

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

No. F.DE.15(1597) / PSB / 2023 / 8917 - 8921

Dated: 18/10/23

ORDER

WHEREAS, **St. Anthony's Senior Secondary School, C-6, S.D.A. (Hauz Khas), New Delhi-110016, (School Id-1925257)** (hereinafter referred to as "**the School**"), run by the **Rockfield Educational Society (Regd.)** (hereinafter referred to as the "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 12th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted.

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

A. Financial Suggestions for Improvement

1. As per clause 2 of the Public Notice dated 04.05.1997 "it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."

Also, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/ KKK/883-1982 dated 10/02/2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

Further, Rule 177 of DSER, 1973 states that "income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And the aforesaid savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

Accordingly, based on the aforesaid provisions, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and not from the school funds.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has utilised development fee on construction of boundary wall of INR 1,91,500 and capitalised the same in FY 2021-22. The amount spent by the school is not in accordance with the above-mentioned provisions as the development fee can only be utilised for purchase, up gradation and replacement of furniture, fixtures and equipment. Also, the cost relating to the building has to be met by the society.

Accordingly, the capital expenditure incurred by the school of INR 1,91,500 on construction of boundary wall has been added to the funds position of the school with the direction to recover this amount from the society within 30 days from the date of issue of the order.

2. As per Clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up-gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has utilised development fee for purchase other than furniture, fixtures and equipment which is contravention of clause 14 of order dated 11.02.2009. Due to the misutilisation of development fee, the correct fund balance cannot be ascertained. The details of misutilisation of development fee during FY 2019-20 to 2021-22 are as given below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Library books	43,135	13,377	18,388

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Boundary Wall	-	-	1,91,500

The school is thus, directed to ensure to utilise the development fee only for the purpose of furniture, fixture and equipment in accordance with provisions of clause 14 of the order dated 11.02.2009.

3. Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states *“The financial statements should disclose, inter alia, the historical cost of fixed assets.”*

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

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has disclosed fixed assets at WDV which is in contravention of the above stated para 67 of the guidance note. Also, the school has not transferred the amount of depreciation charged on assets procured out of development fund to the credit of income and expenditure account which is not in accordance with the accounting treatment prescribed in para 99 of the GN-21.

Accordingly, the school is directed to ensure the compliance of Para 67 and Para 99 of Guidance Note 21 issued by ICAI while preparing the financial statements of the school.

4. As per Accounting Standard 15 - ‘Employee Benefits’ issued by the Institute of Chartered Accountants of India states *“Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.”* Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:
- Assets held by a long-term employee benefit fund; and
 - Qualifying insurance policies.

Further, as per Para 57 of Accounting Standard 15- ‘Employee Benefits’ issued by the Institute of Chartered Accountants of India *“An enterprise should determine the present value of define benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.”*

On review of the financial statements of the school for FY 2019-20 to 2021-22, the school has not created provisions for gratuity and leave encashment as per the actuarial valuation report of LIC. As per the actuarial valuation report of LIC, the Gratuity and Leave encashment liability are INR 2,95,90,686 and INR 1,30,39,736 respectively whereas provision for gratuity and leave encashment reported in the audited financial statements as on 31.03.2022 stood at INR 35,98,426 and INR 1,34,23,808 respectively. Also, the school has invested INR 48,269 in LIC Group Gratuity Scheme which has been considered in the funds available with the school.



Accordingly, the school is directed to disclose its liabilities for retirement benefits (gratuity and leave encashment) according to the actuarial valuation report and to invest an amount equivalent to the liability of retirement benefit that qualify as 'Plan Assets' within 30 days from the date of the order.

Further, the school has proposed INR 30,00,000 and INR 12,00,000 towards provision for gratuity and leave encashment in the budget for FY 2022-23 which has not been considered in the calculation of funds available with the school.

5. The order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Director, Education. Further, as per the directions of Supreme Court in *Modern School vs. Union of India & ANR* (supra), a Circular dated 16.04.2016 has been issued reiterating as under:
- I. It is reiterated that annual fee-hike is not mandatory.
 - II. School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
 - III. If any school has collected fee in excess of that determined as per the procedure prescribed, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

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

On review of fee structure of the school for FY 2019-20 to 2021-22, it is noted that the school has increase tuition fee and annual fee of following classes without obtaining prior approval of the Director, Education.

Tuition Fees

Class	FY 2019-20	FY 2020-21	FY 2021-22
L.K.G.	4,200	4,200	4,500
II	4,000	4,200	4,200
III-V	3,750	4,000	4,200
VI-X	4,200	4,400	4,600
XI Science	5,400	5,700	5,950
XI Com & Arts	4,500	4,800	5,100
XII Science	5,400	5,700	5,950
XII Com & Arts	4,500	4,800	5,100

Annual Fee

Class	FY 2019-20	FY 2020-21	FY 2021-22
L.K.G.	667	750	750

Accordingly, the school is again directed to refund/ adjust the increased fee to the students charged during the FY 2019-20 to 2021-22 and submit the evidence of the same to the Directorate within 30 days from the date of issue of the order and not to increase any fee of any class without prior approval of the Directorate.

