

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

No. F.DE.15(54)/PSB/2020/2910-2914

Dated: 12/05/22

ORDER

WHEREAS, Deepalaya School, A-14, Kalkaji Extension, New Delhi – 110019 School ID-1925347 (hereinafter referred to as “the School”), run by the Deepalaya (NGO) (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 02.12.2019 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. No. F.DE.15(116)/PSB/2019/1887-1891 dated 22 Feb 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. Authenticity of Audited Financial Statements

1. 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.



As per Order No. F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 April 2016, "The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix-II of Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."

On review of the audited financial statements for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the financial statements were not appropriately authenticated by the representatives of the school, since only the Chairperson signed the Balance Sheet, Income and Expenditure Account, and Receipt and Payment Account. Also, the schedule (other than the consolidated fixed assets schedule) to Balance Sheet annexed to the financial statements were not signed or initialled by any of the representatives of the school. Further, it was also noted that the school did not mention previous year's figures in Receipt & Payment account and schedules annexed to the financial statements. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

Accordingly, the school is directed to ensure that the financial statements (including Notes to Account), as per the requirements of Rule 180(1), are appropriately prepared, signed, provide previous year's figures against all items in the financial statements and ensure that the financial statements are prepared as per the requirements of aforementioned order of the Directorate and submitted to the Directorate within the prescribed timeline. The school is also directed to ensure that the entire set of financial statements (all pages including schedules) must be signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

B. Financial Observations

1. As per direction no. 2 included in the Public Notice dated 4 May 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 Oct 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 Feb 2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

Accordingly, based on the aforementioned public notice and Hon'ble 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 except in compliance with Rule 177 of DSER, 1973.

Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 which states "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the



depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."

The audited financial statements of the school for FY 2018-2019 revealed that the school has incurred expenditure on additions to building totalling to INR 11,40,177 by utilising development funds, which was not in accordance with the aforementioned provisions. While as per clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 and 2004 judgement of Hon'ble Supreme Court in the matter of Modern School Vs Union of India and Others, development fund could be utilized only towards purchase, up-gradation and replacement of furniture, fixture and equipment, utilisation of development fund for construction/ development/ addition to building is a non-compliance by the school. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

Based on the fact that the school did not implement the recommendations of 7th CPC, did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 and did not make any investment in plan-assets such as group gratuity scheme and group leave encashment scheme of LIC or other insurer to secure the staff retirement benefits, the school did not comply with the requirements of Rule 177 (1) i.e. *"Income derived by an unaided utilized 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"*.

Therefore, amount of INR 11,40,177 spent on building by the school is hereby added to the fund position of the school (enclosed in the later part of this order) 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. The school is further directed not to incur capital expenditure on building from school funds without ensuring compliance of Rule 177. Also, on account of excessive collection of development fund by the school, development fund to the extent of one year's collection by the school (i.e. amount collected during FY 2018-2019) i.e. INR 51,11,370 has been considered while deriving the fund position of the school (enclosed in later part of this order).

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings."*

The Hon'ble Supreme Court of India in the matter of Modern School Vs Union of India and Others mentioned *"Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools. It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they*



have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.”

The school was directed by the directorate through order no. F.DE.15(116)/PSB/2019/ 1887-1891 dated 22 Feb 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to recover the cost of vehicle purchased by the school during FY 2016-2017.

Since the school has not recovered any amount from the Society till date, the cost of vehicle amounting to INR 25,88,276 is hereby added to the fund position of the school (enclosed in the later part of this order) 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. The school is further directed not to incur capital expenditure from school funds unless savings are derived after ensuring compliance of Rule 177.

3. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Hon'ble Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

The school submitted ledger account of Corporate Office (Society) for FY 2017-2018 and FY 2018-2019. On review of ledger account of Corporate Office (Society), it was noted that the corporate office incurred certain expenses such as deposit of Provident Fund, ESI, TDS, Audit Fees, etc. on behalf of the school and the school transferred funds to the society.

The audited financial statements of the school for FY 2017-2018 reflected a net receivable balance of INR 6,91,240 (amount of INR 75,20,083 transferred to society including opening payable balance of INR 11,34,203 towards corporate office minus INR 56,94,640 expenses incurred by the society) from Corporate Office (i.e. Society) as on 31 Mar 2018, which indicates transfer of school funds to the society and non-compliance with the directions of Hon'ble Supreme Court.

Accordingly, the advance amount of INR 6,91,240 with the society is hereby added to the fund position of the school (enclosed in the later part of this order) 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. Further, the school is directed to ensure compliance with the provisions of DSEA&R, 1973, orders and directions of the Hon'ble Supreme Court in this regard and not to transfer funds or give any advance directly to the society or make any payment on behalf of the society (indirect transfers).

4. The Manager of the school is not entitled to any payment whatsoever from the school funds. However, from the records submitted by the school and taken on record, it was noted that the school appointed Manager in June 2017 and paid honorarium/salary to the Manager @ INR 25,000 per month during FY 2017-2018 and INR 27,500 per month during FY 2018-2019. The school mentioned that honorarium is paid to the Manager for overseeing day to day functioning of the school.

Since the position of the Manager is honorary, the amount totalling to INR 5,80,000 (INR 2,50,000 during FY 2017-2018 and INR 3,30,000 during FY 2018-2019) paid as honorarium/salary to the Manager during FY 2017-2018 and FY 2018-2019 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and

with the direction to the school to recover this amount from the Manager or the Society within 30 days from the date of this order.

Further, the school is directed not to pay any remuneration/ honorarium/ allowance to the Manager. In case, the school has paid any remuneration/ honorarium/ allowance to the Manager subsequently, the school is directed to recover that amount from the Manager or Society within 30 days from the date of this order.

5. Clause 17 of Order No. F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 issued by this Directorate states *"No admission Fee of more than two hundred rupees per student, at the time of admission shall be charged. Admission Fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school."*

The school was directed by the directorate through order no. F.DE.15(116)/PSB/2019/ 1887-1891 dated 22 Feb 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 to stop the practice of charging excess admission fee from the students.

On review of fee structure for FY 2017-2018 and FY 2018-2019 submitted by the school, it was observed that the school collected admission fee of INR 250 from students at the time of admission, while the school can collect the admission fee from students only up to an amount of INR 200. Excess collection of admission fee from students beyond the rate prescribed in this regard is a contravention of the aforementioned order.

Accordingly, the school is hereby directed again to collect admission fee from students only at the rate prescribed in the aforementioned order i.e. INR 200 at the time of admission with immediate effect and update its fee structure.

6. 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, according to para 7.14 of the Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"Plan assets comprise:*

- a) assets held by a long-term employee benefit fund; and*
- b) qualifying insurance policies."*

Further, directorate order no. F.DE.15(116)/PSB/2019/1887-1891 dated 22 Feb 2019 issued to the school post evaluation of proposal for fee enhancement for the academic session 2017-2018 directed the school to obtain an actuarial valuation of its liability towards retirement benefits (gratuity and leave encashment). Further, the school was directed to disclose its liabilities on account of gratuity and leave encashment along with corresponding amount of investments against them in its audited financial statements.

It was noted that the school is yet to obtain an actuarial valuation in respect of its liability towards staff retirement benefits (gratuity and leave encashment) in the name of the school. Based on discussion with the school during personal hearing, the school made and disclosed provision and gratuity fund investment for the first time in its books of account during FY 2018-2019 towards staff gratuity in accordance with Payment of Gratuity Act, 1972 and towards leave encashment on management-estimate basis, which is paid to Deepalaya ("Society"). The Society in turn invests the amount in group gratuity scheme of LIC for all the schools or employees under its management and

uses the same for payment of gratuity liability as and when the same arises in respect of school staff at the time of resignation/ retirement. The school has submitted that the Society has invested funds in two group gratuity schemes of LIC as per details as under:

Group Gratuity Policy No.	49090	103000297
Annual Renewal Date (ARD)	01-Nov-18	01-Nov-18
No. of employees covered in policy	61	81
No. of School employees covered in policy (as per submission of the school)	29	15
Fund Value of Policy as on 1 Nov 2018 (INR) (A)	58,32,529	13,67,362
Fund contribution during the year (INR) (B)	9,34,247	4,00,000
Total Fund Value of Policy as on 31 Mar 2019 (INR) (C)=(A+B)	67,66,776	17,67,362
Accrued Gratuity as per policy (D)	79,93,414	17,57,101

Further, during personal hearing, the school explained that the society maintains all records relating to gratuity and leave encashment liability.

The school submitted a calculation sheet indicating the gratuity due to the staff of the school as per Payment of Gratuity Act, 1972 and indicated the total amount of gratuity due at Society level. Thereafter, the school indicated pro-rated amount of investment pertaining to the school in the gratuity group gratuity scheme of LIC (in the name of the Society) as per details hereunder:

Particulars	Amount (INR)
Gratuity computed in respect of school staff as on 31 Mar 2019 as per Payment of Gratuity Act, 1972 {A}	34,20,456
Total gratuity amount in respect of all staff of Society (including the school) [only amount given, detailed calculations not provided] as on 31 Mar 2019 {B}	79,93,414
Total Fund value of Group Gratuity Scheme with LIC as on 31 Mar 2019 (Policy No, 49090) {C}	67,66,776
Prorated value of investment allocated towards school staff out of Group Gratuity Scheme with LIC as on 31 Mar 2019 (Policy No, 49090) {D}={C/B*A}	28,95,566
Total Fund value of Group Gratuity Scheme with LIC as on 31 Mar 2019 (Policy No, 49090) {E}	17,67,362
Fund value of Group Gratuity Scheme with LIC as on 31 Mar 2019 (Policy No, 103000297) (basis of allocation not provided by school) {F}	4,07,465
Total fund value of Group Gratuity Scheme with LIC indicated as pertaining to the school as on 31 Mar 2019 {G}={D+F}	33,03,031

The school reported the amount of INR 33,03,031 as provision for gratuity on the liability side and as investment in LIC Gratuity Scheme on the asset side of the Balance Sheet as on 31 Mar 2019. While the school submitted the calculations above, which were not based on the amount of funds actually transferred to the Society, but mere allocation is not indicative of actual value of investments made from the school funds. Also, the school did not provide details of amount transferred by it to the Society till date under the aegis of contribution towards staff retirement and

leave encashment. Thus, the school is directed to extract year wise details of all payments made by it to the Society towards staff retirement benefits and submit the details in its Compliance Report together with the details of investments made by the society against the same and valuation of the fund(s) available with the Society towards staff retirement.

In absence of requisite details, both the amount of investment and obligation of the school towards gratuity and leave encashment have not been considered while deriving the fund position of the school (enclosed in the later part of this order). Also, the amount of expenditure reported towards gratuity and leave encashment in the Income and Expenditure Account for FY 2018-2019 has not been considered as part of the expenses for FY 2018-2019 while deriving the fund position of the school (enclosed in the later part of this order).

The school is further directed to obtain valuation of its liability towards staff retirement benefits (both gratuity and leave encashment) from an actuary and make earmarked equivalent investments against provision for gratuity and leave encashment with LIC (or other insurer) so as to protect against its the statutory liabilities towards staff within 30 days from the date of this order.

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

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

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

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

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

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

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).

Rule 175 of DSER,1973 clearly states that "*The accounts with regard to the recognised school shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income accruing to the school by way of fees, fine, income from building rent, interest, development fees, collection for specific purpose, endowments, gifts, donations, contributions to pupil fund and other miscellaneous receipts, and also, in the case of aided schools, the aid received from the administrator.*"

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transportation fee, Computer fee and Science Lab fee from students. However, the school has not maintained separate fund accounts for any of these earmarked levies. Further, it was noted that 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) that has been met from other fees/income. Directorate's order no. F.DE.15(116)/PSB/2019/1887-1891 dated 22 Feb 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 also noted that the school is not collecting earmarked levies on no-profit no-loss basis and is not following fund based accounting for earmarked levies. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2017-2018 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus/(Deficit) (INR)
	A	B	C=A-B
Transportation fees [^]	5,69,500	9,76,648	(4,07,148)
Computer fees	15,59,112	-*	15,59,112
Science Lab fees	15,800	-*	15,800

[^] The expense figure in table includes depreciation on vehicles used for transportation of students.

* Details of expenses incurred against these earmarked levies were not provided by the school.

As highlighted in the table above, the school has been operating its transport facility at huge deficit as expenses (including depreciation on vehicles) incurred by the school are more than the fee collected from students. The school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directly not to transfer the financial impact (i.e. deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e. it must not adjust the deficit from school funds. Thus, the school is instructed to operate transport facility on strict no-profit no-loss basis.

Directorate's order no. F.DE.15(116)/PSB/2019/1887-1891 dated 22 Feb 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 to stop the collection of computer fee from students of class LKG to X.

On review of fee structure and sample of fee receipts for FY 2018-2019 submitted by the school, it was noted that the school collected the computer fee from all students (LKG to X) during FY 2018-

2019 . Further, the school did not provide the details of expenses incurred against the computer fee. In the absence of expenses details, it cannot be ascertained whether the school is charging computer fee on no-profit no-loss basis.

Further, on review of sample of fee receipts and fee structure for the FY 2018-2019, it was noted that the school has engaged in profiteering and commercialisation of education by way of introducing an additional fee in the name of 'Other Charges (ID Card, Diary, Magazine and Annual Celebration)' charged compulsorily from the students of all classes (LKG to XII) from FY 2018-2019 onwards. Thus, levy of an additional fee in the guise of 'Other Charges', which is compulsorily charged from students, is an indirect mean for inflating the fee collection from students and indicates towards profiteering motive of school and commercial of education.

Accordingly, the school is directed to immediately refund/adjust 'Other Charges' of INR 7,93,145 collected from students during FY 2018-2019 and thereafter submit evidence of refund/adjustment to the Directorate within 30 days from the date of this order. Further, the school is directed not to levy any new fee/charge compulsorily from students without approval from the Directorate.

Additionally, the school is instructed to ensure compliance to the laid-out provisions in relation to earmarked levies specifically relating to the inherent nature of earmarked levies of being optional services/facilities to students.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized 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 fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

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.

8. Incomes (fee collected from students) reported in the audited Income and Expenditure Account/ Receipt and Payment Account for FY 2017-2018 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2017-2018 in its audited Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school.

Following differences were derived based on the computation of FY 2017-2018:



Particulars	Income reported in Income & Expenditure Account (A)	Fee computed on the based-on details no. of students provided by the school (B)	Derived Difference (C)=(A-B)	% Difference (D)=(C/B* 100)
Tuition fee	3,47,66,544	3,72,17,940	(24,51,396)	6.59%
Development fee	48,43,851	53,62,560	(5,18,709)	9.67%
Annual fee	34,41,480	33,48,400	93,080	2.78%

The school should perform a detailed reconciliation of the amount collected from students and income to be recognised based on the fee structure and number of students enrolled by the school. Compliance of the same would be checked at the time of evaluation of subsequent fee increase proposal.

Since the reconciliation is to be prepared and provided by the school, no adjustment has been made in the fund position of the school (enclosed is the later part of the order).

C. Other Observations

1. Direction no. 3 of the public notice dated 4 May 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 Feb 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 of Order no .DE/15(150)/Act/2010/4854-69 dated 9 Sep 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”

From the information provided by the school, it was noted that the school was not refunding interest along with caution money to students. While discussing with the school during personal hearing, it was mentioned by the school that no communication has been sent to ex-students for collection of their caution money and thus, the school has not made any adjustment towards unclaimed caution money.

Accordingly, the school is directed to repay caution money along with interest earned thereon to the ex-students or the students at the time of their leaving the school. Further, the school is directed to communicate with ex-students to collect their caution money together with interest thereon and any unclaimed amount after 30 days of such communication should be treated as income by the school in its books of account.

Since the school is yet to send communications to ex-students to collect their caution money, the amount of liability presented in the audited financial statements for FY 2017-2018 has been adjusted while deriving the fund position of the school (enclosed in the later part of this order).

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

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 incurrance 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.*"

Basis the presentation made in the audited financial statements for the FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that while the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from Development Fund to "Development Fund Utilised for Acquiring Fixed Assets" account, it did not treat the same as deferred income. Also, the school did not transfer an amount equivalent to the amount of depreciation from "Development Fund Utilised for Acquiring Fixed Assets" account to the credit of Income and Expenditure Account as income as indicated in the guidance note cited above. While the direction to follow the accounting treatment as indicated in the guidance note cited above was given by the Directorate vide order no. F.DE.-15(116)/PSB/2019/1887-1891 dated 22 Feb 2019 issued to the school post evaluation of proposal for enhancement of fee for FY 2017-2018, the school did not follow the accounting treatment as indicated in the guidance note cited above.

Accordingly, the school is directed to transfer an amount equivalent to the depreciation from the "Development Fund Utilised against Fixed Assets" account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note.

3. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2017-2018	FY 2018-2019
Total No. of Students	1,653	1,600
Total EWS students	66	61
% of EWS students to total no. of students	4%	3.81%

The school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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 2018-2019 amounting to INR 6,73,51,668 out of which cash outflow in the year 2018-2019 is estimated to be INR 6,36,41,125. This results in net surplus of INR 37,10,543. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	18,41,939
Investments (Fixed Deposits) as on 31 Mar 2018 (as per audited financial statements of FY 2017-2018)	1,80,71,440
Investment in LIC for gratuity as on 31 Mar 2018 [Refer Financial Observation No. 6]	0.00
Total Liquid Funds Available with the School as on 31 Mar 2018	1,99,13,370
<u>Add:</u> Fees/Incomes for FY 2018-2019 (as per audited financial statements of FY 2018-2019) [Refer Note 1]	4,92,76,420
<u>Add:</u> Amount recoverable from society for addition on building during FY 2018-2019 [Refer Financial Observation No. 1]	11,40,177
<u>Add:</u> Amount recoverable from society against purchase of Bus during FY 2016-2017 [Refer Financial Observation No. 2]	25,88,276
<u>Add:</u> Amount recoverable from society against funds transferred to it [Refer Financial Observation No. 3]	6,91,240
<u>Add:</u> Amount recoverable from Society/ Manager for salary and travelling allowance paid to him during FY 2017-2018 and FY 2018-2019 [Refer Financial Observation No. 4]	5,80,000
Gross Estimated Available Funds for FY 2018-2019	7,41,89,483
<u>Less:</u> Development Fund [Refer Financial Observation No. 1]	51,11,370
<u>Less:</u> Caution Money Fund (as per audited financial statements of FY 2017-2018)	9,33,300
<u>Less:</u> Staff retirement benefits – Gratuity [Refer Financial Observation No. 6]	0.00
<u>Less:</u> Refund/adjustment of “Other Charges” collected from students during FY 2018-19 [Refer Financial Observation No. 7]	7,93,145
<u>Less:</u> Depreciation Reserve [Refer Note 2]	-
Net Estimated Available Funds for FY 2018-2019	6,73,51,668
<u>Less:</u> Expenses for FY 2018-2019 (as per audited financial statements of FY 2018-2019) [Refer Note 1]	4,22,87,775
<u>Less:</u> Arrears of salary as per 7th CPC for the period Jan 2016 to Mar 2019 (as per the computation of 7th CPC submitted by the school)	2,13,53,350

Particulars	Amount (INR)
Estimated Surplus as on 31 Mar 2019	37,10,543

Notes:

1. The school submitted its audited financial statements for FY 2018-2019. Based on the audited financial statements for FY 2018-2019, all incomes and expenses (after making following adjustments) have been considered:

Expense Head	Amount (Actual)	Amount (Allowed)	Amount (Disallowed)	Remarks
Depreciation	43,18,928	-	43,18,928	Depreciation, being a non-cash expense does not have any impact on the fund position of the school.
Gratuity Insurance Premium (grouped under staff benefit – teaching)	5,33,398	-	5,33,398	Refer Financial observations No. 6
Leave Encashment (grouped under staff benefit – teaching)	20,08,625	-	20,08,625	
Gratuity Insurance Premium (grouped under staff benefit – non-teaching)	67,402	-	67,402	
Leave Encashment (grouped under staff benefit – non-teaching)	2,89,146	-	2,89,146	
Total	72,17,499	-	72,17,499	

2. The school has charged depreciation on fixed assets purchased from school funds and development funds. The school has created depreciation reserve on assets purchased from development funds and school funds. While depreciation reserve is more of an accounting head for appropriate 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, it is not considered in table above.
- ii. In the view of the above evaluation, it is evident that the School has sufficient fund to carry out its operations at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 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.”



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, certain financial observations that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings were also noted (appropriate instructions against which have been given in this order), the funds available with the school to carry out its operations for the academic session 2018-2019 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it has been noted that the School has paid INR 49,99,693 towards construction of building, purchase of buses, repayment to Society and payment to manager which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 49,99,693 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, the 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 the school has sufficient funds for meeting its financial implication for the academic session 2018-19. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2018-19.

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

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2018-2019 of **Deepalaya School (School ID-1925347), A-14, Kalkaji Extension, New Delhi - 110019** 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)
Deputy Director of Education
(Private School Branch)
Directorate of Education,
GNCT of Delhi

To:
The Manager/ HoS
Deepalaya School
School ID-1925347
A-14, Kalkaji Extension
New Delhi - 110019

No. F.DE.15(504)/PSB/2022/2910-2914

Dated: 12/05/22

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 (South East) to ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



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