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

No. F.DE.15 (459)/PSB/2022/ 2266 – 2270 **Dated:** 27/04/22

Order

WHEREAS, **New Oxford Public School, B - Block, Main Road, Vivek Vihar – I, Delhi - 110095 (School Id: 1002271)** (hereinafter referred to as **"School"**), run by the **Minocha Education Society** (hereinafter referred to as the **"Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi **(hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 **(hereinafter referred to as "DSEAR, 1973")**. The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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

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

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

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

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, the **New Oxford Public School, B - Block, Main Road, Vivek Vihar – I, Delhi - 110095 (School Id: 1002271)**submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

AND WHEREAS, in order to examine that the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session **2019-20**, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 07.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, the school was further asked to submit necessary documents and clarification on various issues.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants and the key findings noted are as under:

A. Financial Observations

1. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 state *"Earmarked levies shall be charged from the user student only."*

Rule 176 of DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*" Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note-21 "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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From review of the audited financial statements submitted by the school, it was noted that the school charges earmarked levies in the name of Transport Fee, IT Fee and Activity Fee and has been incurring losses (deficit). This deficit is met out from other fees/income i.e., either from the tuition fee or from the annual charges. The details of earmarked levies collected and spent by the school has been tabulated below:

Particulars	Transport Fee^	IT Fee**	Activity Fee**
For the year 2016-17			
Fee Collected during the year (A)	4,18,200	8,31,950	18,47,975
Expenses during the year (B)	6,36,611	10,03,425	20,87,300
Difference for the year (A-B)	**-2,18,411**	**-1,71,475**	**-2,39,325**
For the year 2017-18			
Fee Collected during the year (A)	5,24,160	10,38,850	14,73,730
Expenses during the year (B)	5,46,574	10,44,500	15,69,148
Difference for the year (A-B)	**-22,414**	**-5,650**	**-95,418**
For the year 2018-19			
Fee Collected during the year (A)	2,26,400	9,69,354	14,41,200
Expenses during the year (B)	2,74,916	10,35,228	16,50,760
Difference for the year (A-B)	**-48,516**	**-65,874**	**-2,09,560**
Total (Deficit)	**-2,89,341**	**-2,42,999**	**-5,44,303**

^ The school has not budgeted the expenditure relating to transport expenses for FY 2019-20 in its budget. Therefore, while deriving the fund position of the school the income relating to transport has also been reduced.

** Being collected from all the students thus, its losses the character of earmarked levies

The earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards this service by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of IT Fee and Activity Fee from all the students loses its character of earmarked levy. Thus, the school is directed not to charge IT Fee and Activity Fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

During the personal hearing the school explained that from FY 2018-19, it has started following fund-based accounting with respect of earmarked levies of 'Transport Fee' and 'IT Fee' but not for the 'Activity Fee'. From the table it can be inferred that the school has not been collecting earmarked levies on 'no-profit no-loss basis. Thus, the school is directed to evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies in the subsequent fee increase proposal by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state "*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*".

It was noted that the school has utilized development fund of INR 22,31,047 out of which INR 12,32,366 was utilized for Furnishing and Finishing and INR 3,97,249 was utilized for purchase of bus and VAN. This utilization of Development fund is not in accordance with clause 14 of the order dated 11.02.2009 and clause 7 of order dated 15.12.1999. Further, the expenditure of INR 12,32,366 incurred by the school for Furnishing and Finishing has not been reported in the audited financial statements which means the school has diverted its fund to the tune of INR 12,32,366 which is recoverable from the society/person responsible for incurring of this expenditure. Accordingly, this expenditure of INR 12,32,366 incurred by the school for furnishing and finishing has been considered while deriving fund position of the school based on the assumption it is available with the school. The school is hereby directed to recover this amount from the society/school management within 30 days from the date of issue of this order and pass the necessary rectification entries in its books and accounts and present its financial statements accordingly.

Further, as per clause 11.02.2009, development fund can only be utilized for purchase, upgrade and replacement of furniture, fixture and equipment. Thus, purchase of bus and van out of the development is also not in accordance with the above cited provision and therefore the school is required to ensure the compliance of clause 14 of the order dated 11.02.2009.

3. As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. Further, as per the directions of the Hon'ble 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 here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

Clause 9 of order No 1978 dated 16.04.2010 states, "*School shall not introduce any new head of accounts or collect any fee thereof other than those permitted*". And Fee/Funds collected from the parents /students shall be utilized strictly in accordance with rules 176 and 177 of the DSER, 1973.

Review of the Fee Receipts and Fee Structure submitted by the school, it was noted that the school was collecting activity fee of INR 200 per month from Class I to X till FY 2017-18 and from FY 2018-19, the school has started collecting activity fee from Nursery class also. However, in accordance with the above-mentioned provision the collection of activity fee is not the specified head of the fee. Therefore, the school is directed not to charge fee in the name of "Activity fee" with immediate effect.

4. As per AS-15 'Employee Benefit' issued by ICAI. "*An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognized in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date*"

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."

The review of the audited financial statements of FY 2018-19 revealed that the school has not provided any provision for gratuity and leave encashment which is not in accordance AS-15 issued by ICAI. The documents submitted by the school, post personal hearing were taken on record, the school explained that it has not provided provision for gratuity and leave encashment due to non availability of funds for corresponding investment as the same will be dealt as when it is accrued. The school further submitted that in its reply dated 18.11.2019, that it has not paid any amount gratuity and leave encashment during the FY 2016-17 to 2018-19. Therefore, the school is hereby directed to get the actuarial valuation of its liability for gratuity and leave encashment from the actuary and gradually start maintaining funds in the plan assets within the meaning of AS-15.

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

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

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

As per minutes of SMC meeting held on 09.03.2019, the school has informed to all the members, that the school is not in the condition to pay full salaries to the staff according to 6th CPC and has been paying salary to the staff lower than as prescribed under 6th CPC. This implies that the school has not implemented the recommendation of the 7th CPC and thereby not complying with the aforesaid provisions. Therefore, the school management is directed to take necessary steps to comply with the above-mentioned provisions by augmenting other sources of revenue.

B. Other Observations

1. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to the neighbouring children. However, as per the information provided by the school for FY 2017-18 and 2018-19, it has been noted that the school has not complied with above requirement. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2017-18 and 2018 -19 are tabulated below:

Particulars	**FY 2017-18**	**FY 2018-19**
EWS	31	34
Total Strength	705	663
% of EWS students to total strength	**4%**	**5%**

2. Physical verification of fixed assets is a process conducted to make sure that the assets actually exist and in use and to ensure the proper safeguard of the assets. During the personal discussion, the school was asked to submit physical verification report of the assets and assets register but the school has not provided the same. Therefore, it seems that the school does not prepare fixed assets register and not physically verified the same. As no physical verification of fixed assets is done by the school hence, shortage and excesses, if any, can't be reported. Accordingly, school should maintain proper internal control systems, which includes carrying out physical verification of fixed assets, to safeguard its fixed assets. Therefore, the school is directed to get the physical verification done by the head of the school every year and strengthen the control over the fixed assets and

submit the compliance report. The compliance with this direction will be verified while evaluating the fee increase proposal of the next year.

3. Rule 180 of the Delhi School Education Rules, 1973 stated *"every unaided recognized private school shall prepare and submit financial statements i.e., receipt and payment account, income and expenditure account and balance sheet in accordance with Appendix II of said rules"*. During the personal hearing the school was asked to provide the copy of receipts and payment account. In response to that the school has submitted its reply that it has prepared the receipts and payment accounts on the basis of direct method for preparation of cash flow statements. Thus, the school is not able to differentiate between the receipts and payment accounts and cash flow statements and has not been complying with the above requirement. Accordingly, the school is directed to prepare the receipts and payment accounts as per Appendix-II of Rule 1180 of DSER, 1973.

4. As per the Generally Accepted Accounting Principles, where the school is creating depreciation reserve fund, then the fixed assets should be shown at Gross Value. Further, para 67(ii) of the Guidance Note-21 'Accounting by School states *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

   Review of the audited financial statements of the school revealed that till FY 2016-17, the school was reporting the value of fixed assets at written down value in financial statements. However, from FY 2017-18 onwards, the school has started reporting its fixed assets under two categories i.e., assets purchased out of development fund are reported at cost and assets purchased out of general fund are reported at WDV. Therefore, the school is hereby directed to comply with Generally Accepted Accounting Principles and Guidance Note-21 issued by The Institute of Chartered Accountants of India and clause 14 of the order dated 11.02.2009.

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

i. The total funds available for the FY 2019-20 amounting to INR **1,53,76,910** out of which cash outflow for the FY 2019-20 is estimated to be INR **1,68,68,837.** This results in estimated balance of deficit amounting to INR **14,91,927** for FY 2019-20 after all payments. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements of FY 2018-19.	1,39,531
Investments as on 31.03.19 as per audited Financial Statements of FY 2018-19.	3,07,000
Liquid Funds Available with the School as on 31 Mar 2019	**4,46,531**
Add: Estimated fees and other incomes for FY 2019-20 (Refer Note 1 below)	1,51,94,225
Add: Recovery from Society of amount spent on fixed assets but not reported in the financial statements [Refer observation 2 of Financial Observations]	12,32,366
Gross Available Funds for FY 2019-20	**1,68,73,122**
Less: Development Fund Balance as on 31.03.2019	11,89,212
Less: FDR in joint name of Director of Education and Manager of school	3,07,000
Net Available Funds for FY 2019-20	**1,53,76,910**

Particulars	Amount in INR
Less: Budgeted expenses for FY 2019-20 (Refer Note 2 to 4 below)	1,68,68,837
Estimated Deficit	**14,91,927**

Note 1: Total income received during the financial year 2018-19 has been considered based on the assumption that income accrue during 2018-19 will at least accrue in FY 2019-20 including the aid received from society of INR 2,90,000. Further, as the school is following Para 99 of the Guidance Note-21 issued by the ICAI, relating to restricted fund which states as follows "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, depreciation amount of INR 5,77,844 credited to income and expenditure account of the FY 2018-19 has not been considered in the total income of the school.

Note 2: As the school has not been paying salary even as peer the recommendation of 6th CPC. Therefore, amount proposed by the school towards one month salary reserve of INR 10,00,000 has not been considered in the budgeted expenditure.

Note 3: The salary amount proposed for non-teaching staff was 118% of the actual expenditure incurred by the school during the previous year. Therefore, this expenditure has been restricted to 110% of the actual expenditure incurred by the school during the previous year 2017-18 considering the cost of inflation. Accordingly, INR 10,88,670 is considered excessive and has not been included in the above calculation.

Note 4: The school proposed INR 23,20,000 for capital expenditure but the breakup of the same was not provided. Therefore, this expenditure has been restricted to the extent of actual development fund received during FY 2018-19. Accordingly, INR 9,75,133 has been disallowed.

ii. In view of the above examination, it is evident that the school does not have sufficient funds to meets its expenses from the exiting fee structure for the academic session 2018-19. In this regard, Directorate (Education) has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilized 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 the Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations, that funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2019-20. Further, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 10% to be effective from 01 July 2022.

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

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

Accordingly, it is hereby conveyed that the proposal of fee increase of **New Oxford Public School, B - Block, Main Road, Vivek Vihar – I, Delhi - 110095** is accepted by the Director (Education) and the school is allowed to increase the fee by 10% to be effective from 01 July 2022. Further, the management of said School is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

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

To
The Manager/ HoS
New Oxford Public School (School Id: 1002271)
B - Block, Main Road,
Vivek Vihar – I, Delhi - 110095
No. F.DE.15 (459)/PSB/2022/2266-2270 Dated: 27/04/22

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 (East) 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