B. Other Suggestions for Improvement

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 States "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

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

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

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

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

On review of fee structure for FY 2019-20 to 2021-22, it is noted that the school charges earmarked levies in the name of Computer Fee and the school has not maintained fund-based accounting for earmarked levies. However, the surplus or deficit in respect of earmarked levies cannot be ascertained as the receipts and expenditure are not identifiable from the financial statements.

Based on the above-mentioned provisions, earmarked levies are to be collected only from the user students availing of the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular

activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

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

2. 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*, held that 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 capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the sponsorship of the DoE. Therefore, the school is bound to follow all the instructions/directions issued by the DoE under the obligation of land allotment. Additionally, Rule 50 of DSER, 1973 states "*the school is not run for profit to any individual, group or association of individual or any other person*" and "*the managing committee observes the provisions of the Act and Rules made there under*".

Based on the provisions mentioned above and the pronouncements of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of any new head in the fee structure etc. whether at the time of the admission of the students or otherwise. In this regard the Directorate vide *Order No. DE15/Act/Duggal.com/203/ 99/23033-23980 dated 15.12.1999* has already specified the head of fees that a recognized private school can collect from the students/parents. Clause no. 9 of the aforesaid order states "*No fee, fund or any other charge by whatever name called, shall be levied or realized unless it is determined by the Managing Committee in accordance with the directions contained in the order*".

Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents other than the specified head of fees provided in the abovementioned order. Therefore, any demand of capitation fee or introduction of the new head of fee other than the notified head of fees would be termed as *commercialization and exploitation of education*, which is not permissible at any cost.

On review of fee structure for FY 2019-20 to 2021-22, it is noted that the school is collecting INR 1,167 per month in the name of "Est. Fees" from the students newly admitted to the school which is in the nature of the capitation fee and therefore, not in accordance with aforesaid provisions and the instructions of the Directorate.

Accordingly, the school is directed to stop collecting such fees from the students newly admitted to the school immediately. Non-compliance with this direction would be viewed seriously while evaluating the fee increase proposal of the subsequent year.

3. As per 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 view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has not disclosed related party transactions. The school should disclose related party transactions in its notes to accounts forming part of financial statements.

Therefore, the school is directed to disclose the related party transactions in compliance with Guidance Note 21 issued by ICAI.

4. 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."

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has charged depreciation as per the rates provided under the Income Tax Act, 1961.

Accordingly, the school is directed to charge depreciation at the rates prescribed in Guidance Note 21 issued by ICAI.

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

- i. The total funds available for the FY 2022-23 amounting to **INR 15,60,25,968** out of which cash outflow in the FY 2022-23 is estimated to be **INR 9,94,33,000**. This results in net surplus of **INR 5,65,92,968** for FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	3,45,96,925
Investments as on 31.03.22 as per Audited Financial Statements	3,40,45,008
Liquid Funds as on 31.03.2022	6,86,41,933
Add: Recovery from the society against capitalisation of boundary wall during FY 2021-22 and installation of solar plant in FY 2019-20 (Refer Financial Suggestion No.1)	19,38,000
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 below)	10,18,68,475
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 below)	8,17,252
Add: Additional Income of Annual Charges and Development Fund	-
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 below)	-
Total Available Funds for FY 2022-23	17,15,19,160
Less: Fixed Deposit in the joint name of Dy. Director Education and Manager of the school as on 31st Mar 2022 (Refer Note 1 Below)	9,00,287
Less: Development fund Bank account Balance as on 31.03.2022	1,45,44,636
Less: Investment with LIC against liability for retirement benefits [Refer Financial Suggestion No. 4]	48,269
Net Available Funds for FY 2022-23 (A)	15,60,25,968
Less: Budgeted expenses for the session 2022-23	9,94,33,000
Less: Salary Arrears of 7th CPC (Refer Note 4 below)	-
Total Estimated Expenditure for FY 2022-23 (B)	9,94,33,000
Net Surplus (A-B)	5,65,92,968

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

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Manager and Dy. Director of Education	9,00,287	Deducted while calculating available funds of the school.
Total	9,00,287	

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

Note 3: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the

chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

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

- (i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

The school has submitted that it has not charged annual fee and development fee for FY 2020-21. Also, it submitted that no arrears of annual fee and development charges are received in the subsequent years i.e., 2021-22 and 2022-23.

Note 4: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

As per school's reply during hearing, the school has already implemented 7th CPC recommendations w.e.f. 01.07.2017 and has also paid the amount of salary arrears. Thus, there is no amount to be deducted on account of salary arrears.

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

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in



the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

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

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

AND WHEREAS, it is noticed that the school has incurred INR 1,91,500 in contravention of Rule 177 and other provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of the order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

AND WHEREAS, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **St. Anthony's Senior Secondary School, C-6, S.D.A. (Hauz Khas), New Delhi-110016, (School Id-1925257)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA,

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

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

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

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

(Signature)
18/10/23

(Bimla Kumari)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
St. Anthony's Senior Secondary School,
C-6, S.D.A. (Hauz Khas),
New Delhi-110016, (School Id-1925257)

No. F.DE.15 (1597)/PSB/2023 / 8917-8921

Dated: 18/10/23

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. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

(Signature)
18/10/23

(Bimla Kumari)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi