

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

No. F.DE.15 (1345)/PSB/2023/ 3504-3508

Dated: 21/04/23

Order

WHEREAS, Birla Vidya Niketan (School ID – 1923250), Pushp Vihar - IV, New Delhi-110017 (hereinafter referred to as “the School”), run by the Birla Academy of Art & Culture (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.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as ‘the Act’) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as ‘the Rules’).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

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

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee 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.

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21/4/23

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing 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 ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by 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 dated 22.02.2023. The school was also provided an opportunity to be heard on 27.02.2023 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on



various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE.15(630)/PSB/2022/3865-3869 dated 31.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

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

A. Financial Suggestion for Improvements:

1. Clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"no amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution."*

The DoE, in its Order No. F.DE.15(630)/PSB/2022/3865-3869 dated 31.05.2022 issued to the school post evaluation of the fee hike proposal for academic session 2019-20, and its previous orders noted that the school had been paying the rent to the society prior to 2013-14 and the same was paid till 2017-18, total amount paid by the school with respect to rent was amounting to INR 13,02,00,000. The said payments were done in contravention to the aforesaid provision. Accordingly, the school was directed to recover the aforesaid amount of INR 13,02,00,000 from society, which is still pending for recovery.

On review of audited financial statements, noted that INR 6,35,45,001 is outstanding to be repaid to the society as on 31.03.2022.

Therefore, INR 6,66,54,999 (INR 13,02,00,000 minus INR 6,35,45,001) utilized by the school for rent payments without complying with the above-mentioned provisions is stand recoverable from the society and therefore, it has been considered in calculation of funds position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Further, the school is directed to adjust the outstanding payable amount to society and post the necessary adjustment entries in the books of accounts.

2. As per Para 49 of 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, para 57 states *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date"*. Also, para 7 of the Accounting Standard defines Plan Assets as under:

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

From a review of the audited financial statements of FY 2021-22 and the documents and records submitted by the school post personal hearing, it has been noted that the school has reported a total



liability for retirement benefits of INR 15,17,61,748 (INR 10,16,09,338 towards gratuity plus INR 5,01,52,410 towards leave encashment) based on the actuarial valuation report obtained by it.

The school also provided proof that it had invested INR 7,06,28,757 with LIC for gratuity payments. The investment with LIC qualifies as plan assets within the meaning of AS-15. Thus, the amount invested by the school has been considered when determining the school's fund position, with the remaining amount directed to be deposited in plan assets.

B. Other Suggestion for Improvements:

1. 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.

2. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:
 - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
 - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
 - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.
 - No separate FAR has been prepared for the assets purchased from the development fund

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school..

3. Para 99 of Guidance Note-21 'Accounting by school' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, *"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"*.

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an accounting head and school do not require creation of equivalent investments against the depreciation reserve.

However, the audited financial statements of the school revealed that the school has not been following para 99 of the GN 21. Because upon incurrence of the capital expenditure out of the development fund, the school has created development fund utilisation account but has not transferred any amount from deferred income to the credit of income and expenditure account.

Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account.

4. 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 02.05.2016 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 15.12.1999 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
- b. Admission Fee:
- c. Caution Money
- d. Tuition Fee
- e. Annual Charges
- f. Earmarked Levies
- g. Development Fee

Based on the provisions mentioned above, charging of '*Welfare fees, Indoor sports fee, mid-day meal, Mind & spark asset exam fees,*' from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of Welfare fees, Indoor sports fee, Mind & spark asset exam fees indicates that the school is engaged in profiteering and commercialization of education.

Further, the information provided by the school were taken on record, it has been noted that school is charging the aforesaid earmarked levies from the students. However, the school is not maintaining fund based accounting i.e., *"upon incurrance of expenditure, the same is charged to Income and expenditure account and corresponding amount is transferred from the concerned restricted fund account to credit of the Income and expenditure account"*. The school has been generating surplus/ deficit from earmarked levies. Summary of surplus/ (deficit) are tabulated below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Transport Fund	(46,08,783)	(45,92,483)	(45,92,483)
Indoor sports	12,74,947	12,74,947	12,74,947
Mid-Day Meal	14,84,433	14,84,433	14,84,433
Computer Fund	(32,01,949)	(32,01,949)	(32,01,949)
Total	(50,51,352)	(50,35,052)	(50,35,052)

Since no separate bank accounts have been opened by the school and the fund balance of the aforesaid earmarked levies are in negative. Therefore, amount available against the aforesaid earmarked levies cannot be identified. In view of the above the school is directed to follow fund based accounting.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

5. 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 Rs. 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

Further, as per clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 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.*"

Based on the discussion with the school during the personal hearing, it has been noted that the school refunds the principal amount only to the students at the time of their leaving from the school, which is not in accordance with the above-mentioned provisions. Therefore, the school is hereby directed to ensure the refund of the caution money along with interest thereon. Accordingly, the outstanding balance of caution money as on 31.03.2022 of INR 1,56,000 has been considered while deriving the fund position of the school.

6. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 20, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

7. 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 which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	3,826
EWS Students *	847
% of EWS students	22.14%

**EWS includes non-fee paying students also.*

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 are **INR 31,90,04,850** out of which expected expenditures of the school would be **INR 33,34,10,080** resulting in net deficit of **INR 1,44,05,229** for the FY 2022-23. The detailed calculation is provided below:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements	99,05,456
Investments as on 31.03.2022 as per Audited Financial Statements (Refer Note 1 below)	7,55,63,390
Liquid fund as on 31.03.2022	8,54,68,846
Add: Recovery from society for payments of building rent to society (Refer financial suggestion No.1)	6,66,54,999
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	23,43,29,166
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 2 Below)	68,79,275
Add: Additional income towards annual and development fee (Refer Note No. 2 Below)	69,57,021
Less: Non Cash income (Refer Note No. 2 Below)	55,53,717
Total available funds for FY 2022-23	39,47,35,590
Less: FDR in joint name of CBSE & Manager	7,94,804
Less: FDR in joint name of DDE & Manager	1,03,179
Less: FDR pledge with SDMC	34,29,000
Less: Student Security Deposit as per Audited Financial Statements of FY 31.03.2022	7,75,000

Particulars	Amount (INR)
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 (Refer Note 3 below)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 2)	7,06,28,757
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 4 Below)	-
Estimated Available Funds for FY 2022-23	31,90,04,850
Less: Budgeted Expenditure as provided by the school (Refer Note No. 5 and 6 Below)	32,85,41,697
Less: Arrears of 7th CPC & DA (Refer Note No. 7 Below)	48,68,383
Estimated Deficit	1,44,05,229

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

S. No	Particulars	Amount INR	Remarks
1	LIC Investment	7,06,28,757	Considered separately.
2	FDR in name of DDE & Manager	1,03,179	Considered separately.
3	FDR in name of CBSE & Manager	7,94,804	Considered separately.
4	FDR Pledge with SDMC	34,29,000	Considered separately.
5	FDR in name of school	6,07,650	Considered as available with the school for utilization
	Total	7,55,63,390	

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, has issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed the management of all the private schools not to collect any fee except the tuition fee, irrespective of the fact whether running on 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 the Single Bench of the Hon'ble High Court of Delhi and the interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of the Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners' private unaided recognised 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 a 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 of the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month's fee or refunded to the parents.
- (ii) The amount so payable by the concerned students shall 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 in 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 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	19,35,20,080	19,35,20,080	
Annual Charges	3,94,23,120	4,63,80,141	The school recorded 85% of the income in the audited financial statements. Therefore, it has been grossed up.
Development fund	-	-	

Non-cash income amounting to INR 55,53,717 related to provision reversal and profit on sale of assets has not been considered while evaluating the fund position for academic session 2022-23.

Note 3: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 states *"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."* From review of audited financial statements it has been noted that development balance is negative by INR (3,33,167) However the school has reported cash/ bank balance against the development fund of INR 87,048 as on 31.03.2022. This indicates that the school is not following correct accounting treatment with respect to collection & utilisation of fund. Therefore, school is directed to rectify its fund balance.

Note 4: 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 fees is comprised of *"registration fee and all one-time charges"* levied at the time of admission, such as admission charges and caution money. The second category of fee comprises the *'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 libraries, laboratories, science, and computers up to class X and the examination fee. The third category of the fee should consist of *'Annual Charges'* to cover all expenditure not included in the second category, and the fourth category should consist of all *'Earmarked Levies'* for the services rendered by the school and be recovered only from the *'User'* students. These charges are transport fees, 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 fee head has already been defined, and the use of development fees or any other fee heads for investments against the depreciation reserve fund is not mentioned anywhere. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the 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 the charging of development fee, as per the above provisions and the decision of the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., 2004(5) SCC 583. despite the fact that clause 7 of the preceding directive does not require the keeping of any investments in a 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 merely 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 the 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 FY 2021-22 has not been considered while deriving the fund position of the school.

Note 5: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following.

Particulars	Expenditure as per Budgeted of FY 2022-23	Disallowed	Remarks
Indoor Sports Expenses	80,00,000	80,00,000	Neither Income nor expenditure has been considered

Computer expenses	99,55,280	99,55,280	
Transportation	4,50,97,500	4,50,97,500	

Note 6: While evaluating fee hike proposals, the department considers how much liquid funds would require the school for a particular session for smooth operation of the school without compromising on the quality of education. Thus, while deriving the fund position of the school, all legitimate expenditures of revenue as well as capital in accordance with the provisions of DESAR, 1973 and the pronouncement of court judgement have been considered. Therefore, the balance of other current assets and other current liabilities has not been considered. Because it is obvious that current assets, loans and advances, and current liabilities are cyclical in nature, and this has already been considered in the form of the school's budgeted income and expenditure in previous years. Thus, current assets, loans and advances, and current liabilities will always be reflected in the audited financial statements of the school at the end of each financial year.

Note 7: The school has submitted INR 2,81,30,012 as 7CPC salary arrears. However out of which INR 2,32,61,630 had already been considered while evaluating fee hike proposal for academic session 2019-20. Accordingly INR 48,68,383 has been considered now while evaluating fund position of the school.

- ii. In view of the above examination, it is evident that the school does not have 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 utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of the 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 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 6,66,54,999 incurred for payment of rents and recoverable from society in contravention to the 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 6% to be effective from 01 April 2023.

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)

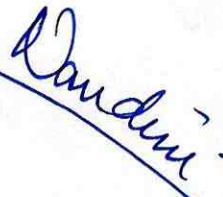
Accordingly, it is hereby conveyed that the proposal for fee hike of **Birla Vidya Niketan (School ID – 1923250), Pushp Vihar - IV, New Delhi-110017** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 6% to be effective from 1 April, 2023.

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


To
The Manager/ HoS
Birla Vidya Niketan (School ID – 1923250),
Pushp Vihar - IV,
New Delhi-110017

No. F.DE.15 (1345)/PSB/2023 | 3504-3508

Dated: 21/04/23

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