

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

No. F.DE.15 (587)/PSB/2022/ 3514-3518

Dated: 25/05/22

ORDER

WHEREAS, **Jain Sadhvi Padma Vidya Niketan (School Id: 1411183), New Delhi – 110052** (hereinafter referred to as “**the School**”), run by the Jain Sadhvi Padma Samark Samiti (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, 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 para’s 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...*



25. 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 **Jain Sadhvi Padma Vidya Niketan (School Id: 1411183), New Delhi – 110052**, 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, to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate 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 DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-2020, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 13 November 2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted and school submissions were taken on record. During personal hearing school has submitted that it has not proposed any increase in fee in FY 2018-19 and in the meeting of SMC it has been approved not to increase fee in FY 2018-19 and thus, school do not require any increase in fee for this year. Accordingly, fee proposal for session 2018-19 has not been evaluated.

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 after evaluation of fee proposal of the school the key observations noted are as under:

**A. Financial Observation**

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

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

However, on review of the audited Financial Statements for FY 2016-17 to FY 2018-19, it has been noted that school has not maintained separate bank account for deposit of caution money collected and not credited the interest earned thereon to the credit of caution money account. Also, it has been noted that interest earned on caution money collected has not been paid to the students at the time of his/her leaving from the school. Thus, the school is directed to maintain separate bank account for deposit of caution money collected. Also, the school is directed to ensure that caution money is refunded to the students together with interest. Accordingly, the outstanding liability of INR. 10,900 reflecting in the audited financial statements of 2018-19 has been considered while deriving the fund position of the school.

2. As per Clause 14 of this Directorate's 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, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account."*

On review of the audited Financial Statements of the school for FY 2018-19, it has been noted that the school has not treated development fees as capital receipt and instead has treated it as revenue receipts for meeting revenue expenses of the school. Further, the school has neither opened a separate bank nor has earmarked any fixed deposits against development fund to ensure availability of funds at the time of incurring capital expenditure out of development fund on furniture, fixture and equipment.

During personal hearing, the school has submitted that it does not have sufficient funds to make required investments and it utilizes development fund for payment of salaries. Thus, the school is directed to comply the directions contained in aforesaid order dated 11.02.2009 in this regard and ensure that development fee is treated as capital receipt by creating development fund and transferring depreciation charged in revenue account to depreciation reserve. Development fund so created should be utilised only towards purchase of furniture, fixture and equipment. The school is directed not to charge

development fee from students till the time school complies with conditions laid down in aforesaid order.

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

However, on review of audited Financial Statements of the School for FY 2016-17, 2017-18 and 2018-19, it has been noted that the school do not follow the accounting practice suggested in the aforesaid para of the guidance note cited above and do not maintain any deferred income account. Accordingly, school is hereby directed to follow para 99 of GN-21 for correct presentation of its financial statements.

#### **B. Other Observations**

1. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, according to para 7.14 of the Accounting Standard 15 "*Plan assets comprise:*

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

On review of audited Financial Statements for FY 2016-2017 to 2018-2019 it has been noted that the liability towards staff terminal benefits (gratuity and leave encashment) has not been provided in the Financial Statements. Further, it has been noted that the school has charged expenses relating to gratuity and leave encashment in the Income and Expenditure Account based on actual expenditure/payment to staff during the year. The school has also not obtained actuarial valuation of its liability towards retirement benefits of the staff and has not made investments in 'Plan assets' in accordance with Accounting Standard 15.

Therefore, the school is directed to obtain actuarial valuation of its liability towards gratuity and leave encashment and record the provision towards retirement benefits in its financial statements in conformity with actuarial valuation report. Also, the school should start creating investments that qualify as 'plan-assets' in accordance with Accounting Standard 15.

2. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue*



*nature concerning the curricular activities.*” Further clause 21 of the aforesaid order states “No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and ‘overheads’ and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.” Also, Clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 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.”

As per Rule 176 of the DSER, 1973 “Income derived from collections for specific purposes shall be spent only for such purpose.” And sub-rule 3 of Rule 177 of DSER, 1973 states “Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).” Further, Sub-rule 4 of the said rule states “The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.”

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

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

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of computer fee from students. However, the school has not maintained separate fund account for earmarked levy and the school has been generating surplus from earmarked levy, which has been utilised for meeting other expenses of the school. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-2019 are given below:

Particulars	Computer Fees (in INR)
<b>For the year 2016-17</b>	
Fee Collected during the year (A)	4,25,621
Expenses during the year (B)	1,97,157
<b>Difference for the year (A-B)</b>	<b>2,28,464</b>
<b>For the year 2017-18</b>	
Fee Collected during the year (A)	1,58,255
Expenses during the year (B)	7546
<b>Difference for the year (A-B)</b>	<b>1,50,709</b>

Particulars	Computer Fees (in INR)
<b>For the year 2018-19</b>	
Fee Collected during the year (A)	1,53,545
Expenses during the year (B)	1,779
<b>Difference for the year (A-B)</b>	<b>1,51,766</b>
<b>Total</b>	<b>5,30,939</b>

The school has explained that tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure on account of which fund balance of earmarked levies could not separate from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (including those for earmarked purposes) while deriving the fund position of the school.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies have to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

The 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.

**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 available funds for the year 2019-20 amounting to INR **13,08,838** out of which cash outflow in the year 2019-20 is estimated to be INR **13,32,179**. This results in deficit of amounting to INR **23,341**. The details are as follows:

Particulars	Amount (in INR )
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement of FY 2018-19	79,015
<b>Liquid Fund as on 31.03.2019</b>	<b>79,015</b>
Add: Fees for FY 2018-19 as per Audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	12,40,723
<b>Total Available Funds for FY 2019-20</b>	<b>13,19,738</b>

Less: Caution Money as on 31.03.2019 (As per Audited Financial Statement for the FY 2018-19)	10,900
Less: Development Fund as on 31.03.2019 (As per Audited Financial Statement for the FY 2018-19)	-
<b>Net Available funds for FY 2019-20</b>	<b>13,08,838</b>
Less: Budgeted expenses for FY 2019-20 (Refer Note-1)	<b>13,32,179</b>
<b>Estimated deficit for FY 2019-20</b>	<b>(23,341)</b>

**Note- 1:** The Directorate vide Order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/(318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7<sup>th</sup> CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

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

It has been noted that School Management will not pay salary arrears to the staff and has not yet implemented the recommendations of 7<sup>th</sup> CPC with effect from 01.01.2016 on the ground of insufficient funds with the school. Therefore, the school is directed to implement the recommendations of 7<sup>th</sup> CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

- ii. The school does not have sufficient funds to carry on the operation of the school for the academic session 2019-20 at the existing fees structure. In this regard, Directorate of Education 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 above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other observations, that the sufficient funds are 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.

AND WHEREAS, 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 6<sup>th</sup> 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 5% to be effective from 01 July 2022.

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 for the academic session 2019-20 of **Jain Sadhvi Padma Vidya Niketan (School Id: 1411183), New Delhi – 110052** has been accepted by the Director (Education) and the school is allowed to increase the fee by 5% to be effective from 01 July 2022.

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 Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

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



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



To:

**The Manager/ HoS**  
**Jain Sadhvi Padma Vidya Niketan (School Id: 1411183),**  
**New Delhi – 110052**  
No. F.DE.15 (587)/PSB/2022/ 3514-3518

Dated: 25/05/22

Copy to:

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