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

No. F.DE.15(683)/PSB/2022/ 4090-4094 **Dated:** 03/06/22

ORDER

WHEREAS, **Vishal Bharti Public School, A-1 Block, Paschim Vihar, New Delhi-110063 (School ID: 1617190),** (hereinafter referred to as "School"), run by the Samarth Shiksha Samiti (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, every 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.'*

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 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/2019/2698-2707 dated 27.03.2019, 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 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 very 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 of being heard on 25.11.2019 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(635)/PSB/2018/30522-30526 dated 14.12.2018, 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 findings noted are as under:

A. Financial Observations

1. Direction no. 2 included in 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.*"

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

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

Accordingly, based on the aforementioned public notice and High Court 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 in its Order no. F.DE.15(635)/PSB/2018/30522-30526 dated 14.12.2018 issued post evaluation of proposal for enhancement of fee for FY 2017-18, directed the school to recover INR 1,51,43,080 (INR 61,15,421 plus INR 36,35,285 plus INR 53,92,374) from the Society for amount spent on construction of school building during the FY 2014-15 to FY 2016-17 which is still pending for recovery. The school incurred this expenditure without complying with the above-mentioned provisions.

Further, on review of the audited financial statements of FY 2017-18 and FY 2018-19, it has been noted that school has incurred INR 51,69,428 (INR 22,81,410 in FY 2017-18 plus INR 28,88,018 in FY 2018-19) for construction of building. The school incurred this expenditure without complying with Rule 177 of DSER, 1973.

In addition to the above capitalization under the head building, it has also been noted that the school has incurred INR 81,88,724 (INR 12,98,119 in FY 2016—17 *plus* INR 29,13,981 in FY 2017-18 *plus* INR 39,76,624 in FY 2018-19) for building maintenance. Review of the ledger account submitted by the school revealed the nature of expenses incurred. As per the narration mentioned in the ledger account, it appears that this expenditure was of capital nature. However, the school has recorded this expenditure as revenue expenditure. Therefore, the school is directed to differentiate between revenue and capital nature of expenditure and record the same accordingly.

The school has incurred the above capital expenditure before implementation of the recommendation of 7th CPC and before depositing an amount equivalent to its statutory liability for towards gratuity and leave encashment in plan assets. Thus, the School instead of paying salary to its staff in accordance with the recommendation of 7th CPC preferred to incur expenditure of capital nature (which is otherwise be the responsibility of the society) with the expectation to get the fee hike from the DoE. As per Rule 177 the School should first utilize its resources for meeting the establishment cost and other benefits admissible to the employees and if there is any saving after that the same may be utilized for meeting capital and contingent nature of the expenditure of the school.

Accordingly, the capital expenditure incurred by the school totalling to INR 2,85,01,232 (INR 1,51,43,080 plus INR 51,69,428 plus INR 81,88,724) for construction of building is hereby added to the fund position of the school considering the same as funds available with the school with the direction to recover such amount from the society within 30 days from the date of issue of this order.

2. 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.*"

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.*"

On review of the audited financial statements of FY 2016-17 to FY 2018-19 and documents submitted by the school. It has been noted that school has incurred capital expenditure on purchase of buses by taking loan from bank and used the school fund for meeting the financial and interest cost to provide the services to a specific user of such facility. The school incurred this expenditure without complying the above-mentioned provisions. the details school funds utilized by the school for meeting of financial and interest cost is provided below.

Sl. No	Particulars	VL-I	VL-II	VL-III
1	Purchase Cost			60,41,008
2	Loan Amount	17,91,000	17,64,000	17,64,000
3	Down payment= (1-2)			7,22,008
4	Loan repayments start date	01-07-2016	01-04-2017	01-04-2017
5	Principal amount outstanding as on 31.03.19	2,25,580	6,88,346	6,88,346
6	Principal repaid till 31.03.19	15,65,420	10,75,654	10,75,654
7	Instalment paid till 31.03.19	18,41,248	12,78,018	12,78,018
8	Interest paid till 31.03.19 = (7-6)	2,75,828	2,02,364	2,02,364
9	Total payment made till 31.03.19= (3+6+8)			51,19,292
10	Transport fund available till 31.03.2019 (Refer other observation No.1)			13,94,722
11	School funds utilized for purchase of buses till 31.03.19 (9-10)			37,24,570

Since, the school has not been maintaining fund-based accounting for transport facility. The school funds cannot utilise for providing service to specific users i.e. transport service. Had this fund was not utilized for meeting the financial and interest cost the same could have been used for payment of arrears for implementation of the recommendation of the 7th CPC and invest in plan assets towards its statutory liability i.e. for gratuity and leave encashment. The surplus/deficit available from transport facility of last 3 year has also been taken into consideration. The school earned net surplus of INR 13,94,722 from transport fee (Refer other observation no.1) which has been adjusted in the above table. Thus, the net school funds which has been utilized by the school totalling to INR 37,24,570 has been included 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. Further, the school is directed to ensure that capital assets are not procured from the school funds unless savings are derived in accordance with Rule 177 of DSER, 197.

