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

No. F.DE.15 (1562)/PSB/2023/ 8213 – 8217 **Dated:** 25/09/23

Order

WHEREAS, **Vidya Bharti Public School, Sector- 15, Rohini, Delhi- 110085 (School Id - 1413252)** (hereinafter referred to as **"the School"**), run by the **Bharti Education Society** (hereinafter referred to as the "**Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

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

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

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

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

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools for some of the schools which have been allotted from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, the order dispenses the proposal for increase of fee submitted by the school for the academic session 2022-23.

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 12th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 was also discussed with the school and the school's submissions were taken on record.

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

A. Financial Suggestions for Improvement

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*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 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*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 Feb 2005 issued by this

Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e., fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

The Directorate Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24.04.2019 issued for FY 2017-18, Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the school had utilised INR 16,75,602 during FY 2014-15 towards upgradation of building without complying with the requirements of Rule 177. The school was directed to recover this amount from the society.

The school has submitted that the said expenditure does not relates to any construction of the school building and it relates to expenditure related to fixing of fasteners and making passage in the school ground and due to clerical mistake, these expenditures have been capitalised in the financial statements as building. On review of school records, documents, etc., it is noted that out of total expenditure of INR 16,75,602 the school had incurred expenditure of INR 6,00,804 was related to fixing fasteners on school walls and thus, the school's submission in this regard is taken on record and considered.

Accordingly, balance amount of INR 10,74,798 which was related to making new passage in the ground will be considered as addition to the building and thus, has been added to the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of the order.

2. As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16 Apr 2016 "*The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute.*"

Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

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

The Directorate vide Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 read with Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24.04.2019 issued for FY 2017-2018 noted that:

i. The school had utilised INR 73,77,816 out of development fees for purchase of smart class equipment, sports material, computer, CCTV security, furniture & fixtures, music instruments, etc. during FY 2015-2016 and FY 2016-2017 and the same were not capitalized as fixed asset in the fixed assets schedule as per Guidance Note which indicated that the funds were diverted from the school. It was further noted that the school had utilised INR 27,10,967 for purchase of computers, CCTV, furniture & fixtures, sports equipment, science equipment, etc. and did not reflect the fixed assets purchased out of development fund in the financial statements for FY 2017-2018. On review of financial statements of the school for FY 2018-2019, it was noticed that the school reflected fixed assets purchased out of development fund during the FY 2018-2019 and annexed a separate fixed assets schedule in respect of fixed assets purchased out of development fund. It was further noted that the school included an opening balance of fixed assets and reflected their written down value of INR 1,05,73,716 as on 01.04.2018. Also, the school did not provide any details/ bills / invoices/ fixed assets register in respect of fixed assets purchased in the previous years (that were not reported in the previous years' financial statements) and simply reported written down value of fixed assets in its Development Fund Fixed Assets Schedule as on 01.04.2018 and in the absence of correct (historic) value of assets and requisite details to substantiate that the fixed assets were in fact purchased by the school, the opening balance of fixed assets were not relied upon. Accordingly, INR 1,00,88,783 (INR 73,77,816 for fixed assets purchased in FY 2015-2016 and FY 2016-2017 plus INR 27,10,967 for fixed assets purchased in FY 2017-2018) in respect of unreported fixed assets was added to the fund position of the school and school was directed to recover this amount from the society.

   In its response the school has submitted that, "... no assets, purchased out of development fund, are diverted. The school was representing the fixed assets purchased out of development fund directly in the development fund – Income and Expenditure account and was not representing them in the fixed assets schedule and on the face of the balance sheet (copies enclosed). After your order dated 24.12.2019 the school has rectified the presentation of fixed assets purchased out of development fund by showing them separately in the fixed assets schedule (schedule 6A attached) and the amount of INR 1,05,73,716 utilized for fixed assets from 2015-16 to 2017-18, is treated as opening balance as at 01.04.2018 for these assets. It is humbly submitted that this is gross amount of fixed assets and not the written down value as stated by your good self in the order dated 23/06/2023. Furthermore, copy of invoices and bills for the above stated amount of INR 1,05,73,716 are enclosed for your reference. It will be observed from the record submitted and enclosed herewith, that there is no diversion or unreported fixed assets."

On the basis of records submitted included relevant schedule 6A, balance sheet copies, fixed assets schedule and the copy of bills and invoices, the submission of the school is taken on record and considered.

ii. It was also noted that the school was not transferring amount from development fund to development fund utilisation at the time of utilisation of development fund. Though the school had started creating development fund utilisation account but not following the accounting treatment of recognition of income equivalent to the amount of depreciation charged as indicated in the guidance note cited above.

On review of the financial statements for the FY 2019-20 to 2021-22, it is noted that the school has transferred an amount equivalent to depreciation charged on assets purchased out of development fund to the credit of income and expenditure account in FY 2021-22. However, school need to ensure that accounting entries relating to previous years also need to be carried out and proper disclosure have to be made in the notes to accounts.

iii. The school did not present depreciation on fixed assets purchased from development fund in the Income and Expenditure Account and did not add the amount of depreciation to the depreciation reserve. Instead, the school indicated depreciation on these fixed assets in the Development Fund Fixed Assets Schedule annexed with the financial statements and reported the closing written down value of fixed assets as "utilised - development fund". Thus, while the school correctly reported the "utilised - development fund" equivalent to the written down value of fixed assets purchased from development fund, it did not comply with the Generally Accepted Accounting Principles by ignoring the accounting treatment of recording depreciation (on development fund assets) as expense and equivalent amount as income in the Income and Expenditure Account.

On review of the financial statements of the school, from 2021-22 the school has recorded depreciation as an expense in the income and expenditure account.

iv. The school in its Significant Accounting Policies annexed with the financial statements reported as under:
Fixed Assets - Fixed Assets are stated at cost of acquisition less depreciation.
Depreciation - Depreciation on fixed assets is charged on the written down value method in accordance with the rates prescribed in Income Tax Act 1961 on such assets put to use."

The policy cited by the school in relation to fixed assets and depreciation are not in accordance with the Guidance Note cited above as the fixed assets are required to be stated at cost and depreciation to be charged at the rates prescribed in the Guidance Note. The school had reported the fixed assets purchased out of development fund at written down value, the fixed assets purchased out of general fund were reported at gross value both on the face of the Balance Sheet and the fixed assets schedule annexed with the financial statements, which contradicted the Significant Accounting Policies of the school. The fixed assets purchased out of general fund were appropriately reported at historic (gross) cost, but the Significant Accounting Policies appeared to have been erroneously given in the financial statements. Also, from the audited financial statements submitted by the school, it was noted that the school is charging depreciation as per the depreciation rates prescribed under the Income Tax Act, 1961 instead of rates of depreciation as per Appendix I of Guidance Note 21.

On review of the financial statements of the school, from 2021-22, it is noted that the school has presented the fixed assets at cost on the face of the balance sheet and also, has started following depreciation rates as per the Guidance Note 21.

v. The school had utilised development fund amounting INR 7,20,802 and INR 11,30,897 in the FY 2015-2016 and FY 2016-2017 for meeting revenue expenditure in contravention of clause 14 mentioned above. It is further noted that the school had spent INR 4,92,998 for meeting revenue expenditure in contravention of clause 14 in the FY 2017-2018. The school, in the personal hearing explained that it has stopped charging revenue expenses from development fund account with effect from FY 2018-2019.

vi. It was also noted that the school purchased certain fixed assets such as furniture, fixture and equipment and indicated the same as purchased from general fund instead of development fund. While the school collected development fund, non-charging of furniture, fixture and equipment against the same is not a correct practice, which resulted in overstatement of development fund as under:

Fixed Assets	**FY 2016-17**	**FY 2017-18**	**FY 2018-19**
Computers	-	60,991	22,088
Furniture and Fixture	68,253	12,600	19,591
Music Instruments	-	-	7,360
Office Equipment	58,186	69,750	11,791
Total	**1,26,439**	**1,43,341**	**60,830**

vii. Further, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. Thus, the school did not comply with the condition cited above.

In view of the above, the school is directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments to development fund account. Also, purchase of fixed assets in the nature of furniture, fixture and equipment should be adjusted against development fund and not general fund.

3. 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, according to para 7.14 of the Accounting Standard 15 "*Plan assets comprise:*
(a) Assets held by a long-term employee benefit fund; and
(b) Qualifying insurance policies.

The school submitted actuarial valuation report for measuring its liability towards leave encashment and a statement/intimation of LIC in respect of gratuity. However, on review of the financial statements of the school for FY 2021-21, it was noted that the school created provisions for gratuity and leave encashment amounting to INR 1,70,56,968 and has deposited sum of INR 1,47,04,095 with LIC as plan assets. Thus, the investments is less than the amount of gratuity and leave encashment liabilities as determined by the actuary.

The school is directed to ensure and make investments in the plan assets equivalent to the liabilities of gratuity and leave encashment determined by the actuary.

4. The Directorate in its Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the school has reflected interest free loans from Ms. Prachi Grover and M/s Bharati Education Trust in its balance sheet. The balances appearing in the balance sheet of FY 2014-15 to FY 2018-19 is enclosed in the table below:

Party Name	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**FY 2017-18**	**FY 2018-19**
Ms. Prachi Grover	76,300	76,300	76,300	76,300	-
M/s Bharati Education Trust	1,39,25,701	1,39,25,701	1,38,97,373	1,37,67,101	1,36,98,381

In the compliance report, the school has submitted that interest free loan from the society are pretty old and has enclosed the details of loan taken form society during the period April 2011 to March 2020 showing net receipts of INR 65,51,843 and the remaining amount of INR 70,28,295 is the opening balance which is brought forward from earlier years prior to FY 2011. The details of loan from Ms. Prachi Grover are also submitted.

The school is directed to ensure to make appropriate disclosures in the financial statements as well as in the notes to accounts on regular basis. Since these transactions are with the related parties, school is mandatorily required to disclose such kind of transactions.

5. Sub section (1) of section 13 of 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."*

Section 2(b) of 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, Sub section (2) of section 13 of Right to Education Act, 2009 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 extend to ten times the capitation fee charged;

b) *subjects a child to screening procedures, shall be punishable with fine which may extend to twenty five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contraventions."*

The Directorate in its Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20 noted the difference in the annual charges collected from the students on the basis of the no. of students and annual charges reflected in the financial statements and the school was asked to provide a reconciliation of the fee collected and fee reflected in the financial statements. In response to which the school disclosed that it has collected one-time edu-comp charges from students at the time of admission, which were merged under the head "Annual Charges" in its financial statements of FY 2017-18 and FY 2018-19 and the school did not reflect these charges separately.

Based on the reconciliations provided by the school, it was observed that the school has collected one-time edu-comp charges of INR 20,61,500 and INR 20,71,500 during FY 2017-18 and FY 2018-19 respectively. Further, on review of the fee structure and return & documents submitted by the school under Rule 180 of DSER,1973, it was noticed that the school neither disclosed one-time edu-comp charges in fee structure submitted by the school nor did it disclose the same in its fee hike proposal or the documents submitted thereunder to the Directorate.

The school in its compliance report has mentioned that the collection of edu-comp charges has been stopped by the school after order dated 23.06.2022. The submission of the schoolhas been taken on record and considered.

B. Other Suggestions for Improvement

1. As per Appendix II to Rule 180 (1) of DSER, 1973, the school is required to submit final accounts i.e. receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

Para 1 of Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India states "*This Standard on Auditing (SA) deals with the auditor's responsibility to form an opinion on the financial statements. It also deals with the form and content of the auditor's report issued as a result of an audit of financial statements.*"

SA 700 also include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants (CA).

The Directorate's Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the auditor had signed the audit report and financial accounts of the school for FY 2018-2019 on 9 Aug 2019. Thus, the school did not comply with the requirement of submission of audited final accounts in accordance with the timeline prescribed in Rule 180(1).

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the auditor has not signed the financial statements within the timeline prescribed in Rule 180(1) of DSER, 1973. Therefore, the school is directed to comply with the requirement of submission of audited final accounts in accordance with the timeline prescribed in Rule 180(1) of DSER, 1973.

Further, the Directorate's Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the auditor duly signed the Receipt and Payment Account and included a cross-reference to his audit report of even date, the auditor only gave his opinion (in his audit report) on the true and fair view:

- In the case of Balance Sheet, of the state of affairs of the school and
- In the case of Income and Expenditure Account, of the excess of expenditure over income for the accounting year.

On review of audited financial statements for FY 2020-21 and 2021-22, the auditor has given his opinion on the complete set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account.

2. The Directorate's Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the financial statements were not appropriately authenticated by the representatives of the school, since only the Balance Sheet, Income and Expenditure Account, Receipt and Payment Accounts and Significant Accounting Policies and Notes to Accounts were signed by the Principal and Chairperson. While all the pages of the financial statements were stamped and initialled by the Chartered Accountant, the schedules annexed to the financial statements were not signed or initialled by any of the representatives of the school.

   On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the entire set of financial statements (all pages including Schedules) are signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

3. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*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 states "*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.*"

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

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

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

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

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

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school charges earmarked levies in the form of transport fee, medical fee, mid-day meal fee, swimming charges, magazines charges, newspaper charges and ID card charges from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Details of surplus/ deficit for FY 2019-20 to 2021-22 is given below:

Particulars	**Transport Fees**	**Medical/ Mid-day meal fee***	**Magazines/ Newspaper/ ID Card charges**	**Others***
For the year 2019-20				
Fee Collected during the year (A)	18,34,982		8,44,675	13,12,545
Expenses during the year (B)	19,75,328	5,98,545	4,73,192	
Difference for the year (A-B)	**-1,40,346**	**-5,98,545**	**3,71,483**	**13,12,545**
For the year 2020-21				
Fee Collected during the year (A)	-	-	51,110	1,45,247
Expenses during the year (B)	2,29,911	2,22,864	-	-
Difference for the year (A-B)	**-2,29,911**	**-2,22,864**	**51,110**	**1,45,247**
For the year 2021-22				
Fee Collected during the year (A)	-	-	-	69,658
Expenses during the year (B)	18,287	10,125	80,800	-
Difference for the year (A-B)	**-18,287**	**-10,125**	**-80,800**	**69,658**

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.
*The school has not submitted details/ break-up of income and expenses.

Similar observations were also noted in Directorate's Order No. F.DE.15(436)/PSB/2019/ 1625-1629 dated 24.04.2019 issued for FY 2017-2018, Order No. F.DE.15(586)/PSB/2022/ 3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/ 4934-4938 dated 23.06.2022 issued for FY 2019-20.

Based on aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee).

The Directorate's Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the school is collecting ID Charges from all the students. The fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the magazine fee, medical fee and ID card charges and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable.

The school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Also, the school is directed not to collect magazine fee, medical fee and ID card charges from the 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 during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

4. Direction no. 3 of the public notice dated 4 May 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 INR 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, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 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.*"

Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 9 Sep 2010 stated *"In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial-year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year."*

The Directorate in its Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24.04.2019 issued for FY 2017-18, Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 noted that the school has not reflected the un-refunded caution money of ex-students as income in its financial statements after the expiry of 30 days of communication to them to collect their caution money together with interest. Also, the school is not refunding interest along with the caution money to the students.

The school in its compliance report has mentioned that "the school has already issued a circular/ notice dated 28.06.2022 for the attention of all ex-students to collect refund of their security deposit and the school will transfer the unclaimed caution money to the income account in FY 2023-24 after providing one more opportunity through public notice." This has been taken on record and the compliance of the above shall be viewed at the time of evaluation of fee increase proposal of subsequent period.

Also, the school has mentioned in its compliance report that only the principal amount of caution money is being refunded. Therefore, the school is directed to ensure that interest on caution money is paid to the students along with the caution money refund at the time of leaving the school. Also, the school is directed to credit interest in the caution money payable. Further, the balance of caution money liability as on 31.03.2022 of INR 24,45,750 has been considered while deriving the fund position of the school.

5. The Directorate in its Order No. F.DE. 15/(556)/PSB/2022/3232-3236 dated 19.05.2022 issued for FY 2019-20, noted that the school was not complying with the DOE Order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 and condition mentioned at S. No. 18 in the land allotment letter which provides for 25% reservation to children belonging to EWS category.

As per school's submission, the details of EWS students and total number of students are as follows:

Particulars	**FY 2019-20**	**FY 2020-21**	**FY 2021-22**
Total Students	1493	1361	1264
EWS Students	231	225	220
% of EWS students	15%	17%	17%

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

After detailed examination of all the material on record and considering the clarification submitted by the school, it was finally evaluated/ concluded that:

i. The total funds available for the FY 2022-23 amounting to INR **5,42,51,797** out of which cash outflow in the FY 2022-23 is estimated to be INR **5,52,76,884.** This results in deficit of INR **10,25,087** for FY 2022-23 after all payments. The details are as follows:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	16,58,957
Investments as on 31.03.22 as per Audited Financial Statements	2,60,77,587
Liquid Funds as on 31.03.2022	**2,77,36,544**
Add: Recovery from the society on account of upgradation of building out of development fund [Refer Financial Suggestion No. 1]	10,74,798
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer note 2 below)**	4,42,74,405
Add: Other Income for FY 2021-22 as per Audited Financial Statements **(Refer note 2 below)**	18,09,694
Add: Additional Income of Annual Charges and Development Fund **(Refer note 4 below)**	13,93,012
Add: Additional Fees due to increase in fee @15% from 01.07.2022 **(Refer note 5 below)**	45,69,972
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 **(Refer note 3 below)**	48,18,085
Total Available Funds for FY 2022-23	**7,60,40,340**
Less: Development fund bank balance and investments as on 31.03.2022	38,29,573
Less: Fixed Deposit in the Joint name of Dy Director Education, Secretary CBSE and Manager of the school as on 31st Mar 2022 **(Refer note 1 below)**	8,09,125
Less: Investment in LIC (Gratuity & Leave encashment)	1,47,04,095
Less: Caution Money as on 31.03.2022	24,45,750
Net Available Funds for FY 2022-23 (A)	**5,42,51,797**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 below)**	**5,52,76,884**
Less: Salary Arrears of 7th CPC **(Refer note 7 below)**	**-**
Total Estimated Expenditure for FY 2022-23 (B)	**5,52,76,884**
Net Deficit (A-B)	**10,25,087**

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

Particulars	**Amount (in INR)**	**Remarks**
Fixed Deposit in the joint name of Secretary, CBSE and Manager of the school	1,58,516	Deducted while calculating available funds of the school.
Fixed Deposit in the joint name of Dy Director Education and Manager of the school	6,50,609	
Total	**8,09,125**	

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

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

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Annual Charges	19,57,444
Development Fee	28,60,641
Total	**48,18,085**

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

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

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

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

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 100% of tuition fee and 85% of annual charges and development fees in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	3,13,35,228	3,13,35,228	As per details provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% and thus, difference amount of INR 13,93,012 has been considered.
Annual Charges	37,92,224	44,61,440	
Development Charges	41,01,510	48,25,306	
Total	**3,92,28,962**	**4,06,21,974**	

Note 5: The school was allowed to increase fee @15% vide Order No. F.DE. 15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @15% from 1st July 2022. Accordingly, additional income on account of fee increase will also accrue to the school in FY 2022-23 and thus, following amount has been considered as funds available with the school:

Fee heads	Actual receipt in FY 2021-22	Grossed Up	Total Estimated Fee	Increased fee (with fee increase @15% for 9 months)
Tuition fees	3,13,35,228	-	3,13,35,228	3,48,60,441
Annual Charges	37,92,224	6,69,216	44,61,440	49,63,352
Development Fee	41,01,510	7,23,796	48,25,306	53,68,153
Total	**3,92,28,962**	**13,93,012**	**4,06,21,974**	**4,51,91,946**
Impact of fee increase				**45,69,972**

Note 6: All budgeted expenditure proposed by the school amounting to INR 8,17,27,700 has been considered while deriving the fund position of the school except the following:

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Salary - Teaching and Non-teaching staff	6,03,01,000	2,44,40,816	Restricted to 130% of expenditure incurred in FY 2021-22.
Transport expenses	20,10,000	20,10,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Total	**6,23,11,000**	**2,64,50,816**	

Note 7: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3 (17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

School has not provided any amount of liability in the audited balance sheet for salary arrears. Even in the budget submitted with the proposal documents have not mentioned any amount for salary arrears. Post hearing, as an after-thought the school has submitted the liability of salary arrears. Since, the salary arrears were already allowed in the Order No. F.DE.15(436)/PSB/2019/1625-1629 dated 24.04.2019 issued for FY 2017-18, Order No. F.DE.15(586)/PSB/2022/3504-3508 dated 25.05.2022 issued for FY 2018-19 and Order No. F.DE.15(786)/PSB/2022/4934-4938 dated 23.06.2022 issued for FY 2019-20 and allowing the arrears again are not justifiable.

ii. In view of the above examination, it is evident that the school does not have adequate funds for meeting all the operational expenditure for the academic session 2022-23. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

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

AND WHEREAS, it is noticed that the school has incurred INR 10,74,798 in contravention of Rule 177 and other provisions of DSEA&R, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of the order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

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

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

AND WHEREAS, the fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 2% to be effective from 01 April 2023.

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

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Vidya Bharti Public School, Sector- 15, Rohini, Delhi- 110085 (School Id -1413252)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is allowed to increase the fee by 2% for session 2022-23 to be effective from 01.04.2023.

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

1. To increase the fee by 2% from the specified date i.e. 01.04.2023.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Vidya Bharti Public School,
Sector- 15, Rohini,
Delhi- 110085 (School Id -1413252)

No. F.DE.15 (1562)/PSB/2023/ 8213-8217 Dated: 25/09/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West B - II) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi