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

No. F.DE.15 (438)/PSB/2022/ 2122 - 2126 **Dated: 21/04/22**

Order

WHEREAS, **Lovely Rose Public Secondary School, C - 9, Yamuna Vihar – I, Delhi-110053 (School Id: 1104311)** (hereinafter referred to as **"School"**), run by the **Lovely Rose 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 **Lovely Rose Public Secondary School, C - 9, Yamuna Vihar – I, Delhi - 110053 (School Id: 1104311)** 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 01.11.2019 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 the 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**

I. 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 investment made out of this fund, will be kept in a separately maintained Development Fund Account".*

On review of audited financial statements of the school for FY 2016-17 to 2018-19, it has been noted that the school has been treated the Development Fee as a revenue receipt and reported the same in the Income & Expenditure Account.

From the documents submitted by the School post personal hearing, the School explained that the School is not able to meet its regular development nature expenses such as repair & maintenance of furniture, building (white wash & other repair works) and other fixed assets and other non-development revenue nature expenses due to shortage of funds. Therefore, it has utilized the development fee for meeting revenue expenditure. The school further submitted that going forward the school will ensure with the compliance of clause 14 of the order dated 11.02.2009 as cited above.

Also, the school has not maintained Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and no separate bank account has been opened for deposit of development fee.

Accordingly, the school is directed to comply with clause 14 of the order dated 11.02.2009 for collection and utilization of development fee. As the development fee can only be utilized for purchase, up gradation and replacement of furniture, fixtures and equipment and not for any other purpose. The school also need to open separate bank account for collection and investment of development fee/ fund and create deprecation reserve account equivalent to the depreciation charged in the revenue account and report the same in its financial statements. The school is also directed to submit the compliance report for this within 30 days from the date of issue of this order.

II. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 state "*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 state - "Collections *for specific purposes to be spent for that purpose' of the DSER, 1973 state "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.

On review of audited financial statements submitted by the school, it has been noted that the school charges earmarked levies in the name of Transport Fee and Activity Fee and has been incurring losses (deficit) which has been met from other fees/income. Summary of the earmarked fee collected, and expenditure incurred by the school during the financial year 2016-17 to 2018-19 are as under:

Particulars	Transport Fees (in Rs.)	Activity Fees* (in Rs.)
For the year 2016-17		
Fee Collected during the year (A)	15,000	22,69,800
Expenses during the year (B)	89,794	15,45,556
Difference for the year (A-B)	**(74,794)**	**7,24,245**
For the year 2017-18		
Fee Collected during the year (A)	1,89,000	23,26,510
Expenses during the year (B)	1,57,314	34,57,754
Difference for the year (A-B)	**31,686**	**(11,31,244)**
For the year 2018-19		
Fee Collected during the year (A)	1,91,800	23,18,640
Expenses during the year (B)	1,65,580	32,04,219
Difference for the year (A-B)	**26,220**	**(8,85,579)**
Total	**(16,888)**	**(12,92,579)**

*Being collected from all the students of the School.

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 of 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).

The above table indicate that the School charges Activity Fee from all the students which loses its character of earmarked levy. Thus, the school is directed not to charge Activity Fee as earmarked fee with immediate effect and should incur the expenses relating to these either from tuition fee or from annual charges.

Further, the school is not following fund-based accounting in respect of earmarked levies as indicated in the guidance noted cited above. Accordingly, the school is directed to follow fund-based accounting and 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.

III. 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 recognised 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 financial statements of the school for FY 2016-17 to 2018-19 reveled that the school has not created any provision for gratuity and leave encashment for any of the financial years. The documents submitted by the school on 07.11.2019 in response to personal discussion were taken on record. In its reply the School explained that no provision towards retirement benefits (gratuity and leave encashment) has been provided in the financial statements due to non-availability of funds with the school for making corresponding investment against these provisions as the same is being accounted for on actual payment basis. The financial statements of the school also revealed that the no gratuity and leave encashment was paid by the school in financial year 2016-17, 2017-18 and 2018-19.

The above practice of the school is not correct; accordingly, the school is directed to get the actuarial valuation of its liability of its retirement benefits (gratuity and leave encashment) and record the same in its audited financial statements so that at the end of the financial year the position of its assets and liability are material differ. The school is also directed to invest an amount equivalent to the liability of retirement benefit that qualify as 'Plan Assets' within 30 days from the date of this order.

B. Other Observations

I. Para 67(ii) of Guidance Note-21 issued by the Institute of Chartered Accountants of India, states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

However, the school has practice of reflecting its fixed assets at written down value and Accordingly, the school is directed to disclose fixed asset at gross value on the face of balance sheet on the assets side and the accumulated depreciation on liability side of the Balance Sheet. The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

II. Clause 14 of the order dated 11.02.2009 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 investment made out of this fund, will be kept in a separately maintained Development Fund Account"*

Further 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.*"

Basis the presentation made by the school in its audited financial statements for FY 2016-17 to 2018-19, it has been noted that the school has not followed correct accounting treatment indicated in Guidance Note-21 issued by the Institute of Chartered Accountants of India. Therefore, the school is directed to follow correct accounting treatment with respect to the development fee collected in accordance with above mentioned provisions. This being a procedural finding, the school is directed to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note.

III. In accordance with Section 10(1) of Delhi School Education Act 1973, 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.

Further, 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 Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

The documents submitted by the school has been taken on record. As per the minutes of SMC meeting held on 20.03.2019 submitted by the school along with the proposal of fee enhancement, it has noted that the school does not have sufficient funds to pay salaries to staff even according to 6th CPC which is not in accordance with the provisions indicated above. Therefore, the school is directed to comply with the abovementioned provisions.

IV. Physical verification of fixed assets is a process conducted to make sure that the assets exist and to verify actual assets in hand and value and ensure the accuracy of related financial records. However, as per school's reply, it was submitted that the school does not get its fixed assets physically verified. Accordingly, the school does not have adequate control over the existence and safeguarding of 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 fixed assets. This being procedural finding no financial impact has been given.

V. The Directorate of Education, vide Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999, indicated the head of Fee that recognised private unaided school can collect from the students/ parents is as under:

a. Registration Fee
b. Admission Fee
c. Caution money
d. Tuition fee
e. Annual Charges
f. Earmarked levies
g. Development fee

Further, as per Order No.F.DE./15(56)/Act/2009/778 dated 11.02.2009 and DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999, the fee and fund collected from the students can be utilised as under:

Registration Fee and Admission Fee: Registration fee of Rs. 25 per student and admission fee of Rs. 200 per student collected at the time of admission of the students are immaterial heads of income for school.

Caution Money: It is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school

Tuition Fee: It is required to be determined so as to cover the standard cost of establishment including terminal benefits including expenditure of revenue nature concerning curricular activities.

Annual Charges: Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school

Earmarked Levies: Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in provision of the same.

Development Fee: It is to be treated as capital receipts and utilised towards purchase, upgradation and replacement of furniture, fixture and equipment.

Thus, based on the abovementioned provisions each head of fee has a distinct purpose and the same has to be utilised for the defined purpose. However, on review of the audited financial statements of the school it has been noted that the school has not determined its fee structure in accordance with the above-mentioned provisions, at some the school is utilising development fee for payment of salary and meeting other revenue expenditure of the school as explained by the school in its reply post personal hearing. Therefore, the school is directed to determine its fee structure in accordance with the provisions indicated above and submit the same to DoE for approval.

VI. During the personal hearing the school was asked to submit following documents/ information, but the school has not submitted the same for verification. Therefore, the genuineness relating to any items connected with these observations cannot be verified. The list of documents not provided by the school is as under:

a. Copy of ledger account of society for FY 2016-17 to 2018-19
b. Calculation sheet of fee refunded to students in FY 2016-17 along-with proof of fee refunded to student excess charged by the school
c. Copy of fee structure, class wise break-up of total fee-paying students, non-fee-paying students, EWS students, number of new admissions and number of students left during FY 2016-17 to 2018-19.
d. Reconciliation of fees for FY 2017-18 and 2018-19 along-with the reasons of variations if any with the amount of fee shown under various heads in financial statements.
e. Copy of fee receipts (two receipts each class each year) and fee collection registers for FY 2017-18 and 2018-19.

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 **Rs. 2,90,38,291** out of which cash outflow in the FY 2019-20 is estimated to be **Rs. 3,16,46,725.** This results in estimated balance of deficit amounting to **Rs. 26,08,434** 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)	18,35,673
Investments as on 31.03.19 as per audited Financial Statements (as per audited Financial Statements of FY 2018-19)	10,07,515
Total Liquid Funds Available with the School as on 31.03.2019	**28,43,188**
Add: Estimated Fees and other incomes for FY 2019-20 based on audited financial statements of FY 2018-19 of the school (Refer Note 1 below)	2,72,02,618
Gross Available Funds for FY 2019-20	**3,00,45,806**
Less: FDR in joint name of Director of Education and Manager of school	10,07,515
Net Available Funds for FY 2019-20	**2,90,38,291**
Less: Budgeted expenses for FY 2019-20 (Refer Note 2 below)	3,16,46,725
Estimated Deficit	**26,08,434**

Note 1: Fee and other income as per the audited financial statements of FY 2018-19 has been taken on the assumption that income received by the school during FY 2018-19 will at least accrue in FY 2019-20 including the amount received from the society.

Note 2: All expenditures budgeted by the school for the academic session 2019-20 has been considered while deriving the fund position of the school.

ii. It views of the above examination, it is evident that the School may not be able to meet its budgeted expenditure from the existing fees structure and accordingly, it should utilize its existing funds/ reserves. In this regard, Directorate of 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 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 that though certain financial and other findings exist, 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 **Lovely Rose Public Secondary School, C - 9, Yamuna Vihar – I, Delhi - 110053 (School Id: 1104311** 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.

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
Lovely Rose Public Secondary School (School Id: 1104311)
C - 9, Yamuna Vihar – I,
Delhi - 110053
No. F.DE.15 (438)/PSB/2022/ 2122-2126 Dated: 21/04/22

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