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

No. F.DE.15(645)/PSB/2022/3795-3799 **Dated: 31/05/22**

ORDER

WHEREAS, **Hans Raj Smarak School (School ID-1106195), Dilshad Garden, Delhi-110095,** (hereinafter referred to as "**the School**"), run by the Hansraj Smarak Society (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 DSEAR, 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 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 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 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 13.01.2020 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.

AND WHEREAS, the response of the School along with documents uploaded on the web portal for fee increase, and subsequent documents submitted by the School, were evaluated by the team of Chartered Accountants; the key observations noted are as under:

A. Financial Observations

1. As per Direction no. 2 included in the Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*".

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this DoE states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

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

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

Based on aforesaid provisions mentioned above, the cost relating to land and construction of the School building must be met by the Society, being the property of the Society and the School funds i.e., fee collected from students is not to be utilised for the same.

The financial statements of the School for the FY 2016-17 revealed that the building INR 2,16,27,628 was transferred to the School account. The depreciation charged by the Society on the said building till the date of transfer amounting to INR 2,94,79,752 was also transferred to the School account. Accordingly, the Society's account was credited by INR 5,11,07,380 in the books of the School.

From review of ledger account of the Society maintained in the School's books from FY 2016-17 to 2017-18, it has been noted that earlier the Society was charging rent from the School for use of the School building and for which the School had already made payments to the Society. In FY 2017-18, the School reversed the amount of rent paid to the Society against the said transfer of building, leaving the closing balance of the Society as "NIL" as on 31.03.2018. In view of the aforesaid book entries mentioned above, the School adjusted the cost of the building against the amount of rent already paid to the Society in the earlier years. Accordingly, cost of building of INR 5,11,07,380 which has been adjusted against the rent payment is recoverable from the Society.

Further, it has been noted that the School spent INR 33,18,738 in FY 2017-18 and INR 5,62,682 in FY 2018-19 on addition to the aforesaid building which is in contravention to the provisions mentioned above. Further, this addition was done without complying to the requirement of Rules 177 of DSEAR, 1973.

During a personal hearing, the School submitted that "the amount spent on addition to the building was not of capital nature as no new addition was done to the School building through the said expenditure. Though, this expenditure was capitalised by the statutory auditor under the head of building due to the volume of amount involved. However, this was related to regular repair and maintenance of the School building". The nature of this expenditure has already been verified by the Statutory Auditor of the School hence, the contention of the School cannot be accepted.

Therefore, amount spent by the School on the building totalling to INR 5,49,88,801 (INR 51,107,380 plus INR 33,18,738 plus INR 5,62,682) has been considered while deriving the fund position of the School with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order.

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

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

The audited financial statements of the School for FY 2017-18 revealed that the School has spent INR 40,55,000 for installation of a solar plant which was not in compliance of Rule 177 of DSEAR, 1973. As per Rule 177, the School should first provide for any payment related to employees of the School including retirement benefits and other benefits payable to them. From the details provided by the

School, it has been noted that the School has partially implemented the recommendation of 7th CPC and is yet to pay salary arrears to the staff.

Therefore, the amount spent by the School on installation of a solar plant of INR 40,55,000 has been considered while deriving the fund position of the School with the direction to the School to recover this amount from the Society within 30 days from the date of issue of this order. The School is further, directed to incur the capital expenditure only if it has savings determined by Rule 177 of the DSEAR, 1973.

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

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

   On review of the financial statements, it has been noted that the School has been collecting caution money from the students. But only principal amount is being refunded to the students at the time of his or her leaving from the School which is not in accordance with Clause 18 of the order dated 11.2.2009 and Clause 3 of the Public Notice dated 04.05.1997. The School is hereby directed to comply with the above-mentioned provisions with respect to caution money collected from the students. Further, the refundable amount of INR 13,99,920 as on 31.03.2019 as reported in the audited financial statements has been considered while deriving the fund position of the School.

4. As per Clause 14 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, "*Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment's. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account.*"

   As per Para 99 of the Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India (ICAI), "*Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*" *Further, Para*

102 of the abovementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

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

As per Para 67 of the Guidance Note on Accounting by Schools issued by the ICAI, *"The financial statements should disclose, inter alia, the historical cost of fixed assets."*

On review of the audited financial statements of the School for FY 2016-17 to FY 2018-19, it has been noted that School has not been following the accounting treatment till FY 2017-18 for deferred income for the asset purchased out of the Development Fund. It has also noted that Development Fund balance was negative as on 31.03.2018 which means the School has utilized Development Fund more than the amount collected.

During a personal hearing, the School confirmed that it will make the necessary rectification entries with respect to collection and utilization of the Development Fund/Fee in accordance with the Guidance Note. Accordingly, the School has rectified the Treatment and Development Fund has been capitalized in the FY 2018-19. In view of the above, balance of Development Fund has been considered while deriving the fund position of the School.

B. Other Observations

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

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

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

Also, earmarked levies collected from students are a form of restricted funds, which, according to the Guidance Note on Accounting by Schools issued by the ICAI, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the School and taken on record, it has been noted that the School charges earmarked levies in the form of Transport Fee, Smart Class Fee, Lab Fee and Computer Fee from students. However, the School has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the School, or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the School for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

Particulars	**Transport Income**	**Smart Class Fee**	**Computer fee**	**Science Fee/ Lab Fee**
Fee from Activities 2016-17	36,16,750	49,02,280	54,33,460	25,03,320
Expenses for 2016-17	44,02,563	22,32,250	8,65,956	2,44,284
Surplus/ (Deficit)	**(7,85,813)**	**26,70,030**	**45,67,504**	**22,59,036**
Fee from Activities 2017-18	36,00,910	50,11,000	56,05,900	26,58,865
Expenses for 2017-18	44,61,957	22,92,248	9,19,825	1,82,745
Surplus/ (Deficit)	**(8,61,047)**	**27,18,752**	**46,86,075**	**24,76,120**
Fee from Activities 2018-19	35,81,515	49,81,520	56,07,400	25,86,468
Expenses for 2018-19	48,62,987	20,59,200	11,71,552	2,26,184
Surplus/ (Deficit)	**(12,81,472)**	**29,22,320**	**44,35,848**	**23,60,284**

Earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students at the School, a separate charge should not be levied for the service/facility as the same would get covered either under Tuition Fee (expenses on curricular activities) or Annual Charges (expenses other than those covered under Tuition Fee). The School is charging Co-Curriculum Fee from the students of all classes. Thus, the fee charged from all students loses its character of being a "Earmarked Levy", a non-user-based fee. Thus, based on the nature of details provided by the School in relation to expenses incurred against the earmarked levies mentioned above, the School should not charge such fees as earmarked levies and should incur the expenses relating to these either from the Tuition Fee or from the annual charges as applicable.

Accordingly, total fees (including Earmarked Levy) have been considered while deriving the fund position of the School.

The School is hereby directed to maintain a separate fund account depicting the amount collected, amount utilized, and balance amount for all earmarked levies collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked levies collected from the user-students 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 proposals for enhancement of fee ensuring that only the proposed levies are calculated on a "No-Profit, No-Loss" basis and not to include fees collected from all students as earmarked levies.

2. Para 58(i) of the Guidance Note on Accounting by Schools issued by the ICAI states, "*A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note.*"

   On review of the financial statements for FY 2016-17, FY 2017-18, and FY 2018-19, it has been noted that School has not charged depreciation at rates mentioned in Appendix I of the Guidance Note.

   As per notes in Appendix I - 'Rate of Depreciation' of the Guidance Note, "*The rates contained in this Appendix should be viewed as the minimum rates and, therefore, a school should not charge depreciation at rates lower than those specified in this Appendix in relation to assets purchased after the date of the applicability of the Guidance Note. However, if on the basis of a bona fide technological evaluation, higher rates of depreciation are justified, the same may be provided with proper disclosures by way of a note forming part of accounts*"

   Details of assets for which rate of depreciation was charged more than rates mentioned in Appendix I, is as follows:

Name of Asset	Rate of Depreciation charged	Rate of Depreciation as per Appendix I of the Guidance Note
Building	10%	5%
Car	30%	25%
Computer	60%	40%

   As no explanation related to bona fide technological evaluation of the assets was presented in the notes to accounts forming part of the financial statements for charging higher rates of depreciation, the reason of charging for higher rate of depreciation could not be ascertained. Therefore, the School is directed to evaluate the rate of depreciation and comply with Appendix I of the Guidance Note. This being a procedural finding, no financial impact is warranted in the fund position of the School.

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

After reviewing the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related-party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of these transactions between the related-parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

4. On review of submissions made against the proposal for fee enhancement submitted by the School for FY 2019-20, following anomalies were noted in the Fixed Asset Register (FAR) maintained by the School:

   - Fixed assets were not physically tagged in FAR. Thus these assets could not be verified physically as their location could not be identified.
   - In FAR, only cost of the assets could be identified. Depreciation for the individual assets and WDV of the assets were unavailable.
   - Date of purchase against each asset was not mentioned.
   - Supplier name, invoice number, manufacturer's serial number, location of the asset was not mentioned.

   Therefore, the School is directed to update the FAR with relevant details mentioned above according to the process for periodic physical verification of assets and document the results of physical verification of assets. This being a procedural finding, no financial impact is warranted in the fund position of the School.

5. The Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that, "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Further, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states, "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Also, DoE, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated to the Heads of Fees/Funds that, "A recognised private unaided school can collect from the students/ parents, which include:
   - Registration Fee
   - Admission Fee
   - Caution Money
   - Tuition Fee
   - Annual Charges
   - Earmarked Levies
   - Development Fee"

   The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others". After reviewing the financial statements for FY 2016-17, FY 2017-18, and FY 2018-19, it was noted that the School's fee structure included Pupil Fee which was being utilised for co-curricular activities.

Based on the fact that the Fee Head of 'Pupil Fee' has not been defined for a recognised private unaided school and the purposes for which the School has utilised the same is covered under 'Annual Charges' collected by the School from students. The School is directed not to collect Pupil Fee from students with immediate effect.

For the purpose of evaluation of the fee hike proposal for FY 2019-20, the above-mentioned fee has been included while deriving the fund position of the School.

6. As per Section 18(5) of the DSEAR, 1973, "The Management 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.

Further, Rule 180 of DSEAR, 1973 states, "(1) every unaided recognised private school shall submit the returns and documents in accordance with Appendix I, (2) Every return or documents referred to in Sub-Rule (1), shall be submitted to the Director by the 31st day of July of each year.(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 any officers authorised by the Comptroller and Auditor General of India."

Additionally, Section 24 (2) of DSA. 1973 states, "The Director may arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him".

Whereas Appendix II to Rule 180 specifies that, "final accounts i.e., receipts, and payment account, income and expenditure and balance sheet of the preceding year should be duly audited by an authorized Chartered Accountant (CA)."

It has been observed that financial documents/certificates attested by third-persons/parties misrepresenting themselves as CAs are misleading the authorities and stakeholders. The ICAI has also been receiving numerous complaints of signature forgery.

To curb such malpractices, the Professional Development Committee of ICAI has brought UDIN i.e., Unique Document Identification Number, which is being implemented in phased manner, to secure the certificates attested/certified by practicing CAs. This will also enable the regulators/banks/third-parties to check the authenticity of the documents.

Accordingly, the ICAI Council in its 379th meeting held on 17.12.2018 and 18 .12. 2018, made it mandatory for all practicing members to obtain an 18 digit UDIN number before issuing any audits reports/certifications in the following manner:

- All certifications done by practicing CAs w.e.f. 01.02.2019.
- All GST & Tax Audit Reports w.e.f. 01.04.2019.
- All other attest functions w.e.f. 01.07.2019.

However, on examination of the financial statements submitted by the School for evaluation of fee increase proposal of FY 2019-20, it was observed that the financial statements of the School were certified by the Chartered Accountant without mentioning the UDIN as required by the Council. This being the procedural finding therefore, the School management was instructed to ensure this compliance from the Auditor of the School.

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 academic session 2019-20 amounting to INR **19,11,37,950,** out of which cash outflow is estimated to be INR **8,97,24,000**. This results in estimated surplus of INR **10,14,13,950**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements	47,36,878
Investments (Fixed Deposits) as on 31.03.19 as per audited Financial Statements	4,10,33,887
Investment with LIC for Leave encashment Fund as per audited Financial Statements	79,29,722
Investment with LIC for Gratuity Fund as per audited Financial Statements	2,69,27,152
Liquid funds as on 31.03.2019	**8,06,27,639**
Add: Recovery against transfer of building from Society and addition to the school building **(Refer Financial Observation No. 1)**	5,49,88,801
Add: Recovery against installation of Solar Plant **(Refer Financial Observation No. 2)**	40,55,000
Fees for 2018-19 as per audited Financial Statements **(Refer Note 1)**	8,70,57,748
Other income for 2018-19 as per audited Financial Statements **(Refer Note 1)**	34,24,171
Estimated Available funds for FY 2019-20	**23,01,53,359**
Less: Earmarked Leave encashment Fund as on 31.03.2019	79,29,722
Less: Earmarked Gratuity Fund as on 31.03.2019	2,69,27,152
Less: Development Fund **(Refer financial observation No 4)**	27,58,615
Less: Contingency Reserve fund **(Refer Note 2)**	-
Less: Caution money as on 31.03.2019 (as per audited financial statements **(Refer Financial Observation No.3)**	13,99,920
Less: Depreciation Reserve Fund **(Refer Note 3)**	-
Net Available funds for FY 2019-20	**19,11,37,950**
Less: Budgeted Expenses for FY 2019-20 **(Refer Note 4 and 5)**	8,97,24,000
Estimated Surplus	**10,14,13,950**

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

Note 2: The School has invested INR 1,70,61,808 for Salary Reserve equivalent to 3 months' salary as fixed deposits as required in Form-2 of Right of Children to Free and Compulsory Education Act 2009. However, the School is required to invest such funds in joint name of Dy. Director (Education) and Manager of the school. Since, the school has not invested the funds in joint name with Dy. Direction (Education), funds have been considered as free reserves.

Note 3: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fees comprised of "*Registration fee and All One Time Charges*' levied at the time of admissions such as Admission Fee and Caution Money. The second category of fees comprises '*Tuition Fee*' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities such as Library Fee, Laboratory Fee, Science Fee, and Computer Fee up to class X, and Examination Fee. The third category of fees should consist of *'Annual Charges'* to cover all expenditure not included in the second category. The fourth category of fees consists of all *'Earmarked Levies'* for the services rendered by the School and is to be recovered only from the 'User' students. These charges are Transport Fee, swimming pool charges, horse riding, tennis, midday meals etc. This recommendation has been considered by the DoE while issuing Order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined, whereas it is nowhere defined the usage of Development Fee or any other head of fee for investments against the Depreciation Reserve Fund.

Further, Clause 7 of Order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of Order No F.DE. /15(56)/Act/2009/778 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, upgradation and replacement of furniture, fixture and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge Development Fee for more than 15% of tuition fee.
- Development Fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development Fee will be treated as capital receipt.
- Depreciation Reserve Fund is to be maintained.

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

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the School in accordance with the Guidance Note 21 issued by the ICAI. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of INR 1,13,24,896 as reported by the School in the audited financial statements as on 31.03.2018 has not been considered while deriving the fund position of the School.

Note 4: All expenditures as per budget of FY 2019-20 submitted by the School have been considered.

Note 5: The DoE vide Order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017 states, "The managing committees of all the private unaided recognized schools are directed to implement the Central Civil Revised Pay Rules 2016 in respect of regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committees of all private unaided schools are re-directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order. "

Further, Section 10 of DSEAR states, "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as," Lata Rana Vs. DAV Public School & Ors" vide order dated 06.09.2018 for implementation of Sixth Pay Commission recommendations.

As per the minutes of meeting of the School Management Committee dated 27.03.2019, it has been noted that School Management has partially implemented the provisions of 7th CPC by implementing revised pay scale, but arrears have not been paid fully yet. The full implementation of the recommendations of 7th CPC with effect from 01.01.2016 was not made on the ground of insufficient funds with the School.

As per submission made by the School for proposal for enhancement of fee, the School did not provide details related to arrears payable as per 7th CPC. A follow-up mail seeking details of arrears payable was sent to the School on 04.06.2020, but the School has not responded to the same. Accordingly, the impact of salary arrears which is still pending for payment has not been considered while deriving the fund position of the School and the School is being directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. In case of non-compliance with the direction cited above, strict measures would be initiated u/s 24(3) of DSEAR, 1973 against the School.

ii. In view of the above examination, it is evident that the School has sufficient funds to carry on the operation of the School for the academic session 2019-20 on the existing fee structure. In this regard, DoE has already issued directions to the schools vide order 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 the above evaluation which is based on the provisions of DSEAR, 1973, guidelines, orders and circulars issued from time to time by this DoE, it was recommended by the team of Chartered Accountants along with certain financial observations (appropriate financial impact has been taken on the fund position of the School) and certain other observations (appropriate instructions have been given in this order), that the sufficient funds are 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 rejected.

AND WHEREAS, it has been noted that the School has paid INR 5,49,88,801 towards construction and transfer of building and purchase of solar panel of INR 40,55,000 which is not in accordance with Clause 2 of Public Notice dated 04.05.1997 and Rule 177 of DSEAR, 1973. Thus, the School is directed to recover 5,90,43,801 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 30 days from the date of issuance of this Order. Non-compliance of this shall be taken up as per DSEAR, 1973.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the DoE for consideration and who after considering all the material on the record, and after considering the provisions of Sections 17(3), 18(5), 24(1) of the DSEAR, 1973 read with Rules 172, 173, 175 and 177 of the DSEAR, 1973 has found that the School has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the School to increase the fee for the academic session 2019-20.

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 2019-20 of **Hans Raj Smarak School (School ID-1106195), Dilshad Garden, Delhi-110095** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, 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 DSEAR, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/staff in accordance with Section 10(1) of the DSEAR, 1973. Therefore, the Society running the School must ensure payment to teachers/staff accordingly.

3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSEAR, 1973 and orders and directions issued by this DoE 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 DSEAR, 1973.

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

To
The Manager/ HoS
Hans Raj Smarak School (School ID-1106195),
Dilshad Garden, Delhi-110095
No. F.DE.15(645)/PSB/2022/3795-3799 Dated: 31/05/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (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