3. 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 AS-15 states that *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

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

The school has got the actuarial valuation report for its liability towards gratuity and leave encashment and has recorded equivalent liability in the books of the accounts. As per the financial statements of FY 2018-19, the total liability towards retirement benefit was INR 2,45,91,037 as on 31.03.2019. However, school has not invested any amount in plan assets as required by AS-15.

Since, no amount has been invested in plan asset by the school. The aforesaid liability of INR 2,45,91,037 has not been considered while deriving the fund position of the school. The school is further directed to invest equivalent amount in plan assets against the total liability for gratuity and leave encashment within 30 days from the date of issue of this order and submit the status of compliance.

4. Recruitment Rules prescribed under DSEA, 1973 defines various posts in the school, but does not include any position for Manager/ Director. Further, Section 2(m) of DSEA,1973 states that Manager / Director in relation to a school, means the person, by whatever name called who is entrusted, either on the date on which this Act comes into force, or as the case may be, under a Scheme of Management made under Section 5 of the DSEA, 1972 with the management of the affairs of that school.

Based on the above provisions, the manager/Director of the school cannot be treated as an employee of the school and is not entitled to salary as per the provisions of the DSEAR, 1973. Accordingly, the School shall not pay any remuneration whatsoever to the Director out of the school fund.

On review of the documents submitted by the school, it has been noted that the school has appointed Mr. J.C Chandna as 'Director-Admin' of the school who has been getting salary every month in contravention of the above-mentioned provisions. During personal hearing the school was asked to provide detailed calculation of salary and other benefits which is being paid to the Director-Admin, but the school has failed to the submit this detail. In the absence of such information amount paid of INR 46,000 to the Director-Admin in the month of March 2019 (as per salary sheet) has been taken as base for calculation of salary paid to the Director-Admin from FY 2016-17 to FY 2018-19.

Accordingly, the total amount of INR 16,56,000 has been considered to be recoverable from the society/ Director-Admin.

Hence, the amount paid to Director-Admin of INR 16,56,000 is hereby added to the fund position of the school considering the same as funds available with the school with the direction to the school to recover this amount from the Director/Society within 30 days from the date of issue of this order. Further, the school is directed not to pay any remuneration/allowance/ to the Director-Admin from the school funds.

5. The Order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools 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 & Ors.*** (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

   a) It is reiterated that annual fee-hike is not mandatory.
   b) 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.
   c) If any school has collected fee in excess of that determined as per procedure prescribed, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

Also, Clause no. 16 of 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."*

The DoE Order No. F.DE.15(635)/PSB/2018/30522-30526 dated 14.12.2018 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18, observed that the fee increase proposal of the school for academic session 2016-17 was rejected by the DoE with the direction that in case increased fee has already charged from the parents, the same need to be refunded/adjusted. However, school had increased its tuition fee and development fee of 1st standard class from INR 11,688 to INR 13,767 per month and INR 1,164 to INR 2,061 per month for FY 2016-17 without taking prior approval of the Directorate.

On review of the documents submitted by the school, it has been noted that school has not refunded/adjusted the increased fee collected by the school for the academic session 2016-17 and has been charging the increased fee until now. Therefore, the school the school is again directed to refund/ adjust the increased fee collected from the students and submit the compliance within 30 days from the date of issue of this order. A strict action against the school will be taken U/s 24 of the DSEA,1973 if the school fails to comply with this direction without providing any further opportunity to the school.

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.*"

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

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).

The information provided by the school were taken on record, it has been noted that the school charges earmarked levies in the form of Transport fee, smart class fee, Health & Hygiene fee, Safety & Security fee, Science fee and Computer fee from the students. However, the school has not been maintaining separate fund accounts for these earmarked levies. The school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school, or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

Particulars	Smart Class	Transport Charges^	Health & Hygiene	Safety & Security	Science Fee	Computer Fee
For the year 2016-17						
Fee Collected during the year (A)	51,62,100	82,23,066	34,41,500	34,41,500	2,74,800	1,17,600

Expenses during the year (B)	48,39,822	84,01,088	33,30,292	31,35,951	6,29,000	4,80,120
Difference for the year (A-B)	**3,22,278**	**-1,78,022**	**1,11,208**	**3,05,549**	**-3,54,200**	**-3,62,520**
For the year 2017-18						
Fee Collected during the year (A)	53,49,000	80,00,350	35,66,000	35,66,000	2,98,000	1,34,800
Expenses during the year (B)	53,78,448	71,30,162	40,57,985	39,37,398	6,76,855	6,15,025
Difference for the year (A-B)	**-29,448**	**8,70,188**	**-4,91,985**	**-3,71,398**	**-3,78,855**	**-4,80,225**
For the year 2018-19						
Fee Collected during the year (A)	56,07,000	84,03,800	37,38,000	37,38,000	2,92,400	1,68,400
Expenses during the year (B)	56,38,303	77,01,244	47,39,955	45,62,436	7,29,329	6,22,607
Difference for the year (A-B)	**-31,303**	**7,02,556**	**-10,01,955**	**-8,24,436**	**-4,36,929**	**-4,54,207**
Total (Surplus)	**2,61,527**	**13,94,722**	**-13,82,732**	**-8,90,285**	**-11,69,984**	**-12,96,952**

^ The school did not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

From the above table, the earmarked levies are 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 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). From the record submitted by the school, it was noted the school has been collecting Activity, Smart class and I.T fee from all the students which loses the character of earmarked levies. Therefore, the school is directed to stop the collection in the name of such fee with immediate effect.

Since, the school is not following fund base accounting in accordance with the provision cited above. The total fee (including earmarked fee) has been included in income and expenditure and have been considered in calculation of fund availability with the school and school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilised or adjusted against earmarked fees collected from the users in the subsequent year.

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 should evaluate costs incurred against each earmarked levy and propose the revised structure for earmarked levies during the 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. 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, upgradation and replacement of furniture fixtures and equipment's. 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*".

Based on the presentation made in the audited financial statements of FY 2018-19, it has been noted that the school has started maintaining depreciation reserve fund from the FY 2015-16 onwards however, depreciation reserve fund maintained by the school is not equivalent to the deprecation charged in the revenue accounts and fixed asset schedule.

Similar observation was noted in Order no. F.DE.15(635)/PSB/2018/30522-30526 dated 14.12.2018 issued for academic session 2017-18 where school was directed to maintain depreciation reserve fund equivalent to depreciation charged to revenue account.

Hence, the school is again directed to maintain depreciation reserve fund equivalent to depreciation charged in the revenue account and make necessary rectification entries relating to development fund, fixed assets and depreciation reserve to comply with the accounting treatment indicated in the Guidance Note-21 issued by ICAI failing of which the school shall not be allowed to charged development fee in subsequent financial years.

3. Para 99 of Guidance Note-21 on 'Accounting by Schools' (2005) 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 102 of the abovementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

a) In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;)
b) Assets, such as investments, and liabilities belonging to each fund separately
c) Restrictions, if any, on the utilization of each fund balanced)
d) Restrictions, if any, on the utilization of specific assets."

And as per para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

On review of audited financial statements of the school for FY 2018-19, it has been noted that school has not maintained development fund utilisation account and has not credited deferred income in income & Expenditure account to the extent of the cost of the asset in proportion to the depreciation charged every year as required under para 99 of guidance note-21 mentioned above.

Also, the school reported fixed assets purchased from development fund at book value however, fixed assets purchased from general fund and depreciation reserve fund were presented at written down value in the fixed asset schedule and on the face of the Balance Sheet as on 31.03.2019

Similar observation was noted as per order No. F.DE.15(635)/PSB/2018/30522-30526 dated 14.12.2018 issue wherein the school was instructed to maintain development fund utilisation account and to credit deferred income in proportion to development fund utilisation.

Hence, the school is again directed to maintain development fund utilisation account and to credit deferred income in proportion to development fund utilisation by making necessary rectification entries relating to development fund, fixed assets, deferred income and depreciation reserve to comply with the accounting treatment indicated in the Guidance Note. Further, the school should present the fixed assets at historical cost in the financial statements for succeeding years.

4. On review of submission of documents made post personal hearing, it has been noted that the school had no process in relation to calling of quotations from vendor, approval process, gate inward control and payment, only oral communication is done with the prospective suppliers and no documentation was done for the same. The school was not preparing any comparative statement for evaluating the quotations received from vendors and was not getting the same approved from the purchase committee. Also, the school does not have a process of maintaining gate inward and outward register and stamping the invoice at entry gate.

   Accordingly, the school is directed to follow proper procurement process and maintain proper documentation in relation to procurements and purchases done by the school. Compliance of the above shall be verified at the time of evaluation of proposal for fee enhancement for subsequent year.

5. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the School along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned School and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

However, on review of audited financial statement for the FY 2017-18 and 2018-19, it has been observed that the school is refunding only the principal amount to the student at the time of leaving the School, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009. The balance of caution money as on 31.03.2018 is INR 4,87,500 as per audited financial statements for the FY 2017-18.

Accordingly, the School is again directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

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

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

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

Also, para 47 of SA 700 states "*The auditor's report shall be dated no earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

i. *All the statements that comprise the financial statements, including the related notes, have been prepared; and*

ii. *Those with the recognized authority have asserted that they have taken responsibility for those financial statements.*"

The financial statements for FY 2018-2019 submitted by the School along with Audit Report signed by Chartered Accountant did not cite UDIN, as mandated by ICAI. Further, the Chartered Accountant failed to mention the date of signing on the audit report, balance sheet and income and expenditure account. However, notes to accounts enclosed with the financial statements were signed on 09.10.2019. Further, the audit report issued by the auditor is not in accordance the format prescribed under SA 700 since it fails to draw reference to applicable accounting standards or Generally Accepted Accounting Principles and does not give opinion on the true and fair view of state of affairs of the school, surplus/deficit during the year and cashflows during the year. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the School could not be verified.

While the School has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the School for the academic session 2018-19 assuming the same as unauthentic financial statements.

The School is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the School for FY 2018-2019. If it was generated, the same should be mentioned by the School in its status of compliance. In case, UDIN was not generated by the auditor, the School is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The School is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700 and generation of UDIN.

8. 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 which require to provide 25%

reservation for children belonging to EWS category. Therefore, the School is directed to ensure the admission in accordance with the aforesaid order. From the records provided by the school. The percentage of EWS has been calculated below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Total Students	1,146	1,315	1,570	1,570	1,803
EWS Students	140	143	168	194	241
% of EWS students	12%	11%	11%	12%	13%

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 Academic session 2018-19 amounting to INR **15,93,86,760** out of which cash outflow is estimated to be INR **15,06,36,328**. This results in net surplus of INR **87,50,433** after all routine payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.18 as per Audited Financial Statement	16,92,560
Investments as on 31.03.18 as per Audited Financial Statements	10,46,682
Liquid fund as on 31.03.18	**27,39,242**
Add: Recovery from the society for additions to building **(Refer Financial Observation No. 1)**	2,85,01,232
Add: Recovery from the society for purchase of buses in contravention of rule 177 of DSER, 1973 **(Refer Financial Observation No. 2)**	37,24,570
Add: Recovery of Salary paid to the Manager of the School **(Refer Financial Observation No.4)**	16,56,000
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1 below)**	12,31,02,476
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	13,75,222
Total available funds for FY 2018-19	**16,10,98,742**
Less: FDR on joint name with DOE	6,87,915
Less: FDR on joint name with Secretary, CBSE	3,58,767
Less: Caution money balance as per audited financial statements for FY 2017-18 **(Refer other observation no.4)**	4,87,500
Less: Development Fund Balance as on 31.03.2018	1,77,800
Less: Depreciation reserve fund **(refer note no. 2 below)**	
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Observation No. 3)**	-
Net Available Funds for FY 2018-19	**15,93,86,760**
Less: Expenditure as per audited financial statements for FY 2018-19	13,34,83,956
Less: Arrears of salary on implementation of 7th CPC 01.01.16 to 31.03.19 **(Refer note 3 below)**	1,71,52,372
Net Surplus	**87,50,433**

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

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

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

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

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

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund of INR 29,083 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 3: 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.

It has been noted that School Management has not yet implemented the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds with the school.

While as per Directorate's Order no. F.DE.15(635)/PSB/2018/30522-30526 dated 14.12.2018 issued post evaluation of fee increase proposal of the school for the FY 2017-18, wherein school was directed to implement the recommendations of 7th CPC but the school has not complied with the direction mentioned in the previous year's order. Accordingly, the impact of salary arrears which is still pending for payment for the period 01.01.16 to 31.03.19 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. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

"*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 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 and other observations 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 paid INR 3,38,81,802 towards construction of building, purchase of bus, salary payment to Manager, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973 and other orders. Thus, the school is directed to recover INR 3,38,81,802 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 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 the school has sufficient funds for meeting 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 status within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2018-19 of **Vishal Bharti Public School, A-1 Block, Paschim Vihar, New Delhi-110063 (School ID: 1617190)** 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 section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

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

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

To
The Manager/ HoS
Vishal Bharti Public School (School ID: 1617190)
A-1 Block, Paschim Vihar, New Delhi-110063
No. F.DE.15(683)/PSB/2022 / 4090 - 4094

Dated: 03/06/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (West-B) 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)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi