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

No. F.DE.15 (1142)/PSB/2022/ 663 - 668 **Dated: 20/01/23**

Order

WHEREAS, **Tagore Senior Secondary School (School ID- 1514085), 18 Mayapuri Marg, Mayapuri, New Delhi-110064** (hereinafter referred to as "**the School**"), run by the Rabindra Educational Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

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

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

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

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

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

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

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

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who 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 the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email and the school was also provided an opportunity of being heard on 31.08.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during personal hearing, the 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(771)/PSB/2022/4896-4900 dated 22.06.2022 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing on 31.08.2022, were evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the School are hereunder:

A. **Financial Suggestion for Improvements**

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

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

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

   Further, Clause 24 of DoE Order dated 11.02.2009 states "*Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP).*

   On review of the audited financial statements and other records submitted by the School, it has been noted that the school has been recording income on receipts basis. Thus, the school is deviating from basic principle in preparation of books of account and presenting the audited financial statements. The school also confirmed that it has been recording expenditure on accrual basis. The school is doing this intentionally in order to report higher operation loss in the audited financial statements than the actual. Therefore, the school has been preparing its audited financial statements neither on accrual basis nor cash basis. Even the statutory auditor of the school has not mentioned this fact in their Independent Auditors Report. During the personal hearing the school was asked to provide reconciliation statements and actual collection made in the last three financial years however, school didn't submit the same to the Directorate.

   Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year. However, the audited financial statements submitted by the school for FY 2019-20, FY 2020-21 and FY 2021-22 has been considered in the evaluation of fee increase proposal.

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

Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

1. Assets held by a long-term employee benefit fund; and
2. Qualifying insurance policies.

Further, Para 57 of AS-15 states that *"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 recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than fifty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"plan assets"* as per AS-15 issued by ICAI.

The record submitted by the School were taken on record, it has been noted that the School has got the actuarial valuation for its retirement benefits. As per the actuarial valuation report, total liability for gratuity was INR 2,56,92,678 as on 31.03.2022. However, the school has created provision for gratuity of INR 64,23,170 in the audited financial statements of FY 2021-22. The school has invested INR 12,00,000 with gratuity plan of LIC which qualifies as investment in "Plan Assets" as per AS-15 issued by ICAI. Therefore, INR 12,00,000 invested by the school has been considered while deriving the fund position of the School.

Further, the school is hereby directed to create correct provision for retirement benefits in its books of accounts as per actuarial valuation report and invest an amount equivalent to the amount determined in the actuarial valuation report in plan assets within the meaning of AS-15 within 30 days from the date of issue of this order.

3. Direction no. 2 included in the Public Notice dated 04.05.1997 states "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*".

Additionally, 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.*"

Moreover, Rule 177 of DSER, 1973 states that *"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. And the aforesaid savings shall be arrived at after providing for the following, namely:*

a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
b) *The needed expansion of the school or any expenditure of a developmental nature.*
c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
d) *Co-curricular activities of the students.*

Reasonable reserve fund, not being less than ten percent, of such savings.

Based on the aforementioned provisions, 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 should not be utilized for this purpose.

The Directorate in its Order No. F.DE-15(771)/PSB/2022/4896-4900 dated 22.06.2022 issued for academic session 2019-20 and Order No. F.DE-15(274)/PSB/2019/1495-1499 dated 14.03.2019 issued for academic session 2017-18, noted that the school had incurred INR 32,18,051 in FY 2014-15, INR 31,09,467 in FY 2015-16 and INR 28,57,243 in FY 2016-17 for construction of building without complying with the above-mentioned provisions.

Accordingly, the school was directed to recover amount of INR 1,00,11,702 from the society which is still pending for recovery.

As the above expenditure was incurred without complying with the provisions of Rule 177 of DSER, 1973. Given the fact that the school neither implement the recommendation of the 7th CPC nor invest an amount in plan asset to protect the statutory dues of the employee towards gratuity and leave encashment.

With respect to the above directions, the school submitted in its reply that:

- *It is worthy to be highlighted that the said expenditure was never done for the construction of any new building/asset or to increase the covered area of building.*
- *The amount shown for construction of building is merely afflicted with wrong nomenclature and there has been no addition/increase in the covered area of the building.*
- *Once the 'initial' building was constructed and handed over to the school by society, any additional amount spent, or shown as towards building in the school's audited financial statement, is towards putting furniture, fixture or equipment on the school's existing building.*
- *Hence, the said amount is merely afflicted with wrong nomenclature and there has been no addition/increase in the covered area of the building.*
- *The school shall also make the necessary rectification entries regarding capitalization of expenses amounting to INR 31,09,467 in the financial statements of the school for FY 2022-23.*
- *Looking into the above, it is requested that the mere error in nomenclature of expenditure should not be made a ground for disallowing it which, otherwise, is statutorily allowed to be done by the school.*

The contention of the school is incorrect as the above disallowed expenditure was incurred from FY 2014-15 to FY 2016-17 and these financial statements were duly audited by a qualified chartered accountant and same were countersigned by the school management. Now, after the DoE identified the capital expenditure was not in accordance with the above-mentioned provisions, the school submitted that its an error of nomenclature. However, the school fails to understand that, once, the financial statements were audited by the auditor, it is presumed that the auditor followed proper due diligence and obtained all the necessary information before issuing its opinion on the books of accounts. Therefore, making an excuse of nomenclature is not tenable and justified.

Therefore, the amount of INR 1,00,11,702 i.e., (INR 32,18,051 *plus* INR 31,09,467 *plus* INR 28,57,243) utilised by the school for construction of school building has been again considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

4. Clause 14 of the Order No. F.DE/15 (56)/ Act/2009/778 dated 11.02.2009 "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment.*" Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

   From a review of the audited financial statements of FY 2019-20, it has been noted that the school collected a development fee of INR 39,96,495 out of which INR 33,34,960 was transferred to income and expenditure account to meet establishment and other related expenditure of the school. During the personal hearing, the school explained that due to paucity of funds, the school was left with no other option except to utilize the development funds for payment of establishment and other related expenditure. In this regard the school was asked to provide the complete details of development funds utilized towards the payment of salary and other expenditure, but the school has not provided these details for verification. The similar observation was also noted in the Order No. F.DE-15(771)/PSB/2022/4896-4900 dated 22.06.2022 issued for academic session 2019-20.

   However, on review of the audited financial statement of FY 2021-22, the school maintain the separate fund for the development fee collected by the school and has not transferred any amount to income and expenditure account. Therefore, the closing balance of the development fund of INR 32,24,591 as on 31.03.2022 has been considered as restricted fund while deriving the fund position. Further, the school is hereby directed to utilise development as per clause 14 of order dated 11.02.2009 and maintain equivalent funds in the form of bank or fixed deposits.

5. Rule 175 of DSER, 1973 State *"all income received by the school is required to be reflected in the accounts with regard to the School Fund or the Recognised Unaided School Fund, as the case may be, clearly exhibiting the income accruing under each head, i.e., fees, fines, income from building rent, interest, development fee, etc."*

During personal hearing, the school submitted that a portion of the premises of the school has been let-out to the bank on operating lease and rental income of which is received by the society not by the school.

During personal hearing, the school was asked to provide lease agreement and the monthly amount which is collected by the society. However, the school has not provided these details. In the absence of the necessary information, it can't be identified the amount of rent collected by the society in last three financial years.

Accordingly, it is hereby directed to the school to recover lease rental from the society and provide lease agreement with bank receipts to the Directorate within 30 days from the date of issue of this order. Further, all future lease rental income from letting out of the premises of the school should be recorded in the school accounts. The compliance of the same will be verified at the time of next fee hike proposal.

B. Other Suggestion for Improvements

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

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

   And as per clause 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

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

   However, as per audited financial statements of FY 2019-20, it has been noted that the school charges earmarked levies in the form of Transport Fees, Activity Charges its Order No. F.DE-15(771)/PSB/2022/4896-4900 dated 22.06.2022 issued for academic session 2019-20. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

The aforementioned Guidance Note also 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). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. 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 proposal for enhancement of fees, 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. Accordingly, the school is directed to comply with the above-mentioned provisions.

2. On review of the audited financial statement, it has been noted that the school has not prepared Fixed Asset Register (FAR). The fixed asset register normally includes basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of assets and documenting complete details of assets at one place.

   Therefore, the school is directed to prepare and submit the fixed assets register at the earliest. The same shall be verified at the time of evaluation of the fee proposal of the school for the next academic session.

3. The Directorate in its Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016 "The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."

   Further, Para 58(i) of the Guidance Note states "A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."

   From review of the financial statements for the FY 2021-22, it has been noted that the depreciation on fixed assets have been provided on written down value method at the rates prescribed in the Income Tax Rules, 1962 which is not in accordance with the provisions of the Guidance Notes issued by the Institute of Chartered Accountants of India. Therefore, the school is directed to apply the provisions outlined in the Guidance note mentioned above.

4. As per clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of 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.*"

However, on review of audited financial statement for the FY 2020-21 and 2021-22, it has been noted that the school is refunding only the principal amount to the student at the time of leaving the school, which is not in accordance with clause 18 of Order No. F.DE/15 (56) /Act /2009 / 778 dated 11.02.2009. The balance of caution money as on 31/03/2022 is INR 9,08,500 as per audited financial statements for the FY 2021-22. Accordingly, the School is again directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009.

5. The School is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter require to provide 25% reservation for children belonging to a EWS category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. From the records provided by the school, the percentage of EWS has been calculated below:

Particulars	**FY 2022-23**
Total Students	1,864
EWS Students	450
% of EWS students	17.33%

6. 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.*"

From review of the audited financial statement, it has been noted that the school upon purchase of assets out of the development funds, transfers an amount equivalent to the cost of the assets to development fund utilization account but fails of transfer it as deferred income which may be written off in proportion of deprecation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilization resulting incorrect reporting of surplus/deficit income and expenditure account.

During personal hearing, school accepted this fact and agreed to rectify its accounting from the next financial year onward. 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 is INR **5,42,76,903** out of which the expected expenditures of the school would be INR **5,92,18,545** resulting in net deficit of INR **49,41,642** for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	42,44,292
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 **(Refer Note 1 Below)**	53,60,722
Liquid fund as on 31.03.2022	**96,05,014**
Add: Recovery from society for construction of building **(Refer Financial suggestion No. 3)**	1,00,11,702
Add: Recovery from society for letting out of premises to bank **(Refer Financial Suggestion No.5)**	-
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	4,00,05,347
Add: Other income for FY 2021-22 as per audited Financial Statements **(Refer Note 2 Below)**	9,41,264
Add: Additional income of annual charges and development fund **(Refer Note 2 Below)**	8,48,269
Less: Arrears of annual charges and development fund for FY 2020-21 received in FY 2021-22	(11,40,880)
Total available funds for FY 2022-23	**6,02,70,716**
Less: FDR in joint name of DoE and manager of the school	6,60,722
Less: Depreciation reserve fund as on 31/03/2022 **(Refer Note 3 Below)**	-
Less: Caution money as on 31.03.2022 **(Refer Other Suggestion No. 4)**	9,08,500
Less: Development Fund as on 31.03.2022 **(Refer Financial Suggestion No. 5)**	32,24,591
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Suggestion No. 3)**	12,00,000
Estimated Available Funds for FY 2022-23	**5,42,76,903**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 4 & 5 Below)**	**4,52,58,588**
Less: Salary arrears **(Refer Note 6 Below)**	1,39,59,957
Estimated Deficit	**(49,41,642)**

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

Particulars	As per AFS of FY 2021-22	Remarks
FDR in joint name of the Manager and DoE	6,60,722	Deducted as not available for utilization.
Investment with LIC	12,00,000	
FDR against general fund	5,00,000	Considered as fund available with the School.
FDR against Development Fund	30,00,000	
Total	**53,60,722**	

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

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

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

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

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

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

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	3,39,95,207	3,39,95,207	
Annual Charges	23,32,740 (after adjusting arrears)	27,44,400	The school recorded 85% of the income. Therefore, this has been grossed up.
Development fund	2474120 (after adjusting arrears)	29,10,729	

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

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

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for the FY 2021-22 has not been considered while deriving the fund position of the school.

Note 4: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Salaries and wages of the teaching and non-teaching staff	3,21,12,774	3,92,85,000	39,60,949	Excessive amount proposed by the School has not been considered because salary arrears has been considered separately.
Earmarked Levy (Transportation and Sports and games)	1,56,550	70,30,000	70,30,000	Neither income nor expense of earmarked levies have been considered.

Note 5: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

Note 6: The school has proposed salary arrears of INR 1,89,59,957 for FY 2020-21 and FY 2021-22 which appears quite excessive based on information provided by the school. After detailed review of the documents provided by the school, amount of INR 1,39,59,957 has been considered as salary arrears while deriving the fund position.

ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 April 2010 states that:

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973,DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the School to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has incurred INR 1,00,11,702 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 this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

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

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 13% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are available with the school for meeting financial implication for the academic session 2022-23.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Tagore senior Secondary School (School ID- 1514085), 18 Mayapuri Marg, Mayapuri, New Delhi-110064** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 13% to be effective from 1 October, 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA,

1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

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

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

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

Nandini

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

To
The Manager/ HoS
Tagore senior Secondary School (School ID- 1514085),
18 Mayapuri Marg, Mayapuri,
New Delhi-110064

No. F.DE.15 (1142)/PSB/2022/ 663-668

Dated: 20/01/23

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 (West-A) ensure the compliance of the above order by the school management.
4. DE's nominee concerned.
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

Nandini

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