

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

No. F.DE.15(1569) / PSB / 2023 / 8218-8222

Dated: 25/09/23

ORDER

WHEREAS, De Indian Public School, Pocket-11, Sector-24, Rohini, Delhi-110085, (School Id-1413294) (hereinafter referred to as "the School"), run by the M.D. 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 DSEA, 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.

②

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/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE.15/ (435)/PSB/2022/2107-2111 dated 21.04.2022 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 2 of Public Notice dated 04.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Additionally, the Hon'ble High Court of Delhi in its judgement dated 30.10.1998 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 10.02.2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Further, clause 7.24 of the Duggal Committee Report states *"the schools, do not discharge any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then is the contribution of the society that professes to run the School"*.

Based on the public notice and High Court judgement, the cost relating to land and construction of the school building must be met by the society, being the property of the society and school funds i.e., fee collected from students cannot to be utilized for the same.

The Directorate's in its Order No. F.DE-15(273)/PSB/2019/1500-1504 dated 04.04.2019 issued for FY 2017-18, Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE.15/ (435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, noted that the school has utilised INR 2,30,34,717 during FY 2014-15 to 2016-17 out of school funds for construction of building and swimming pool and the school was directed to recover this amount from the society. However, no amount is recovered from the society till date.

The school in its compliance report has mentioned that the school does not charge 'Building fund' or 'development charges' from the students and it has complied with Rule 177 of DSER, 1973 while utilising savings for constructing school building. However, the school has not ensured the compliance of Rule 177 which provides that the school funds at the first instance be utilised for the purpose of payment of staff salaries, allowances and other dues payable to them including gratuity and leave encashment. And in order to ensuring gratuity and leave encashment investments are required to be made in the plan assets as defined in AS-15 Employee benefits as issued by the Institute of Chartered Accountants of India. Thus, instead of investing the amount in plan assets the school funds were utilised for construction of building. And therefore, the submission of the school is not correct and accordingly, INR 2,30,34,717 has been added to the funds position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of the order.

2. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15.12.1999, *"the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution"*. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

The Directorate in its Order no. F.DE-15(273)/PSB/2019/1500-1504 dated 04.04.2019 issued for FY 2017-18, Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE.15/ (435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, noted that INR 13,23,412 was receivable from Golden Bells School (another school under the management of the same society), which

had been carried over from previous financial years. The school explained that this amount is related to the fraud which occurred in 2011, for which school had filed a FIR. The school already recovered this amount however, due to some accounting error the ledger of Golden Bells School could not be adjusted and therefore, the amount was reflecting recoverable. The school further mentioned in its compliance report that during FY 2017-18 that it had adjusted this amount with the society balance which was payable by the school to the society. The adjustment is mere book entry and thus the school has not recovered the above amount from Golden Bells School. Accordingly, INR 13,23,412 has been included in 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 issue of the order.

3. The Directorate in its Order No. F.DE-15(273)/PSB/2019/1500-1504 dated 04.04.2019 for FY 2017-18, Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE.15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, directed the school to recover INR 1,22,36,715 (i.e. INR 99,00,000 + INR 23,36,715) for payment made to the society in FY 2016-17 and 2017-18. However, no amount is recovered from the society.

As per the above orders, the payment made by the school of INR 99,00,000 to M.D. Education Society in FY 2016-17 pertain to the repayment of loan taken in FY 2011 for furniture and equipment and the school could not substantiate receipt of such amount from the society in FY 2011. However, the school in its compliance report has only submitted the society ledger for FY 2016-17 and 2017-18. Accordingly, the above observation about the evidence of receipt of loan in FY 2011 is still pending. Therefore, INR 99,00,000 has been added to the funds position of the school with the direction to the school to recover this amount from the society.

Further, the Directorate in its Order No. F.DE. 15(273)/PSB/2019/1500-1504 dated 04.04.2019 for FY 2017-18, Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, noted that during FY 2017-18, the school has repaid INR 23,36,715 to the M.D. Education Society for which the school could not provide any justification and repeated the same justification which was provided by it earlier at the time of evaluation of fee increase proposal for FY 2017-18.

The school in its compliance report has submitted society ledger for FY 2017-18 which revealed that INR 10,00,487 belong to TDS receivable of school and INR 13,36,228 belong to adjustment of Golden Bell School balance. Regarding the balance of Golden Bell School, this has already been discussed in the above-mentioned Point No. 2 of the Financial Suggestion and regarding TDS Receivable adjustment, this amount is recoverable by the school from the society as it related to the tax deducted on the interest income of the school. Therefore, total amount of INR 10,00,487 (i.e. INR 23,36,715 minus INR 13,36,228) has been added to the funds position of the school.

Accordingly, INR 1,09,13,303 is recoverable from the society and has been included while deriving 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 issue of the order.

4. Order dated 19.01.2016 issued by the Hon'ble High Court of Delhi state *"every recognized unaided schools to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Director, Education"*. Further, as per the directions of Supreme Court in *Modern School vs. Union of India & Ors.* (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

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

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

Also, Clause no. 17 of Letter of Allotment of Land issued by DDA states that *"The school shall not increase the rates of tuition fee without prior sanction of the Directorate of Education, Delhi Admn. and shall follow provisions of Delhi School Education Act/ Rules, 1973 and other instructions issued from time to time."*

The Directorate in its Order No. F.DE-15(273)/PSB/2019/1500-1504 dated 04.04.2019 issued for FY 2017-18, noted that the school has increased the fees for academic session 2016-17 without prior approval of the Directorate even though the fee increase proposal of the school for 2016-17 was rejected by the Director of Education vide Order No. F.DE-15/ACT-I/WPC-4109/ PART/13/ 964 dated 13.10.2017. Based on the information provided by the school, an amount of INR 11,57,280 on account of increased tuition fee and INR 4,46,040 on account of increased development fee totalling to INR 16,03,320 was collected by the school during the FY 2016-17. However, the same was neither refunded nor adjusted against the future dues of the students.

The school in the compliance report vide letter dated 18.02.2022 has mentioned that it has adjusted the hiked fee for FY 2016-17 and 2017-18 and has also rolled back the hiked fee as directed/ instructed by the Directorate. Therefore, the amount collected by the school during FY 2016-17 to 2018-19 of INR 48,09,960 (16,03,320 x 3) against hiked fee has not been adjusted in the calculation of fund position of the school as the same has already been adjusted by the school. Also, the school is directed to submit fee receipts to substantiate its claim that it has adjusted future fee or refunded the hiked fee to the students. The compliance of the above direction shall be viewed at the time of evaluation of fee increase proposal of subsequent year.

5. The Directorate in its order no. F.DE-15(273)/PSB/2019/1500-1504 dated 04.04.2019 issued for FY 2017-18, noted difference between the income reported in audited Financial Statements and income computed based on the fee structure submitted by the school for FY 2016-17. For which the school could not provide proper justification for such differences and the reconciliation for such differences. The details of such differences are as follows:

(Amount in INR)				
Particulars	As per Income and Expenditure A/c (A)	Computed figure based on details provided by the school (B)	Income recorded on account of increased fee (C)	Derived difference (A-B-C)
Tuition fee	2,58,44,448	2,33,62,200	11,57,280	13,24,968
Development fee	64,58,674	64,42,800	4,46,040	(4,30,166)
Annual Charges	77,97,950	61,95,000	-	16,02,950

In the aforesaid order the school was directed to perform a detailed reconciliation of the amount collected/ income from the students and income as computed on the basis of fee structure of the school and number of fee students enrolled in the school. The school has not submitted any reconciliation as directed above. Therefore, it appears that there is serious internal control lapses over the income collected and in accounting system adopted by the school for this purpose. The school is hereby again directed to take this matter seriously and submit the compliance report within 30 days from the date of issue of the order.

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

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

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

On review of the audited financial statements for FY 2021-22, it is noted that the school has made a total provision of INR 87,43,067 towards gratuity and INR 1145727 towards leave encashment as on 31.03.2022. However, the school has made provision for leave encashment only in accordance with the actuarial valuation report for measuring its liability towards retirement benefits as on 31.03.2022. Though the school has obtained actuarial valuation towards gratuity, but has not made provision for gratuity as per the actuarial valuation report. Further, the school has deposited INR 30,00,000 with LIC that qualify as plan assets (i.e., group gratuity and leave encashment policies of LIC or other insurer) to earmark funds towards statutory liability of staff gratuity which has been considered in the funds position of the school.

Therefore, the school is directed to make provision for gratuity in its books of accounts as per the actuarial valuation report. Also, the school is directed to deposit the amount in the plan assets with LIC (or other agency) as determined in actuary valuation report for gratuity and leave encashment and ensure that the amount deposited in plan assets is equivalent to the provision for gratuity and leave encashment. Further, the school has proposed INR 35,29,249 towards gratuity and leave encashment in the budget for FY 2022-23 which has not been considered in the fund position of the school.

7. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognized 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 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 order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

Further, as per Section 13 of Right to Education Act, 2009, the school should not charge capitation fee from the students at the time of admission. Further, the Supreme Court in its Judgement dated 2 May 2016 in the

matter of Modern Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India] held that education is a noble profession. *"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasised that the commercialization and exploitation is not permissible in the education sector and institutions must run on 'no-profit-no-loss' basis".*

Hon'ble Supreme Court categorically held that "Though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"

The Directorate in its Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE.15/ (435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, directed the school not to collect any one-time fee, by whatever name called from the students admitted to the school and adjust/refund the fee so collected during against the future dues of the students.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has charged 'Operational Charges' totalling to INR 19,55,000. The collection of one-time charges is not in accordance with above-mentioned provisions. However, the school in its compliance report has mentioned that the school has now adjusted the Operational Charges for FY 2017-18 only. Accordingly, the amount collected as 'Operational Charges' amounting to INR 33,17,375 (13,62,375+19,55,000) has been adjusted while deriving the fund position of the school with the direction to the school to refund/adjust the same against the future dues of the students and submit the evidence of the same within 30 days from the date of issue of the order.

B. Other Suggestions for Improvement

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

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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 the 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 is noted that the school charges earmarked levies in the name of Transport Fee, Smart Class Fee, Science Fee, Activity Fee, IP Fee and IT Fee. From FY 2021-22, the school is maintaining separate fund accounts for Transport Fee and Science Fee only but the school has not maintained separate fund accounts for other earmarked levies. Further, the school has been generating surplus from earmarked levies, which has been utilized for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2019-20 to 2021-22 are given below:

Particulars	Transport fee^	Smart class fee	Science fee*	Activities fee	IP fee*	IT fee
For the year 2019-20						
Fee Collected during the year (A)	46,82,996	11,51,232	63,900	1,34,09,577	75,600	8,10,500
Expenses during the year (B)	32,71,917	12,26,075	1,11,635	46,47,224	-	2,56,484
Difference for the year (A-B)	14,11,079	-74,843	-47,735	87,62,353	75,600	5,54,016
For the year 2020-21						
Fee Collected during the year (A)	-	-	-	-	-	-
Expenses during the year (B)	10,41,447	48,814	-	-	-	1,32,650
Difference for the year (A-B)	-10,41,447	-48,814	-	-	-	-1,32,650
For the year 2021-22						
Fee Collected during the year (A)	-	7,590	-	99,000	7,500	-
Expenses during the year (B)	8,19,135	-	-	3,200	-	94,300
Difference for the year (A-B)	-8,19,135	7,590	-	95,800	7,500	-94,300

* Details of expenses incurred against earmarked levies collected from students was not provided by the school.

Similar observations were also noted in Directorate's Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20 which the school has yet to comply with.

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

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

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

2. As per Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India *"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."* Further, Para 102 of the abovementioned Guidance Note states *"In respect of funds, schools should disclose the following in the schedules/notes to accounts:*
- In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;*
 - Assets, such as investments, and liabilities belonging to each fund separately*
 - Restrictions, if any, on the utilization of each fund balanced*
 - Restrictions, if any, on the utilization of specific assets."*

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

The Directorate in its Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, directed the school to comply with para 99 of Guidance Note on Accounting by schools issued by The Institute of Chartered Accountants of India.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has created deferred income account equivalent to the amount utilized for purchase of fixed assets out of development fund and transferred the amount from deferred income account to the credit of income and expenditure account in proportion of the depreciation charged. Further, from FY 2021-22 onwards, the school has been maintaining depreciation reserve fund equivalent to the accumulated depreciation presented in the fixed asset schedule and has disclosed fixed assets purchased out of General Fund at Gross Value.

3. The Directorate in its Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20 noted that the school has not submitted Fixed Asset Register (FAR) for verification. An ideal Fixed asset register should capture asset name, date, quantity, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, 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 FAR is under process and will be shared soon. This has been taken on record. Therefore, the school is again directed to update and submit the FAR with relevant details mentioned above. The compliance of the above shall be viewed at the time of evaluation of fee increase proposal of subsequent period.

4. As per clause no. 3 of the public notice dated 04.05.1997 published in the Times of India "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 11.02.2009 states "No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund."

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 amount shall also be taken into account while projecting fee structure for ensuing academic year."

The Directorate in its Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20, directed the school to ensure that the interest on caution money is paid to the students along with the caution money at the time of leaving the school and to treat unclaimed caution money as the income by the school in its books of accounts.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has not considered the unclaimed caution money as its income and has not refunded the interest amount along with caution money to existing students which is not in compliance with clause 18 of the order dated 11.02.2009 and clause 3 and 4 of order dated 09.09.2010.

Therefore, the school is directed to ensure compliance with the aforementioned provisions. Further, the balance of caution money outstanding INR 7,86,000 as on 31.03.2022 has been considered while deriving the fund position of the school.

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

- i. The total funds available for the Academic session 2022-23 amounting to **INR 16,56,61,972** out of which cash outflow in the Academic session 2022-23 is estimated to be **INR 14,02,86,962**. This results in surplus of **INR 2,53,75,009**. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	27,15,360
Investments as on 31.03.22 as per Audited Financial Statements	7,14,69,986

Particulars	Amount (in INR)
Liquid Funds as on 31.03.2022	7,41,85,346
Add: Recovery from the society for addition to building in contravention of Rule 177 of DSER, 1973 [Refer Financial Suggestion No. 1]	2,30,34,717
Add: Recovery from the Golden Bella School [Refer Financial Suggestion No. 2]	13,23,412
Add: Recovery from the society for amount transferred during FY 2016-17 and 2017-18 [Refer Financial Suggestion No. 3]	1,09,13,303
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	7,15,51,542
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	25,97,989
Add: Additional Income of Annual Charges and Development Fund (Refer Note 4 Below)	30,32,932
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 Below)	1,30,13,833
Total Available Funds for FY 2022-23	17,36,25,408
Less: Fixed Deposit in the joint name of Secretary, CBSE and Manager of the school (Refer Note 1 Below)	1,06,310
Less: Fixed Deposit in the joint name of Dy Director Education and Manager of the school as on 31st Mar 2022 (Refer Note 1 Below)	3,74,086
Less: Bank Balance EWS as on 31st Mar 2022	3,79,665
Less: Refund/ adjustment of fee collected in name of Operational Charges [Refer Financial Suggestion No. 7]	33,17,375
Less: Investment made with LIC against provision made for retirement benefits. [Refer Financial Suggestion No. 6]	30,00,000
Less: Caution Money (Refer Other Suggestion No. 4)	7,86,000
Net Available Funds for FY 2022-23 (A)	16,56,61,972
Less: Budgeted expenses for the session 2022-23 (Refer Note 5)	12,12,39,556
Less: Salary arrears as per 7th CPC (Refer Note 6)	1,90,47,406
Total Estimated Expenditure for FY 2022-23 (B)	14,02,86,962
Net Surplus (A-B)	2,53,75,009

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	1,06,310	Deducted while calculating available funds of the school.
Fixed Deposit in the joint name of Dy Director Education and Manager of the school	3,74,086	
Total	4,80,396	

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

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

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Annual Charges	82,35,500
Development Fee	47,78,333
Total	1,30,13,833

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	4,12,29,147	4,12,29,147	As per the details provided by the school, Annual Charges and
Annual Charges	1,10,06,582	1,29,48,920	

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
Development Charges	61,80,030	72,70,624	Development Charges collected in FY 2021-22 at the rate of 85% and thus, difference amount of INR 30,32,932 has been considered.
Total	5,84,15,759	6,14,48,691	

Note 5: All budgeted expenditure proposed by the school amounting to INR 19,31,23,516 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	5,34,35,223	1,41,89,203	Restricted to 130% of expenditure incurred in FY 2021-22.
Salary Arrear	4,62,24,698	4,62,24,698	Refer Note 7 below
Gratuity & Leave Encashment	35,29,249	35,29,249	Refer Financial Suggestion No. 6
Science IT Exp	11,72,799	11,72,799	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Smart Class Exp.	11,37,132	11,37,132	
Transport expenses	51,02,285	51,02,285	
Capital Expenditure	77,99,217	5,28,593	Restricted to development fee expected to be received in FY 2022-23
Total	11,84,00,603	2,56,59,262	

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 school's reply during hearing, it was held that the school has not implemented 7th CPC recommendations. Vide Order No. F.DE. 15/(439)/PSB/2022/2127-2131 dated 21.04.2022 issued for FY 2018-19 and Order No. F.DE. 15/(435)/PSB/2022/2107-2111 dated 21.04.2022 issued for FY 2019-20 it was directed to the school to implement the 7th CPC for payment of staff salaries and also, the school was allowed salary arrears upto FY 2019-20. Thus, arrears for the year 2020-21 and 2021-22 proposed by the school has been considered while evaluating the funds availability position of the school. Thus, the school is again directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of the order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. In view of the above examination, it is evident that the school have adequate funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the proposal of the school for the session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instruction against which have been given in the order) that the sufficient funds are available with the school to carry out its operations for the academic session 2022-23.

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 available with the school for meeting financial implication for the academic session 2022-23.

AND WHEREAS, it is noticed that the school has incurred INR 3,52,71,432 in contravention of Rule 177 and other provisions of DSEAR, 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, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

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


Accordingly, it is hereby conveyed that the proposal for fee hike of **De Indian Public School, Pocket-11, Sector-24, Rohini, Delhi-110085, (School Id-1413294)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of 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
De Indian Public School
Pocket-11, Sector-24, Rohini,
Delhi-110085, (School Id-1413294)

No. F.DE.15 ¹⁵⁶³ (6)/PSB/2023 / 8218 - 8222

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) 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