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

No. F.DE.15 (1491)/PSB/2023/ 6512-6516 **Dated: 19/07/23**

Order

WHEREAS, **DAV Public School, Sector-7, Rohini, New Delhi – 110085 (School Id: 1413257)** (hereinafter referred to as **"the School"**), run by the **Dayanand Model School Society** (hereinafter referred to as the **"Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi **(hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 **(hereinafter referred to as "DSEAR, 1973")**. The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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

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

"27....(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...
28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.......
.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

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

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

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

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 09th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, 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/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

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

A. Financial Suggestions for Improvement

1. Clause No. 2 of Public Notice dated 04 May 1997 states "*Not to charge building fund and development charges when the building is complete or otherwise, as 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, the Hon'ble High Court of Delhi the matter of Abibhavak Mahasangh dated 30 October 1998 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 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Further, Rule 177 of DSER, 1973 state "*Income derived by an unaided recognised school by way of fees shall be utilised 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 utilised 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 recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at as per the conditions laid down in Rule 177 of DSER, 1973.

   Accordingly, based on the aforementioned public notice, pronouncement of the High Court judgement and provision the provision of Rule 177 of DSER, 1973, 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 should not be utilised for the same.

   The Directorate in its Order no. F.DE. 15/(23)/PSB/2019/1205-1209 dated 29.03.2019 for FY 2017-18 noted that during FY 2014-15, 2015-16 and 2016-17, the school has incurred expenditure on construction of building out of school funds (development fund) for INR 27,91,932 without complying the provisions mentioned above and the school was directed to recover this amount from the society which is still pending for recovery.

The school has submitted that although this has been capitalized under the head building, but this is not an addition to the school building. The records submitted by the school were taken on record and noted that INR 11,20,521 incurred on firefighting system and INR 16,71,411 for construction of toilets and water proofing of the ceiling. Since, the financial statements of the school have already been certified by its statutory auditor and we assume that the statutory auditor must have vouched the nature of these transactions before certifying the financial statements of the school. Therefore, the claim of the school not to treat this expenditure as an addition to school building is incorrect.

In Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20 also, the school was directed to recover this amount but no amount was yet received from the society.

Accordingly, this amount of INR 27,91,932 has been included in the fund position of the school considering the same funds available with the school. Thus, the school is hereby instructed to the recover this amount form the society within 30 days from the date of issue of the order and submit the compliance report. Non-compliance with this direction would be viewed seriously by the department against the school in terms of the provisions of the DSEAR, 1973.

2. The Directorate in its Order no. F.DE. 15/(23)/PSB/2019/1205-1209 dated 29.03.2019 issued for FY 2017-18 noted that during FY 2016-17, the school has written off of INR 4,83,102 as non-recoverable balance of DAV Public Institute. Considering that the DAV Public Institute was under same management of DAV CMC, the amount written off as bad debts could have been recovered from the society, who would have accounted for all assets and liabilities on closure of its units. Accordingly, the school was given direction to recover the same.

During personal hearing, the school explained that this amount was wrongly booked as recoverable in 1991-92 and therefore, the school has written it off as bad debts. While during the last year's hearing the school has submitted that this amount has been written off because due to closure of DAV Publication Institute which is also part of the DAV CMC. The school in its last two discussions had presented different facts for this amounts in order to avoid recovery from the society. Based on the facts submitted by the school in last year's discussion the school was directed to recover this amount from the society as the DAV Publication Institute is also part of the DAV CMC.

In view of the above, the explanation provided by the school cannot be relied upon because if there had been any wrong accounting entry passed in 1991-92, the auditor of the school could have highlighted and corrected the same. It is quite illogical to say and accept that this amount was first accounted for in 1991-91 and written off in 2016-17. Therefore, INR 4,83,102 has been included in the fund position of the school considering that the same is funds available with the school. And the school is hereby directed to recover this amount from the Society within 30 days from the date of the order.

3. As per AS-15 'Employee Benefits' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date".

Further, according to Para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

i. assets held by a long-term employee benefit fund; and
ii. qualifying insurance policies."

The Directorate in its Order No. F.DE-15/Act/-I/WPC-4109/Part/13/932-936 dated 26.09.2017 directed the school to obtain an actuarial valuation of its gratuity and leave encashment liabilities and disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in its financial statements. Further, the above order also noted that the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance and then this is transferred to the DAV CMC. The DAV CMC in turn manages and maintains common pool of funds for all the schools under its management and uses the same for payment of gratuity and leave encashment liability as and when arises on account of his/her resignation or retirement.

Further, the Directorate's Order No. F.DE. 15/(676)/PSB/2022/ 4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/ 4130-4134 dated 03.06.2022 issued for FY 2019-20, noted that the school has not recorded total liability towards gratuity and leave encashment in its audited financial statements.

Similar observations were also noted on review of audited financial statements for FY 2021-22 where as per the actuarial valuation report, the Gratuity and Leave encashment liability stood at INR 7,55,47,405 and INR 69,25,625 respectively but the school has reported Gratuity and Leave Encashment Liability of INR 13,84,49,722 in its financial statements.

Based on the documents submitted by the school, it is noted that the school has invested INR 5,58,70,298 in LIC for its retirement liabilities. Accordingly, INR 5,58,70,298 has been considered while deriving the fund position of the school.

Further, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school amounting to INR 92,41,525 does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). Further, the school has proposed INR 1,18,02,473 towards gratuity and INR 39,34,156 towards leave encashment in the Budget for FY 2022-23 which has not been considered while evaluating the fee increase proposal for FY 2022-23.

4. The Directorate's Order No. F.DE. 15/(23) PSB/2019/1205-1209 dated 29.03.2019 issued for FY 2017-18 noted that administrative charge payable to DAV CMC are accounted for @ 4% of the basic salary paid by the school to its staff up to FY 2016-17. However, DAV CMC has increased this administrative charge to 7% of the basic salary paid by the school to its staff from FY 2017-18. The Directorate in its said order directed the school to reduce the percentage of administrative charges to 2% instead of 7% of the basic salary paid to its staff which the school has nor complied with. Accordingly, the excess amount of INR 30,16,760 (INR 9,22,265 + INR. 20,94,495) paid by the school to DAV CMC by way of administrative charge is recoverable from the society and has been included while deriving the fund position of the school. The Administrative charges paid by the school to DAV CMC has been provided below.

Particulars	**2017-18**	**2018-19**
Basic Pay	3,18,81,247	3,11,08,726
Total	**3,18,81,247**	**3,11,08,726**
Applied Rate	5%	9%
Administrative charges (as per applied rate) (A)	15,59,890	27,16,670
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	6,37,625	6,22,175
Difference (A-B)	9,22,265	20,94,495
Balance recoverable from Society	**9,22,265**	**20,94,495**

The school has not furnished the details of amounts transferred to the society as administrative charges in 2019-20 to 2021-22. Thus, school is directed to submit the details of the amounts paid as administrative charges to the society at the time of submission of compliance report. Amount paid in excess of 2% of basic salary is to be recovered from the society within 30 days from the date of issue of the order.

5. As per Clause 14 of this Directorate's 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, up gradation and replacement of furniture, fixtures and equipment.*

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

The Directorate's Order No. F.DE. 15/(23) PSB/2019/1205-1209 dated 29.03.2019 issued for FY 2017-18 noted that From FY 2016-17, the school has started treating development fee as capital receipt and has created development fund in the balance sheet without considering the impact of wrong treatment of development fee as revenue receipt. Thus, the year-end balance of development fund cannot be considered as correct at the end of FY 2016-17, 2017-18 and 2018-19.

The Directorate's Order No. F.DE. 15/(676)/PSB/2022/ 4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/ 4130-4134 dated 03.06.2022 issued for FY 2019-20, noted that the school has been collecting development fee more than its requirement and surplus accumulated for the period FY 2016-17 to 2018-19 amounting to INR 3,85,52,488.

Similar observations were also noted in FY 2019-20 to 2021-22 where the school has generated surplus of INR 58,65,705 out of the development fee. Accordingly, the total surplus generated by the school for the period FY 2016-17 to 2020-21 is INR 4,44,18,193. This is also not in accordance with the direction of clause 14 of the order dated 11.02.2009.

Further, the below analysis indicates that during FY 2019-20 to 2020-21, the school has been generating more funds than its requirements for purchase, up gradation and replacement of furniture fixtures and equipment and thereby the school has been accumulating surplus under this head. Therefore, the school is required to determine actual requirement of development fee to be collected from the students for the next financial year onward.

The summary of development fee collected and utilised by the school as per audited financial statement has been provided below:

Particulars	**FY 2019-20**	**FY 2020-21**
Development Fee Received	47,23,626	32,86,690
Expenditure out the Development Fee	15,74,443	5,70,168
Surplus in each year	**31,49,183**	**27,16,522**
Total Surplus		**58,65,705**

Further, during FY 2021-22, the school has treated development fee as revenue receipt and has utilised the development fee for the purpose of revenue expenditure which is a contravention of clause 14 of order dated 11.02.2009.

Further, on review of audited financial statements, it is noted that during FY 2019-20, the school has utilized its development funds on purchase of cars. The school has incurred INR 9,05,037 for purchase of car without complying with clause 14 of order dated 11.02.2009.

Accordingly, the school is directed to ensure the compliance of clause 14 of order dated 11.02.2009 for the collection and utilisation of development fee. Also, the school is required to determine actual requirement of development fee to be collected from the students for the next financial year onward.

B. Other Suggestions for Improvement

1. 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.*"

Further, as per Clause 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, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

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 has been noted that the school charges earmarked levies in the form of Transport Fee, Computer Fee, Science and Home Science Fee and the school is not maintaining separate fund accounts for these earmarked levies but has been generating surplus, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Based on the information provided by the school the surplus/ deficit generated by the school is provided below.

Particulars	**Transport Fees**	**Computer Fees***	**Science Fees & Home Science Fees***
For the year 2019-20			
Fee Collected during the year (A)	58,08,845	1,05,69,460	18,06,846
Expenses during the year (B)	56,38,691	-	-
Difference for the year (A-B)	**1,70,154**	**1,05,69,460**	**18,06,846**
For the year 2020-21			
Fee Collected during the year (A)	25,745.00	22,52,980	73,500
Expenses during the year (B)	1,70,216	-	-
Difference for the year (A-B)	**-1,44,471**	**22,52,980**	**73,500**
For the year 2021-22			
Fee Collected during the year (A)	-	42,79,294	67,510
Expenses during the year (B)	2,17,440	-	-
Difference for the year (A-B)	**-2,17,440**	**42,79,294**	**67,510**

*The school has not followed fund based accounting for earmarked levies and thus, not showing expenditure incurred exclusively against these earmarked fees and therefore, aforesaid surplus/ (deficit) amount calculated above may get revised upon correct presentation of expenses against these earmarked fees.

Further, as per the Duggal Committee report, *there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and 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 should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.*

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges.

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. Therefore, the school is directed to determine its fee structure in accordance with above mentioned provisions.

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

Similar observations were also noted in Directorate's Order No. F.DE. 15/(23) PSB/2019/1205-1209 dated 29.03.2019 issued for FY 2017-18, Order No. F.DE. 15/(676)/PSB/2022/ 4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/ 4130-4134 dated 03.06.2022 issued for FY 2019-20.

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

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

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

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

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

The Directorate's Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20, directed the school not to collect pupil fund from students

However, the school has not complied with the above directions and has collected pupil fund from all students. The school in its compliance report mentioned that "if the collection of such fees are discontinued, the fee hike will fall short".

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is directed not to collect pupil fund from students with immediate effect.

3. The Directorate's Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20, noted that the school is not maintaining fixed asset register (FAR). The school should prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

The school in its compliance report has mentioned that Fixed Asset Register shall be updated with the details mentioned above by the school. Hence, the school is directed to comply with the directions given by updating the FAR with relevant details mentioned above in accordance with the process for periodic physical verification of assets and document the results of physical verification of assets. The same shall be verified at the time of evaluation of fee hike proposal for subsequent year.

4. As per direction no. 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 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, as per Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 "*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.*"

However, as per order no. F.DE. 15/(23)/PSB/2019/1205-1209 dated 29.03.2019 issued for FY 2017-18, the school had not maintained separate bank account for deposit of caution money collected and not credited the interest earned thereon to the credit of caution money account. It was also noted that interest on caution money was not paid to the students at the time of payment. School was directed to open a separate bank account for caution money deposit and to transfer the interest thereon to the credit of caution money account and to refund the caution money to the students along with interest. But school failed to comply the aforesaid directions.

During the personal hearing, school submitted that it has stopped collecting caution money from students and has started adjusting the caution money already collected from old students against the fee due from them and will adjust the balance amount payable in the coming financial years. Thus, based on the explanation provided by the school, the school should refund/adjust total caution money and should not collect it subsequently. Thus, amount payable as on 31.03.2022 of INR 6,11,500 against caution money has been considered while deriving the fund position of the school.

5. The Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 December 1999, indicates that *"recognised private unaided school can collect following fees from the students/ parents"* under the following heads which include,

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

Further, clause no. 9 of the abovementioned order status "No fee, fund or any other charge by whatever name called shall be levied and collected or levied or realised unless it is determined by the management committee in accordance with the direction contained in the order.

The above was also upheld by the Hon'ble Supreme Court in *"Modern School vs Union of India & Others"*.

However, on review the fee structure as submitted by the school, it has been noted that over the years, school has been charging fee in the name of *"Students Welfare Activity Fund" (SWAF)* of INR. 9,600 from the students at the time of admission. During the personal hearing, school has clarified that INR. 9,600 was being collected till FY 2018-19 and thereafter INR. 10,625 per student (i.e. *Student Safety and Security Charges*", INR. 4,600, "*Orientation Charges*" INR. 1,025 and "*Stimulated Learning Facility Charges"* INR. 5,000) at the time of new admission.

The Directorate through its order issued post evaluation of fee increase proposal for academic session 2016-17 instructed to schools running by DAV CMC.

"......School is not allowed to charge one-time fees at the time of admission for development activity of students. Charging of one-time fees at the time of admission tantamount to capitation fee which is prohibited under section 13 of the Right of Children to Free and Compulsory Education Act, 2009". Accordingly, the school was directed not to charge any such fee from the students in future and adjust the fee already collected against the monthly fee due from the students.

The school in its compliance report mentioned that "if the collection of such fees are discontinued, the fee hike will fall short". However, the claim of the school is not justifiable as the charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is hereby directed to stop such collection of Orientation Charges, Student Safety and Security Charges fee and Stimulated Learning Facility Charges with immediate effect and in case of non-compliance appropriate action will be taken against the school in accordance with the provisions of DSER, 1973.

6. Para 99 of the Guidance Note-21, Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

The Directorate in in its Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20, directed the school to ensure compliance of para 99 of Guidance Note 21 issued by ICAI.

However, on review of audited financial statements of the school for FY 2019-20 to 2021-22, it is noted that the school has not transferred an amount equivalent to the cost of the assets on purchase of assets out of the development fund to a separate account e.g. "Development Fund Utilisation Account" or any other account whatever name it may be called and this separate account shall be treated as deferred revenue income and need to be written off in proportion of deprecation charged on the assets. However, the school has transferred the cost of assets purchased out of the development fund to the general reserve which is not correct accounting treatment in respect of development fund utilization.

The school in its compliance report has mentioned that the school shall follow the accounting treatment as per para 99 of Guidance Note 21 issued by ICAI from FY 2022-23. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of the next academic session.

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 **18,05,05,010** out of which cash outflow in the FY 2022-23 is estimated to be INR **19,31,53,228.** This results in deficit of INR **1,26,48,217** 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	1,66,70,237
Investments as on 31.03.22 as per Audited Financial Statements	6,59,10,441
Liquid Funds as on 31.03.2022	8,25,80,677
Add: Recovery from the society on account of addition to Building [Refer Financial Suggestion No. 1]	27,91,932
Add: Bad debts pertaining to DAV Publication written off recoverable from Society [Refer Financial Suggestion No. 2]	4,83,102
Add: Recovery of excess administration charges from DAV CMC [Refer Financial Suggestion No. 4]	30,16,760
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	13,02,45,177
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	48,39,095
Add: Additional Income of Annual Charges and Development Fund (Refer Note 3 Below)	-
Add: Additional Fees due to increase in fee @14% from 01.07.2022 (Refer Note 4 Below)	1,36,52,255
Total Available Funds for FY 2022-23	**23,76,08,998**
Less: LIC against Gratuity and Leave encashment [Refer Financial Suggestion No. 3]	5,58,70,298
Less: Fixed Deposit against specific funds (with CBSE and DOE) as on 31.03.21 (Refer Note 1 Below)	6,22,190
Less: Caution Money (Refer Other Suggestion No. 4)	6,11,500
Net Available Funds for FY 2022-23 (A)	**18,05,05,010**
Less: Budgeted expenses for the session 2022-23 (Refer Note 5 and 6 Below)	**19,31,53,228**
Total Estimated Expenditure for FY 2022-23 (B)	**19,31,53,228**
Net Deficit (A-B)	**1,26,48,217**

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

Particulars	**Amount (in INR)**	**Remarks**
FDR in the joint name of Manager and DoE and Manager and CBSE	6,22,190	Deducted while calculating available funds of the school.
Total	**6,22,190**	

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

Note 3: The 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 of the school and reply submitted by the school it is noted that the school has reported tuition fees, annual charges and development fees at 100% in its audited financial statements of FY 2021-22 which is in contravention of above mentioned order.

Note 4: The school was allowed to increase fee 8% vide Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 and 6% vide Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20 from 1st July, 2022. School has submitted that it has increased the fee @14% 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 @14% for 9 months)
Tuition fees	11,16,30,038	-	11,16,30,038	12,33,51,192
Annual Charges	1,04,29,536	-	1,04,29,536	1,15,24,637
Development Fee	36,82,609	-	36,82,609	40,69,283
Computer Fee	42,79,294	-	42,79,294	47,28,620
Total	**13,00,21,477**	-	**13,00,21,477**	**14,36,73,732**
Impact of fee increase				**1,36,52,255**

Note 5: All budgeted expenditure proposed by the school amounting to INR 32,69,17,523 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	17,25,10,739	47,07,497	Restricted to 130% of expenditure incurred in FY 2021-22.
Salary Arrears	8,00,16,320	8,00,16,320	Refer Note 6 Below
Gratuity	1,18,02,473	1,18,02,473	Refer Financial Suggestion No. 3
Leave Encashment	39,34,156	39,34,156	
PF and EDLI Contribution	1,65,30,977	25,36,655	Restricted to 110% of expenditure incurred in FY 2021-22.
Agency charges	60,00,000	31,30,844	
Services charge 5%	51,01,710	51,01,710	
Electricity & water	22,00,000	9,06,488	

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
expenses (RRT)			
Promotional or advertisement Exp.	1,50,000	1,20,731	
Property Tax	15,00,000	10,27,427	
Insurance	2,00,000	99,373	
Newspaper & Periodicals	1,25,000	1,23,213	
Functions & Co-curriculum Activities	4,00,000	2,72,171	
Printing & Stationery Expenses	10,00,000	6,44,649	
Legal & Professional Expenses	2,00,000	1,30,260	
Computer Repair & Maintenance	12,00,000	7,15,496	
Building Repair & maintenance	30,00,000	22,09,713	
Other Repair & maintenance	6,00,000	3,49,152	
Furniture & fixtures Repair & maintenance	10,00,000	9,10,968	
Bonus	29,00,000	29,00,000	The school has proposed new heads of expenditure which have not been considered
Inservice Education	1,00,000	1,00,000	
Uniform Expenses	2,00,000	2,00,000	
Staff Welfare	1,25,000	1,25,000	
Any other Expenses	15,50,000	15,50,000	
Office vehicles (Running & Maintenance)	3,50,000	3,50,000	
Transport expenses	70,00,000	70,00,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Lab Expenses	4,00,000	4,00,000	
Vehicles	9,00,000	9,00,000	Being these expenditures are in contravention of Rule 177 of DSER, 1973
Solar Plant	15,00,000	15,00,000	
Total	**32,24,96,375**	**13,37,64,295**	

Note 6: 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.

As per the Directorate's previous orders, it was noted that the school has implemented 7th CPC recommendations w.e.f. 01.04.2017. Further, salary arrears were already allowed in the Directorate's Order No. F.DE. 15/(676)/PSB/2022/4125-4129 dated 03.06.2022 issued for FY 2018-19 amounting to INR 5,63,97,233 and

Order No. F.DE. 15/(677)/PSB/2022/4130-4134 dated 03.06.2022 issued for FY 2019-20 amounting to INR 6,20,36,956 with a direction to implement the recommendation of 7th CPC for payment of salaries to staff and to pay arrears of salaries.

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 62,91,794 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 8% 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 **DAV Public School, Sector-7, Rohini, New Delhi – 110085 (School Id: 1413257)** 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 8% 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 8% 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 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 Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
DAV Public School,
Sector-7, Rohini,
New Delhi – 110085 (School Id: 1413257)

No. F.DE.15 (1491)/PSB/2023/ 6512-6516 Dated: 19/07/23

Copy to:

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

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