 2021-22 has been considered.



7. 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 10,652 has been considered while deriving the fund position of the school.

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 is **INR24,19,17,178** out of which the expected expenditures of the school would be **INR 16,61,07,470** resulting in net surplus of **INR 7,58,09,708** for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements for FY 2021-22	1,02,53,633
Investments as on 31.03.2022 as per Audited Financial Statements for FY 2021-22	20,37,29,307
Total Liquid fund available as on 31.03.2022	21,39,82,940
Add: Amount recoverable from Society towards renovation of building and others expense (Refer Financial Suggestion No. 1)	1,18,65,075
Add: Amount recoverable from society towards payment made to member of society (Refer Financial Suggestion No. 5)	17,66,700
Add: Fee for FY 2021-22 as per Audited financial statements for FY 2021-22 (Refer Note No. 1 Below)	14,41,48,844
Add: Other income for FY 2021-22 as per Audited financial statements for FY 2021-22	95,16,421
Less: Non-cash income (Deferral income of Para 99)	22,65,410
Less: Fee for FY 2020-21 recorded in FY 2021-22	2,41,99,904
Add: Additional income of annual charges and development fund (Refer Note No. 1 Below)	41,17,255
Gross fund available for FY 2022-23	35,89,31,921
Less: Development fund (Refer Financial Suggestion No. 2)	98,06,766
Less: Caution Money as on 31.03.2022 (Refer Other Suggestion No. 7)	10,652
Less: Investment in LIC towards Retirement benefit (Refer Financial Suggestion No. 3)	7,05,63,489
Less: Investment in Salary Reserve Fund (Refer Note No. 2 Below)	3,16,38,259

Particulars	Amount (INR)
Less: Depreciation reserve fund (Refer Note No. 3 Below)	-
Less: Investment in name of DDE	49,95,577
Total availability of funds for FY 2019-20	24,19,17,178
Less: Budgeted expenses for the session 2021-22 (Refer Note No. 4 & 5 Below)	16,61,07,470
Less: The school has proposed salary arrears of INR 4.21 crore which is already considered while evaluating the fee hike proposal for academic session 2019-20, hence not considered.	-
Net Surplus	7,58,09,708

Note 1: 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.
- (iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

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

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	9,65,14,803	9,65,14,803	
Annual Charges	1,49,95,361 (after adj. of arrear of FY 20-21)	1,76,41,601	The school recorded 85% of the income.
Development fund	83,35,751 (after adj. of arrear of FY 20-21)	98,06,766	Therefore, this has been grossed up.

Note 2: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of 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 an amount of INR 3,16,38,259 deposited by the school in joint name of the Deputy Director Education and manager of the school has been considered while deriving the fund position.

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

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

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

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.



- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund for the FY 2020-21 has not been considered while deriving the fund position of the School.

Note 4: While evaluating the fee hike proposal, the department considers how much liquid funds schools would require for a particular session for smooth operation without compromising the quality of education. Thus, while deriving the fund position of the school, all legitimate revenue as well as capital nature expenditures in accordance with the provisions of DESAR, 1973 and the pronouncement of Courts judgment have been considered. Therefore, the balance of the other current assets and other current liabilities has not been considered because these are cyclic in nature, as the same would have been part of the budgeted income and expenditure of the school in earlier years. Although it is reflected in the financial statements at the end of the financial year.

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

Heads	Budget Expenditure in 2022-23	Amount Disallowed	Remarks
Transport Expenses in respect of vehicles owned by the school	51,77,000	51,77,000	Neither income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Transport Expenses – Depreciation on vehicles	2,50,000	2,50,000	
Transport Expenses in respect of vehicles not owned by the school	15,00,000	15,00,000	
Depreciation	2,00,000	2,00,000	Being Non – Cash Item

- ii. In view of the above examination, it is evident that the school 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 April 16, 2010 states that:

"All schools must, first of all, explore and exhaust the possibility of utilizing 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 utilized for years together may also be used to meet the shortfall before proposing a fee increase."

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

AND WHEREAS, it is noticed that the school has paid/utilised INR 1,36,31,775 in contravention to Rule 177 of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, 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 funds are available with the school for meeting financial implication for the academic session 2022-23.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **N.K. Bagrodia Public School (School ID: 1413198), Ahinsa Marg, Sector-09, Rohini, Delhi-110085**, filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

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



3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

Nandini

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

To
The Manager/ HoS
N.K. Bagrodia Public School
(School ID: 1413198),
Ahinsa Marg, Sector-09, Rohini, Delhi-110085

No. F.DE.15 (1291)/PSB/2023/ 2587 - 2592

Dated: 21/03/23

Copy to:

1. P.S. to 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) to ensure the compliance of the above order by the School Management.
4. DE's nominee concerned.
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