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

No. F.DE.15(593)/PSB/2022/3489-3493 Dated: 25/05/22

ORDER

WHEREAS, **S.S. Mota Singh Sr. Sec. Model School, C-3, Janakpuri, New Delhi-110058, School ID- 1618181** (hereinafter referred to as "**the School**"), run by the S.S. Mota Singh (Nila) Charitable Trust (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 22.11.2019 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(147)/PSB/2019/1867-1871 dated 22.02.2019, 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. As per clause 2 of 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.*"

   Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized 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 utilized 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 recognized 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*

   Further, 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.*"

   Further, Clause 7.24 of Duggal committee states that "*Simultaneously, it is also to be ensured that the Schools, do not discharge any of the functions, which rightly in the domain of the Society out of the fees or other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the Society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then the contribution of the Society that professes to run the School!*"

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.

Review of the audited financial statements of FY 2018-19 revealed that the school has capitalized INR 20,00,000 under the head building in contravention of the above-mentioned provisions. The aforesaid addition was made without complying with the provision of Rule 177 of DSER, 1973. It has also been noted that the school incurred the above expenditure before investing any amount in plan assts for the statutory liability (i.e., retirement benefits) in accordance with the AS-15 and payment of salary arrears to its staff.

As per Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-18, it was directed to recover INR 1,37,41,749 from the Society for incurring capital expenditure on construction of building which was not in accordance with the aforementioned provisions and Rule 177 of DSER, 1973. However, the school has not complied with the directions and no amount has been recovered yet.

Accordingly, capital expenditure incurred from school funds on construction of building for FY 2016-17, FY 2017-18 and FY 2018-19 cumulatively of INR 1,57,41,749 (INR 1,37,41,749 as per previous year order plus INR 20,00,000 incurred in FY 2018-19) has been 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 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.*"

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

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

Review of audited financial statements for FY 2018-19 reveals that the School had incurred capital expenditure on purchase of car amounting to INR 25,02,569 for which school had taken loan from bank. The amount spent by the school out of school funds for repayment of such loan taken for purchase of car is not in compliance with above-mentioned provisions and rule 177 of DSER, 1973

Documents related to loan taken by the school for purchase of such car was not provided by the school along with other documents submitted post personal hearing. In absence of details related to interest paid by the school, amount spent on purchase of car from school fund of INR 25,02,569 is hereby added to the fund position of the school considering the same as funds available with the school with the direction to recover this amount from the society within 30 days from the date of issue of this order.

3. Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15.12.1999 states that *"the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution"*. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-18 noted that school for FY 2016-17 had a receivable balance from 'S.S. Mota Singh (Nila) Charitable Trust' of INR 1,04,43,820 which was receivable from the society and school was directed to recover this and not to transfer any funds to the society in subsequent years.

On review of submissions made against proposal for fee hike for FY 2018-19, it was noted that a journal entry of INR 1,28,28,821 in favour of S.S Mota Singh Sr. Sec. Model School, Paschim Vihar was made by the school removing receivable balance from the society's account and showing receivable from S.S Mota Sr. Sec. Model School, Paschim Vihar. Inter-branch payment has been made between two schools during FY 2018-19, details of payables and receivables by Junior school and S.S Mota Senior Secondary Model School, Janakpuri to/from S.S Mota Senior Secondary Model School, Paschim Vihar for as on 31.03.2019 are as under:

Name	Receivable	Payable
S.S Mota Singh Sr. Sec Model School, Paschim Vihar	-	33,60,981
S.S Mota Singh Junior Model School, Paschim Vihar	-	12,50,000
S.S Mota Singh (Nila) Charitable Trust	2,60,764	-
S.S Mota Singh Sr. Sec Model School, Paschim Vihar	84,13,939	-
Total	**86,74,703**	**46,10,981**
Net Receivable/(payable)	**40,63,722**	

Accordingly, Net receivable balance of INR 40,63,722 from S.S Mota Singh Sr. Sec Model School, Paschim Vihar is hereby added to the fund position of the school considering the same as funds available with the school with the direction to recover this amount from the aforementioned school/Society within 30 days from the date of issue of this order.

4. As per 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. 2(xiii) of Letter of Allotment of Land issued by Land and Development Office, to the Trust running the school states that *"The trust 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 from time to time."*

As per Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued post evaluation of fee hike proposal for FY 2017-18, it was noted that S.S. Mota Singh Junior Model School- a wing of S.S Mota Singh Sr. Sec School for pre-primary students had increased the fee during FY 2016-17 and continued to collect increased fee during FY 2017-18 without prior approval of the Directorate. The School was directed to refund/adjust any excess fee collected for FY 2017-18 as well in subsequent years.

On review of documents submitted at the time of personal hearing held for fee increase proposal for FY 2018-19 and FY 2019-20, it has been noted that school from FY 2018-19 onwards, has changed its fee structure for Senior Secondary school and Junior school by merging other fees like Development fee, Medical fee, Sports Fee, Computer fee, Examination fee, Science fee and other user based fees with Tuition fee. Since, the fee charged as per previous fee structure is similar to new fee structure in amount, Senior Secondary School has no impact in fee but since Junior school was already charging excess fee as per Directorate's Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019, school has charged increased fee in FY 2018-19 as well.

Hence, the school is directed to refund/adjust the excess fee collected from students for FY 2016-17 to FY 2019-20 within 30 days from the date of issue of this order and school is again directed not to collect increased fee for any subsequent academic session without prior approval of Directorate.

5. 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:

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

Further, 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."*

Furthermore, 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.

On review of submission made by the school, it has been noted that school has got its valuation report of liability towards retirement benefits from an actuary to be paid for FY 2017-18 and FY 2018-19. However, school has not made any investments in plan assets in accordance with Accounting Standard 15. Further, it has been noted that S.S Mota Singh Junior Model School (Junior School) has not made any provisions for retirement benefits as per the provisions of Payment of Gratuity Act, 1972 from a recognised actuarial professional (LIC or any other agency) nor has it shown any earmarked investments for such future liability in its books of accounts.

Since no investment is made in plan assets against retirement benefits by the school therefore, INR 67,83,266 (provision for gratuity and leave encashment) has not been considered while deriving the fund position of the school and the school is directed to make provision for liability for retirement benefits in its financial statements of junior school and to deposit the earmarked amounts in investments for both schools in plan assets as per Accounting Standard 15 within 30 days from the date of issue of this order.

6. 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, with the management of the affairs of that School.

Based on the above provisions, the manager 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 Manager of the school shall not be made any payment whatsoever from the school funds.

However, based on submissions made by the school, it has been noted that the school has paid consideration to the Manager of the school as professional charges INR 2,92,250 and INR 2,45,000 for FY 2017-18 and FY 2018-19 respectively.

In addition to that, it is also noted that the School had made payment to a trustee of INR 35,40,000 during FY 2018-19 due to non-availability of funds in the managing trust which is not in accordance with above-mentioned provisions. Therefore, INR 35,40,000 is also recoverable from the Society.

Similar observation was noted in Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-18 where the manager was paid honorarium of INR 2,52,000 in FY 2015-16 and INR 3,64,000 in FY 2016-17. The school contented that the Manager of the School was paid honorarium as she was performing work for the school which is acceptable as it contradicts the above mentioned provisions.

Hence, the amount paid of INR 11,53,250 by the school to the Manager and INR 35,40,000 to the trustee are 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 Manager/Society within 30 days from the date of issue of this order. Further, it is also directed to the School not to pay any remuneration/ honorarium/allowance/professional charges to the Manager/trustee in subsequent year.

7. Rule 175 of DSER, 1973 states "*The accounts with regard to the School Fund or the Recognised Unaided School Fund, as the case may be, shall be so maintained as to exhibit, dearly the income accruing to the school by way of fees, fines, income from building rent, interest, ...*"

As per Directorate's Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-18 noted that the school had let out part of the school premises to Punjab & Sind Bank as extension counter, rent from which was received by the society and was not accounted in the financial statements of the school and amount collected by the society as rent from Punjab & Sind Bank from 01.04.2014 to 28.08.2015 was around INR 5,61,000 which was directed to be recovered from the society. The school also explained that the premises was vacated by the bank in Aug 2015 and no rent has been received by the Society since then.

Since, amount of INR 5,61,000 has not been paid by the Society till yet, such amount is hence added to the fund position of the school considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

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.*"

   Further, as per Sub-rule 3 of Rule 177 of DSER, 1973 "*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.*"

   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).

   From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport fees, Computer fee, Sports fee, Examination fees, Air-condition fees, etc. from students. However, the school has not maintained separate fund accounts for these earmarked levies and 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	Transport Fees	Sports fee	Science Fee	Computer Fee	Examination Fee	Air conditioning fee	Medical Fee
For the year 2016-17							
Fee Collected during the year (A)	66,27,790	38,24,995	10,16,920	98,85,967	20,87,841	69,02,664	38,24,995
Expenses during the year (B)	39,95,119	0*	0*	0*	1,97,080	0*	0*
Difference for the year (A-B)	**26,32,671**	**38,24,995**	**10,16,920**	**98,85,967**	**18,90,761**	**69,02,664**	**38,24,995**
For the year 2017-18							
Fee Collected during the year (A)	66,99,500	37,66,080	9,00,960	97,31,510	20,37,410	66,82,000	37,66,080
Expenses during the year (B)	30,67,856	4,22,828	68,749	94,684	8,86,189	1,19,050	69,170
Difference for the year (A-B)	**36,31,644**	**33,43,252**	**8,32,211**	**96,36,826**	**11,51,221**	**65,62,950**	**36,96,910**
For the year 2018-19							

Particulars	Transport Fees	Sports fee	Science Fee	Computer Fee	Examination Fee	Air conditioning fee	Medical Fee
Fee Collected during the year (A)	1,01,95,875	0#	0#	0#	0#	0#	0#
Expenses during the year (B)	33,14,490	0#	0#	0#	0#	0#	0#
Difference for the year (A-B)	**68,81,385**	**0**	**0**	**0**	**0**	**0**	**0**
Total	**1,31,45,700**	**71,68,247**	**18,49,131**	**1,95,22,793**	**30,41,982**	**1,34,65,614**	**75,21,905**

^ The school did not provide detailed breakup of expenses comprised in the total of expense reported in table above. Thus, it could not be evaluated if the school had included all expenses including salaries of drivers, conductors, etc. Further, the school has 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

* Details of expenses incurred against earmarked levies collected from students was not provided by the school.

School has merged Earmarked levies such as Sports Fee, Science Fee, Computer Fee, Examination Fee, Air Conditioning charges and Medical Fee into Tuition fee from FY 2018-19 onwards.
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).

Since, the school is not following fund base accounting in accordance with the provision cited above. The total fee (including earmarked fee) have 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. 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.

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.

2. Para 99 of Guidance Note 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."

On review of submission of documents made at the time of personal hearing, it has been noted that School has not maintained development fund utilization fund 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.
Similar observation was noted as per Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-18.

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, deferred income and depreciation reserve to comply with the accounting treatment indicated in the Guidance Note.

3. Part IV of Appendix III - 'Instructions for preparing Income and Expenditure Account' of Guidance Note 21 issued by the Institute of Chartered Accountants of India ('ICAI') specifies "*Any item under which income or expense exceeds 1 per cent of the total fee receipts of the School or INR 5,000, whichever is higher, should be shown as a separate and distinct item against an appropriate account head in the Income and Expenditure Account. These items, therefore, should not be shown under the head 'miscellaneous income' or 'miscellaneous expenses'.*"

As per Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019, financial statements of the schools for the FY 2016-17 did not reflect segregated items for income and expenses that exceeds 1% of the total fee receipts and school had clubbed 'Development Fee', 'Medical Fee', 'Air Condition Fees' under the head 'Other Fees' and reported consolidated expenses under the head 'Others expenses', which was more than 1% of the total fee receipts.

On review of financial statements for FY 2018-19, it has been noted that school has complied with the above mentioned directions and method of presentation has been changed in the financial statements according to directions given in above mentioned Order. Hence, school is directed to continue applying methods and presentation as depicted in Guidance note-21 as the same shall be verified at the time of evaluation of proposal for enhancement of fees for subsequent year. The above being a procedural finding, no adjustment is warranted in fund position of the school.

4. 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.*" Further, Clause 4 Order no .DE/15(150)/Act/2010/4854-69 dated 09.09.2010 states "*After the expiry of thirty days, the un-refunded caution money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further the income shall also be taken into account while projecting fee structure for ensuing academic year*"

As per Directorate's order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued post evaluation of the proposal for enhancement of fee for the academic year 2017-18, it was noted that school had not refunded interest on caution money along with refund of caution money to be made for all exiting students. Also, the school had not treated un-claimed caution money as income after the expiry of 30 days from the date of informing the students to collect their caution money.

Further, the school had not maintained separate bank account for deposit of caution money collected from students. Also, the school if not refunding interest along with caution money to students at the time of leaving the school.

On review of financial statements for FY 2018-19, it has been noted that school has unclaimed caution money in its books of account and separate bank account for deposit of caution money has not been maintained. Thus, the school is directed to ensure compliance with the aforementioned directions including refund of interest along with caution money to exiting students and to maintain separate bank account for deposit of caution money collected from students. Accordingly, the amount to be refunded to students as per audited financial statements as on 31.03.2018 has been considered while deriving the fund position of the school.

5. As per Order No. F.DE. 15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-18 noted the following:

- No tagging of the assets was done in Fixed Assets Register (FAR) and physically on fixed assets to identify their location because of which the assets could not be physically verified.

- Item wise details are not mentioned in the FAR. Details of the assets sold/scrapped/shifted out of the school are not mentioned in the FAR.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.

The school submitted a Fixed Asset register (FAR), however, the same was not prepared in proper format as it only captured the name of the asset, date of purchase and amount. The school has not included complete details of assets in the FAR such as serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

Accordingly, the school is directed to update the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

6. As per 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:

1. All Certificates with effect from 1 Feb 2019
2. GST and Income Tax Audit with effect from 1 Apr 2019
3. 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 practising 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.*"

The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 22 Jul 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Further, it was noticed that while the audit opinion issued on the financial statements of the school for FY 2018-2019 also covered the true and fair view on Balance sheet and Income and Expenditure account but doesn't included Receipt and Payment Account.

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 2018-2019 assuming the same as unaudited/provisional 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 compliance report. 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 must also ensure that the Receipt and Payment Account includes cross reference to the Auditor's Report of even date. The school is further directed to ensure that the audit opinions 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.

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

It has been noted that no such disclosure for FY 2018-19 has not been available on records with us. It is directed to the School to provide such details in compliance with AS-18 (Related party disclosures) to us within 30 days from the date of issue of this order.

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 year 2018-19 amounting to INR **18,65,54,168** out of which cash outflow in the year 2018-19 is estimated to be INR **18,03,77,808** This results in net surplus of INR **61,76,361**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.18 as per Audited Financial Statement of FY 2017-18	4,395,084
Investments as on 31.03.18 as per Audited Financial Statements of FY 2017-18	33,474,089
Liquid Funds as on 31.03.18	**37,869,173**
Add: Recovery from Society against construction of building **(Refer Financial observation No. 1)**	15,741,749
Add: Recovery from the society for amount spent on purchase of Car in contravention of Rule 177 of DSER, 1973 **(Refer Financial observations No. 2)**	2,502,569
Add: Recovery of amount transferred by the School and recoverable from Sister Concern **(Refer Financial observation No. 3)**	4,063,722
Add: Recovery of honorarium/professional charges paid to the Manager and Trustee of the School **(Refer Financial observation No. 6)**	4,693,250
Add: Recovery from Society against rent received for letting out of school premises **(Refer Financial observation No. 7)**	561,000
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1)**	120,438,614
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1)**	2,783,748
Total Available funds for FY 2018-19	**188,653,824**
Less: FDR Pledged with Court **(As per School's Submission)**	30,000
Less: FDR as per CBSE Guidelines **(As per School's Submission)**	457,656
Less: Investment made for provision for Retirement benefits **(Refer Financial observation No. 5)**	-

Less: Caution money as on 31.03.18 **(Refer Other Discrepancies No. 4)**	1,612,000
Less: Depreciation reserve fund **(refer note no.4)**	-
Net Available funds for FY 2018-19	**186,554,168**
Less: Expenditure as per audited financial statements for FY 2018-19 (after making adjustment) **(Refer Note 2)**	**156,696,330**
Less: Arrears of salaries as per 7th CPC **(refer note no.3)**	**23,681,477**
Net Surplus	**6,176,361**

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

Note 2: All expenditure incurred by the school has been considered in the above table except provision for gratuity and leave encashment amounting INR 67,83,266 has been excluded. (refer Financial observation no.5).

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(147)/PSB/2019/1867-1871 dated 22.02.2019 issued post evaluation of fee increase proposal of the school for the FY 2017-18, wherein the 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.

As DoE Order No. F.DE.15(147)/PSB/2019/1867-1871 dated 22.02.2019 issued post evaluation of the fee increase proposal for FY 2017-18, the school was allowed INR 1,57,78,110 towards arrears for implementation of 7th CPC till 31 March 2017 as per the school the school submission. The school has proposed INR 6,43,81,112 towards arrears for 7th CPC from January 2016 to March 2019 which has been taken on record. After considering all the material on record it has been noted that the school has proposed higher salary arrears. Therefore, this amount has been restricted to INR 2,36,81,477 (i.e. 20% of the actual salary and wage including allowances as per the audited financial statements of 2018-19).

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of 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 3,15,25,511 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.

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, 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 2,75,62,290 towards construction of building, purchase of car, payment made to Society, Manager/trustee remuneration, rent received by the Society, 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 2,75,62,290 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 section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are available with the school for meeting financial implication 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 **S.S. Mota Singh Sr. Sec. Model School, School ID 1618181, C-3, Janakpuri, New Delhi-110058** 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 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:

The Manager/ HoS
S.S. Mota Singh Sr. Sec. Model School,
School ID 1618181,
C-3, Janakpuri,
New Delhi-110058

No. F.DE.15(593)/PSB/2022/ 3489-3493 Dated: 25/05/22

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