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

No. F.DE.15(876)/PSB/2022/6056 - 6060 Dated: 28/07/22

ORDER

WHEREAS **Saai Memorial School, Sai Bhawan, Geeta Colony Near Petrol Pump, Delhi – 110031 (School Id: 1003239),** (hereinafter referred to as "**the School**"), run by the Sai Memorial Education 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, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the school to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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.'*

AND WHEREAS, besides the above, 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2018-19. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the school for the academic session **2018-19**.

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 for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-19, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 06.07.2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. F.DE-15/(588)/PSB/2018/30924-29 dated 30.11.2018, issued for academic session 2017-18, was also discussed and submissions taken on record.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations noted are as under:

A. Financial Observations

1. Clause 2 of Public notice dated 04.05.1997 states *"Schools are not allowed to charge building fund and development charges when the building is complete or otherwise, as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the School become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges".*

Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that *"Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society"*. Also, clause (vii) 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 financial fee structure.*

Rule 177 of DSER,1973 states *"income derived by an unaided private 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. The abovementioned 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 abovementioned provisions and pronouncement of court's judgement, 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 School funds i.e., fee collected from students is not to be utilised for the same.

The DoE through order no. F.DE-15/(588)/PSB/2018/30924-29 dated 30.11.2018 issued for academic session 2017-18, directed the school to recover INR 1,17,88,475 from the society on account of expenditure incurred for addition to auditorium and furnishing work related to the building undertaken by the school from the FY 2014-15 to FY 2016-17 which is still pending for recovery.

The School in its reply submitted that "*the captioned expenditure has been incurred duly under the legal framework. The school is allowed to spend the tuition fee on the said development purposes on availability calculated under Rule 177 of DSER' 1973*". The contention of the school is incorrect because, in accordance with the aforementioned provisions, the school cannot be allowed to meet the responsibility of the society for which society is otherwise responsible. Further, the school has incurred the above expenditure without complying with the requirements of Rule 177 of the DSER, 1973. Accordingly, the explanation provided by the school in its reply is not tenable and the school is required to recover the aforesaid amount from society.

Further, on review of the audited financial statements of FY 2017-18, it has been noted that the School has further incurred an additional amount for construction of the auditorium and related facilities which was also not in accordance with the above-mentioned provisions. Details of additional expenditure incurred by the school are provided below:

(Amount in INR)

Particulars	FY 2017-18
Auditorium	10,00,000
Furnishing work	32,00,000
Lift elevator	9,00,000
Total	**51,00,000**

Accordingly, the total expenditure of INR 1,68,88,475 (INR 1,17,88,475 plus INR 51,00,000) incurred by the school for construction of building has been included in the calculation of fund position of the School with the direction to the School to recover this amount from the society within 30 days from the date of issue of this order.

2. As per Rule 177 of DSER,1973 states "*income derived by an unaided private 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. The abovementioned 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.*"

The DoE through order no. F.DE-15/(588)/PSB/2018/30924-29 dated 30.11.2018 issued for academic session 2017-18 directed to the school to recover INR 13,81,769 from the society for purchase of the vehicle out of the school funds and the expenditure was incurred without complying with the requirements of Rule 177 of DSA' 1973. However, this amount is still pending for recovery.

The school in its reply submitted that "*the said treatment was done according to fund-based accounting principles and does not involve any misappropriation/deviation of funds as such*". The contention of the school is incorrect because Rule 177 of DSER, 1973 has clearly specified the manner in which the school fee/funds should be utilized. It has been noted that the school, on the one hand, has to implement the recommendation of the 7th CPC in full, earmarked the investment for payment of gratuity and leave encashment in accordance with AS-15, and maintenance of salary reserve equivalent to three months' salary for meeting future contingencies. The school, despite doing all this that is required to do on a normal course of business, preferred to purchase a luxury car (Creta) for INR 13,81,769 without complying with the requirement of Rule 177 of DSER'1973. Further, Section 18(4) states *"income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed".*

Based on the above-mentioned provisions and reply submitted by the school, it appears that the school has incurred INR 13,81,769 for purchase of a car that will be used by the school management for their personal purposes, not for the benefit of the students. Therefore, the same has been considered as funds available with the school while deriving the fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

3. Para 14.2 of accounting standard 10- Fixed asset states that *"items of fixed asset that have been retired from the active use and are held for disposal are stated at the lower of their net book value and net realisable value and are shown separately in the financial statement. Any expected loss is recognised immediately in the profit and loss account"*

   On review of the audited financial statements of FY 2018-19, it has been noted that the school has reported a sale of a fixed asset as a reduction from the gross value of the fixed asset which is not in accordance with the accounting treatment specified in AS-10 issued by ICAI. Thus, the cost of fixed assets reported by the school in its audited financial statements is not in accordance with accounting treatment specified in the Accounting Standards (AS-10). In the absence of relevant information with respect to the cost of the assets sold, accumulated depreciation, the impact of profit and loss on sale of such assets cannot be determined.

   Further, the DoE in its order F.DE-15/ (588)/PSB/2018/30924-29 dated 30.11.2018 issued for academic session 2017-18, noted similar observations and directed the school to pass the necessary rectification entries in the books of accounts and report the same in the audited financial statements. But the school has not complied with the above-mentioned directions.

   Therefore, the school is hereby again directed to make necessary changes to the carrying amount of the fixed assets and submit the compliance report within 30 days from the date of issue of this order.

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

   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 defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

The documents submitted by the school, such as the actual valuation report etc. were taken on record. On review of the documents submitted by the school, it has been noted that the school has recorded liability for gratuity and leave encashment based on the actuarial valuation report. The total liability as per the actuarial valuation report was INR 66,52,339 for gratuity and INR 9,60,106 for leave encashment as on 31.03.2019.

Although the school has got the actuarial valuation report for its retirement benefits and reported the same in the audited financial statements. However, it has not invested any amount in plan assets which can be utilized by the school in discharging this liability. Since the school has only created provisions for its retirement benefits without having any investment in plan assets, no amount has been considered while deriving the fund position of the school except the amount which was actually paid by the school during the financial year 2018-19.

Accordingly, based on the information submitted by the school post personal hearing, actual payment of INR 15,12,248 (i.e., INR 14,72,772 for gratuity and INR 39,476 for leave encashment) made by the school towards gratuity and leave encasement has been considered while deriving the fund position of the school.

The school is hereby directed to invest an amount equivalent to the amount determined by the actuary in plan assets as per the requirement of AS-15 within 30 days from the date of issue of this order and submit the compliance report thereof.

B. Other Observations

1. 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 11.02.2009 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 is administered.*"

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).

Based on the information provided by the school and basis of the presentation made by the school in its audited financial statements, it has been noted that the school has started maintaining of separate fund accounts towards transportation charges. However, this has not been routed through income and expenditure accounts. The earmarked levies collected by the school based on the audited financial statements is provided below.

Particulars	Transport Fee	Smart Class Fee
For FY 2017-18		
Fee Collected during the year (A)*	-	23,56,025
Expenses during the year (B)*	-	21,21,292
Difference for the year (A-B)		**2,34,733**
For FY 2018-19		
Fee Collected during the year (A)	1,32,06,899	25,49,550
Expenses during the year (B)	1,33,36,112	23,73,622
Difference for the year (A-B)	**(1,29,213)**	**1,75,928**
Total	**(1,29,213)**	**4,10,661**

*Income and Expense details not provided by the School.

The earmarked levy is usually to be collected only from the user students availing 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 that 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). From the record submitted by the School, it was noted the School has been collecting Smart class fee from all the students which loses the character of earmarked levies. Therefore, the School is directed not collect earmarked levies in the name of Smart class Fee with immediate effect. 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.

Further, the School is directed to charge earmarked levy on "no profit no loss basis" from the user students only. However, unintentional surplus/deficit, if any, generated from earmarked levies shall be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Accordingly, 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. The school is required to maintain fund-based accounting and charge all its receipt and payments of earmarked levies through income and expenditure Account ('Restricted Funds' column). The school is further directed to comply with the above direction and submit the compliance report within 30 days from the date of issue of this order.

2. The Fixed Asset Register should capture the details of the asset name, date of purchase and the amount serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

However, the School had not prepared Fixed Asset register (FAR) in proper format and captured the asset name, date of purchase and the amount in the FAR. The School had not included complete details in the FAR such as amount, serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

Therefore, the School is directed to prepare the FAR with relevant details mentioned above and the same shall be verified at the time of examination of fee proposal for next financial year. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the School.

3. Clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*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 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.

Also, 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.*"

Further para 67 of GN-21 States "*the financial statement should disclose, inter alia, the historical cost of fixed assets.*"

On review of the audited financial statements of FY 2016-17 to FY 2018-19, it has been noted that the school has not been charging depreciation in the income and expenditure account. However, the school has been following peculiar types of accounting treatment with respect to the creation of depreciation reserve fund. The school as per its convenience randomly transfer some amount from general funds to deprecation reserve fund which is not in accordance with the clause 14 of the order dated 11.02.2009. It appears that the school has been creating depreciation reserve funds just for the sake of compliance without having any logic or details as how the numbers for deprecation reserve fund was arrived.

Further, upon utilization of development funds, the school transfers an amount equivalent to the assets purchased to general funds, which is not in accordance with the accounting treatment specified in para 99 of the Guidance Note 21 cited above. The school, instead of treating this as a deferred revenue income, transferred the same to general funds, resulting in overstatement of the general funds balance with the notional amount.

The DoE vide its order no. F.DE-15/(588)/PSB/2018/30924-29 dated 30.11.2018 issued for academic session 2017-18, directed the school to maintain the deprecation reserve fund as per clause 14 of the order dated 11.02.2009 and pass necessary rectification entries in its books of accounts, the school has not yet complied with the above directions. Therefore, the school is again directed to comply with the above-mentioned provisions and submit the compliance report within 30 days from the date of issue of this order.

4. 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 condition specified in the land allotment letter. As per the land allotment letter the school is required to provide 25% reservation for children belonging to EWS/ DG categories. Based on the information provided by the school, it appears that the school has not been complying with the above direction and condition of land allotment letter. Since, the School is not complying with the aforesaid order, the concerned DDE are required to look into the matter. The admission allowed under EWS/ Free ship during the FY 2017-18 and FY 2018-19 based on the information provided by the school has been tabulated below:

Particulars	FY 2017-18	FY 2018-19
EWS Students	250	273
Total Students	2102	2025
% of EWS Students	11.89%	13.48%

5. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is 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 2018-19, 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 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.

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 available funds for the academic session 2018-19 amounting to INR **10,59,81,995** out of which cash outflow for academic session 2018-19 is estimated to be INR **9,98,82,701**. This results in net surplus of INR **60,99,294**. The details are as follows:

Particulars	Amount in INR
Cash and bank balances as on 31.03.18 (as per audited financial statements for FY 2017-18)	23,13,630
Investments as on 31.03.18 (as per audited financial statements for FY 2017-18)	61,10,788
Liquid Fund as on 31.03.2018	**84,24,418**
Add: Fees for FY 2018-19 as per audited financial statements of FY 2018-19 (refer note no.1)	7,96,94,715

Particulars	Amount in INR
Add: Other income for FY 2018-19 as per audited financial statements of FY 2018-19 (refer note no.1)	10,79,459
Add: Recovery from the Society for construction of Building and related utilities (refer financial observation no.1)	1,68,88,475
Add: Recovery from the Society for purchase of vehicle (refer financial observation no.2)	13,81,769
Total Available funds for FY 2018-19	**10,74,68,836**
Less: FDR in the joint name of Director, Education and Manager, School (as per School's submission)	8,97,956
Less: Investment against specific funds (Refer note no.2)	-
Less: Development Fund as on 31.03.2018	5,88,885
Less: Depreciation reserve fund as on 31.03.2018 (refer note no.3)	-
Net Available funds for FY 2018-19	**10,59,81,995**
Less: Actual expenses as per the Audited Financial Statement of FY 2018-19	7,76,39,863
Less: Impact of implementation of 7th CPC (refer note no.4)	2,22,42,838
Estimated Surplus	**60,99,294**

Note 1: Fee and income as per the audited financial statements of FY 2018-19 has been considered in the above calculation.

Note 2: As per information provided the school, bifurcation of investments held by the school as on 31.03.2018 was as under:

Particulars	Amount in INR	Remark
FDR with Indian bank against gratuity and leave encashment.	52,12,832	Investment held in the form of FDR does not qualify as plan assets within the meaning of AS-15 issued by ICAI. Therefore, this has been considered as part of the available funds with the school.
FDR in joint name with Dy. Director of Education.	8,97,956	This investment held in the joint name has been excluded while deriving the fund position of the school.
FDR pledged with the bank to create Bank guarantee (BG) for JADSC.	66,00,000	The school has submitted BG with the Registrar of Delhi High Court by pledging its FDR of INR 69.95 lacs. Therefore, this has been excluded while deriving the fund position of the school.

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "*Registration fee and all one Time Charges*' levied at the time of admissions such as admission 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 funds of INR 1,44,062 as reported by the School in the audited financial statements for the FY 2017-18 has not been considered while deriving the fund position of the School.

Note 4: The Directorate vide order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized Schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their Schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized Schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

As per the minutes of meeting of the School Management Committee dated 27.03.2019 and documents submitted by the School which were taken on record, it has been noted that the School has partially implemented the recommendation of 7th CPC with effect from October 2019. The school further explained that 7th CPC could not be implemented w.e.f. 01.01.2016 on the ground of insufficient funds with the school.

Accordingly, the School has provided salary arrears of INR 2,63,88,573 for the period from January 2016 to September 2019. Out of the total salary arrears amount of INR 41,45,735 which is pertaining to the period from April 2019 to September 2019 has been excluded. Therefore, the net arrears of INR 2,22,42,838 (INR 2,63,88,573 minus INR 41,45,735) pertaining upto 31.03.2019 has been considered while deriving the fund position of the School with the direction to the School to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the School would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

ii. The School has sufficient funds to carry on the operation of the School for the academic session 2018-19 on the existing fees 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 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 observations (appropriate financial impact has been taken on the fund position of the School) and certain other observations (appropriate instructions have been given in this order), that the sufficient funds are available with the School to carry out its operations for the academic session 2018-19. Accordingly, the fee increase proposal of the School may be rejected.

AND WHEREAS, it has been noted that the School has incurred INR 1,82,70,244 towards construction of building and related utilities, purchase of car, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the School is directed to recover INR 1,82,70,244 from the Society. The receipt of the above amount along with the copy of the bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this Order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of sections 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 the funds are available with the School for meeting its financial implication for the academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

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

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2018-19 of **Saai Memorial School, Sai Bhawan, Geeta Colony Near Petrol Pump, Delhi – 110031 (School Id: 1003239),** has been rejected by the Director of Education.

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

1. Not to increase any fee/charges during FY 2018-19. In case, the School has already charged increased fee during FY 2018-19, 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 this Order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Delhi School Education Act, 1973, and Delhi School Education Rules, 1973.

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

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

To

Saai Memorial School,
Sai Bhawan,
School Id: 1003239
Geeta Colony Near Petrol Pump,
New Delhi – 110031

No. F.DE.15(876)/PSB/2022/6056-6060 Dated: 28/07/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) to 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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi