

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

No. F.DE.15 (038)/PSB/2022/9336-9340

Dated: 17/11/22

Order

WHEREAS, **DAV Public School, B-1 Vasant Kunj, New Delhi-110070 (School ID- 1720148)** (hereinafter referred to as “**the School**”), run by the DAV Collage Trust and Management 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 18.08.2022 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(538)/PSB/2022/3152-3156 dated 19.05.2022 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 18.08.2022, 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 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 2021-22, it has been noted that the school has transferred development fund balance of INR 3,41,23,829 to general funds leaving the closing balance of development funds Nil as on 31.03.2022. 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 salary and salary related cost. The school also mentioned that the financial conditions of the school in last two years were so sever due to which it had to take loan from other school and society. 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. In the absence of necessary information, the development funds/ fee which has been used by the school in last two years towards payment of salary and other expenditure has been carried out based on the available documents on record. From the below table it can be seen that the school had sufficient fund to meet establishment expenditure even without using the development funds/fee.

Particulars	FY 2020-21	FY 2021-22	Total Amount (INR)
Salary & Allowance as per I&E account	10,96,42,936	11,41,15,462	22,37,58,398
Payment towards Gratuity and Leave encashment as per the details provided by the school	*	77,94,094	77,94,094
Establishment Expenditures	10,96,42,936	12,19,09,556	23,15,52,492
Less: Amount already available with the school in the form of investment for payment of retirement benefits	-	-	77,94,094
Less: Amount pending for payment as per audited financial statements	-	-	5,83,39,116
Net payment of salary in last two years including retirement benefits (A)	-	-	16,54,19,282
Available of Funds with the School			
Fee received by the school other annual charges and development fund	7,92,56,674	8,86,00,961	16,78,57,635
Balance of development funds utilized by the school for payment of salary	-	-	3,41,23,829
Development fee treated as revenue receipts in FY 2021-22	-	-	1,20,62,573
Less: Fee receivable as per audited financial of FY 2021-22			75,26,376
Total Funds available with the school for payment of salary (B)			22,15,70,413



Particulars	FY 2020-21	FY 2021-22	Total Amount (INR)
Surplus funds (B-A)			5,61,51,131

*The School has not provided relevant information.

**As the school is not preparing receipts and payment account correctly, therefore, amount actually collected by the school cannot be determined. Hence, income and salary expenditure as per income and expenditure has been considered in the above calculation.

In view of the above calculation, it can be seen that the school had enough fund to meet salary cost without utilising development funds/fee. Therefore, the amount of development fee collected in last three financial years was not actually utilized by the school for payment of salary only rather it has been used to meet the other expenditures of the school. Accordingly, the development fee collected by the school in last three financial years minus capital expenditure incurred by the school is recoverable from the society/ school management due to misutilization. Therefore, net amount of INR 2,86,52,127 as provided in the below table has been included while deriving the fund position of the school with the direction to the school to recover this amount from society/ school management within 30 days from the date of issue of this order.

(Amount in INR)

Particulars	FY 2019-20	FY 2020-21	FY 2021-22	Total
Development fund	92,17,385	75,61,544	1,20,62,573	2,88,41,502
Capital expenditure	1,45,910	0	43465	1,89,375
Development fund utilised for revenue expenditure				2,86,52,127

Further, the school has not been maintaining a depreciation reserve fund in accordance with clause 14 of the order dated 11.02.2009. The school has been preparing a consolidated fixed assets schedule for the purchase of assets both from development funds and general funds. In the absence of a separate fixed assets schedule, it is difficult to identify whether particular assets were purchased out of the development funds or general funds. Therefore, the school is hereby directed to maintain a separate fixed assets schedule for the purchase of assets from development funds and general funds. The compliance with directions shall be evaluated while evaluating the fee hike proposal of subsequent year.

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

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practicing Chartered Accountants from 1 July 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated *"With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing."*

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states *"The auditor's report shall be dated not earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

- i. All the statements that comprise the financial statements, including the related notes, have been prepared; and*
- ii. Those with the recognized authority have asserted that they have taken responsibility for those financial statements."*

However, the audited financial statements submitted by the school FY 2019-20, FY 2020-21 & FY 2021-22 did not include the following information:

- Independent Auditors Report duly signed by the Chartered Accountant.
- Significant accounting policies
- Schedules of income and expenditure accounts

During the personal hearing the school was asked to provide the above-mentioned details and get the clarification from the statutory auditor for not complying with direction of the ICAI with respect to the UDIN for last three financial years. But the school has not provided the above-mentioned details.

The above findings raising serious doubt on the reliability of the audited financial statements submitted by the school. Therefore, the school is hereby directed to get the relevant audit report from the statutory auditor and confirm whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements or not. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the statutory auditor, the school is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The School is further directed to ensure that the audit opinions issued on the final accounts by the practicing Chartered Accountant comply with the requirements enunciated by their regulatory



body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

3. 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 General Funds instead of transferring it as deferred income which may be written off in proportion of depreciation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilization resulting incorrect reporting of General Reserve. Accordingly, the operation loss of INR 14.19 crores reported by the school in the audited financial statements is not correct and misleading to the reader of financial statements.

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.

4. The submissions of the school regarding payment of administrative charges @ 4% of basic pay were taken on record and included in the Directorate's order issued to the school post evaluation of fee increase proposal for academic session 2016-17. Further, the school was directed through DoE Order No. FDE 15(604) PSB/2018/30384-388 dated 12.12.2018 that post implementation of 7th CPC, the school should not incur administrative charges beyond 2% of basic salary. However, while evaluating the fee increase proposal for the academic session 2019-20, it was noted that the school had calculated administrative charges @ 4% of basic salary till FY 2017-18 and @ 7% of basic salary thereafter. Accordingly, the school was directed to recover the excessive administrative charges paid to DAV CMC amounting to INR 57,96,508 (i.e., INR 2,29,509 in FY 2016-17, INR 19,02,992 in FY 2017-18 and INR 36,64,008 in FY 2018-19).

The documents submitted by the school post personal hearing were taken on record, the school mentioned in its reply that it has started charging of administrative charges @ 2% of basic pay. However, it has not transferred administrative charges from April 2019 to DAV CMC. However, on analysis of receipt and payment account from FY 2019-20 to FY 2021-22, it has been noted that the school has paid administrative charges of INR 14,81,340 in FY 2019-20, INR 14,78,275 in FY 2020-21 and INR 14,10,679 in FY 2021-22. Therefore, excessive administrative charges paid by the school to DAV CMC as per the previous order of FY 2019-20 amounting to INR 57,96,508 is still recoverable from society and accordingly it has been included while deriving the fund position of the school.

The review of the audited financial statements, it has been noted although the school has started charging of administrative charges @ 2% of the basic pay and has introduced new head as "other employee cost" @5% of basic pay. Thus, the school has not followed the direction mentioned in Order No. FDE 15(604) PSB/2018/30384-388 dated 12.12.2018 while the school has split it



administrative charged in two parts. Therefore, the excess administrative charges (in the form of other employee cost) of INR 37,54,079 during FY 2019-20, INR 36,97,188 during FY 2020-21 and INR 35,32,797 during FY 2021-22 to be payable to DAV CMC need to be reversed.

Accordingly, the service charges of INR 87,68,000 proposed by the school in its budget of FY 2022-23 has not been considered while deriving the fund position of the School. Noncompliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

5. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:
- a. assets held by a long-term employee benefit fund; and
 - b. qualifying insurance policies."

Further, the para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value 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.*"

Review of the audited financial statements of FY 2021-22 revealed that the school recorded total liability of INR 9,12,61,675 for retirement benefit as on 31.03.2022 based on the LIC valuation report and has invested INR 5,06,38,958 with LIC in plan assets. Therefore, the amount deposited by the school in plan assets has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets.

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

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

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

Review of the audited financial statements of the school revealed that the school has been recording income on cash basis while expenses are being recorded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from



subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.

7. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

- a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02 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 and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The 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,"*

Further, the Hon'ble High Court in LPA 196/2004 in the matter of 'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009' states *"no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged"*.

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 1 5.12.1999 and Order No.F.DE./15(56)/ Act/2009/778 dated 11.02.2009, indicated the following types of Fee that a recognised private unaided school can collect from the students/ parents:

- a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.



- b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states *"admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage"*.
- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 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 he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'Orientation charges', 'Community outreach programme' and 'Extra care facility' from the students of the nursery class at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also charging unwarranted fee under different heads or introduction of any new head in the fee structure other than the prescribed heads of fee and accumulation of surplus funds out of it is prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education. Also, charging of fees in the name of Board examination fees, Computer Fees, communication module fees from the students of all classes loses the character of earmarked levies and is another form of charging capitation fee and involvement in the profiteering and commercialization of the education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible for looking after the smooth operation of the school and ensuring compliance with the provisions of the DSEAR,



1973, including the compliance of directions of the Hon'ble High Court and Supreme Court as well as the orders/circulars issued by the Directorate of Education from time to time in this regard. The manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently, jointly as well as in their personal capacity, be responsible for the levy and collection of capitation fees and any other unauthorized fees collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Noncompliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

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, Science fee, IT Charges, Communication module fees, Group Insurance, Board examination fees, Practical fees, Internet Charges and Computer Fee from students. 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. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

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

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

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

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing, and stationery etc.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. Also, the school is directed not to collect pupil fund from students with immediate effect. Similar observation was also noted while evaluating the fee increase proposal for FY 2019-20.

3. As per the Director's order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued for academic session 2017-18, it was observed that the school has not prepared Fixed Asset Register (FAR). During personal hearing the school submitted that it has formed a team for physical verification of fixed assets and all the data has been captured in Microsoft excel post physical verification of fixed assets. It is also submitted that it had purchased a software in July 2018 and feeding the data in the software since 01.04.2014 by taking closing balance of 31.03.2014.



The school was asked to provide a copy of the fixed assets register either in soft copy or hard copy in order to see the progress of work, but the school has not provided these details for verification. In the absence of the same, it cannot be ascertained whether has prepared fixed assets register or not and that too in the proper format. 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.

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."*

Review of the audited financial statement of FY 2021-22, it has been noted that the school only refunds the principal amount of caution money to the students at the time of their leaving from the school which is not accordance with the above-mentioned provisions.

Therefore, the school is directed to comply with the above-mentioned provision and refund the caution money along with the interest earned thereon. However, the caution money of INR 6,37,500 reported by the school in the audited financial statements of FY 2021-22 has been adjusted while deriving the fund position of the school.

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	2291
EWS Students	376
% of EWS students	16.41%

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 16,05,28,008 out of which the expected expenditures of the school would be INR 17,67,66,783 resulting in net deficit of INR 1,62,38,775 for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	83,93,216
Gratuity pool fund available with DAVCMC as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	2,07,137
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	5,34,35,474
Liquid fund as on 31.03.2022	6,20,35,827
Add: Utilization of development fee in contravention of Clause 14 of Order dated 11.02.2009 (Refer Financial Suggestion No. 1)	2,86,52,127
Add: Recovery of excess administrative charges paid (Refer Financial Suggestion No. 4)	57,96,508
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 1 Below)	10,76,78,835
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 1 Below)	40,34,244
Add: Additional income of annual charges and development fund (Refer Note No. 1 Below)	40,78,609
Total available funds for FY 2022-23	21,22,76,150
Less: FDR in joint name with DOE & Manager of the School	4,71,684
Less: Development Fund as on 31.03.2022	-
Less: Caution money as on 31.03.2022 (Refer Other Suggestion No. 4)	6,37,500
Less: Depreciation reserve fund as on 31.03.2022 (Refer Note No. 2 Below)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 5)	5,06,38,958
Estimated Available Funds for FY 2022-23	16,05,28,008
Less: Budgeted expenditure for FY 2022-23 (Refer Note No. 3 & 4 Below)	14,54,84,781
Less: Salary arrears towards implementation of 7 th CPC (INR 3,73,59,431 minus INR 60,77,429 already allowed in fee hike order of FY 2019-20)	3,12,82,002
Estimated Deficit	1,62,38,775

Note 1: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.



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

- (i) To collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR, 1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021. The above arrangement will 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	6,75,78,470	6,75,78,470	
Annual Charges	1,10,49,545	1,29,99,465	The school recorded 85% of the income. Therefore, this has been grossed up.
Development fund	1,20,62,573	1,41,91,262	

Note 2: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of INR 2,53,42,500 as reported by the School in the audited financial statements for the FY 2020-21 has not been considered while deriving the fund position of the School.

Note 3: 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	11,05,46,448	14,79,73,800	2,63,72,707	Restricted under 110% of the expenses incurred in PY
7th CPC arrear payable to staff		60,00,000	60,00,000	Considered Separately

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Salary arrear payable (up to 31-03-2022)		3,13,59,431	3,13,59,431	
Affiliation and service charges paid to DAV CMC		87,68,000	87,68,000	Refer financial suggestion no. 4
Transportation expense		3,50,000	3,50,000	No income and expense have been considered.
Capital expenditure		20,30,000	20,30,000	No development fund has been available with the School.

Note 4: 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.

- 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 utilised INR 2,86,52,127 in contravention of Clause 14 of the Order No. F.DE/15 (56)/ Act/2009/778 dated 11.02.2009 and INR 57,96,508 in contravention of Order No. FDE 15(604) PSB/2018/30384-388 dated 12.12.2018 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 15% 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 not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the School.

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 **DAV Public School, B-1 Vasant Kunj, New Delhi-110070 (School ID- 1720148)** 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 15% 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.



(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
DAV Public School,
B-1 Vasant Kunj,
New Delhi-110070
(School ID- 1720148)

No. F.DE.15 (1038)/PSB/2022/ 9336-9340

Dated: 17/11/22

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 (Southwest-A) 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.



(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi