

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

No. F.DE.15(805) / PSB / 2022 / 5211-5215

Dated: 29/06/22

ORDER

WHEREAS, M.M. Public School (School ID-1411192), Pitampura, Delhi-110034, (hereinafter referred to as "the School"), run by the Roopnagar Public School 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 DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

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

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

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

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

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



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

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 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 12.06.2020 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. During the aforesaid hearing compliances against order no. F.DE.15(314) PSB/2019/1630-1634 dated 24.04.2019 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

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



A. Financial observations

- I. Direction no. 2 included in the Public Notice dated 04.05.1997 states *“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, 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.”* Also, 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.”*

Moreover, Rule 177 of DSER, 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.*

The Directorate in its Order no. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued to the School of FY 2017-18, noted that school incurred capital expenditure INR 34,22,057 for purchase of Car (s) in FY 2016-17 for which the school did not provide the details regarding the make, model, etc. Thus, it was concluded that the school had purchased car(s) and submitted proposal for increase of fee from students, which translates to constituting capital expenditure as component of the fee structure of school and hence, non-compliance of DSEA & R, 1973. Further, this capital expenditure on car(s) was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. Therefore, the School was directed to recover this amount from the Society.

On review of the audited financial statements, it has been noted that school has neither recovered this amount of INR 34,22,057 from the society nor submitted any justification/clarification on usage of such Car(s). Accordingly, this amount of INR 34,22,057 spent by the School for purchase of Car(s) has been

again added to 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.

- II. Direction no. 2 included in the Public Notice dated 04.05.1997 states *"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 Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Moreover, Rule 177 of DSER, 1973 states *"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.*

On the review of the audited financial statements from FY 2016-17 to 2018-19, it has been noted that the School has purchased buses of INR 17,75,000 in FY 2016-17 out of school fund and INR 42,29,906 in FY 2018-19 by taking loan of INR 20,00,000 from a banking institution and remaining portion of INR 22,29,906 was paid out of school funds. Further, vehicle loan has been completely paid off in FY 2018-19 including interest cost of INR 96,155. All these expenditures have been incurred without complying with the above-mentioned provisions. The income generated by the school from transport service provided to students has been taken into consideration and noted that the income and expense towards transport service was not adequate to cover the operating expenses of transport service. (Refer other observation no. 1 for details).

The school during personal hearing explained that bus was purchased to meet the needs of the school without bothering the provision of DSEAR, 1973. This indicates, the school has been purchasing vehicles and submitting proposals for increase of fee from students that translates to constituting capital

expenditure as component of the fee structure of school and hence non-compliance, while the school has incurred deficit from the transport facility provided to students. Accordingly, the school is directed to recover the total amount of INR 61,01,061 (INR 17,75,000 plus INR 42,29,906 plus INR 96,155) from the Society within 30 days from the date of issue of this order. The school is further directed not to utilise School funds for purchase of buses unless the School complies with the Rule 177 of DSER' 1973.

- III. 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, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

1. Assets held by a long-term employee benefit fund; and
2. Qualifying insurance policies.

Further, Para 57 of AS-15 states that "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

Further, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service.*"

An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if a school employs only a few persons, say less than twenty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in "*plan assets*" as per AS-15 issued by ICAI.

The Directorate in its Order No. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued to the school of FY 2017-18, noted that though the school obtained actuarial valuation for gratuity. However, liability towards leave encashment was calculated based on management estimates basis. Also, school did not earmark equivalent investments in 'plan-assets' as defined in Accounting Standard-15 'Employee benefits. Accordingly, the school was directed to get its liability towards leave encashment valued by an actuary, create a provision for corresponding amount in its books of account and invest in 'Plan Assets'.

The actuarial valuation report submitted by the school were taken on record, on review of the same it has been noted that the total liability for retirement benefit was INR 1,13,86,407 as on 31.03.2019 and the school has reported the same in its audited financial statements. However, the School has not invested any amount that qualify as 'Plan Assets' in accordance with AS-15. Therefore, the total liability of INR 1,13,86,407 as determined by the actuary has not been considered while deriving the fund position of the school.



The school is hereby directed to invest an amount equivalent to the amount determined in the actuarial valuation report in plan assets as per the requirement of AS-15 within 30 days from the date of issue of this order.

B. Other observations

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

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states "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 DSER, 1973 states "Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."

Also, 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 was noted that the school charges earmarked levies in the form of Transportation fee, Computer fee, Technology fee, IT & Smart Class Fee and Magazine fee. However, the school has been generating surplus from earmarked levies that has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. The details of funds position for the three financial years as follows:

Particulars	IT and Smart Class Charges	Computer Fee	Technology Fee	Transportation Charges*	Magazine Fee
For the year 2016-17					
Fee Collected during the year (A)	31,78,087	2,19,800	-	47,88,610	4,65,270

Particulars	IT and Smart Class Charges	Computer Fee	Technology Fee	Transportation Charges*	Magazine Fee
Expenses during the year (B)	22,13,490	1,60,450	-	46,09,826	5,04,000
1) Difference for the year (A-B)	9,64,597	59,350	-	1,78,784	(38,730)
For the year 2017-18					
Fee Collected during the year (A)	24,66,040	2,89,250	21,81,310	66,94,275	5,28,310
Expenses during the year (B)	21,40,548	2,06,099	19,68,548	84,82,225	6,17,870
2) Difference for the year (A-B)	3,25,492	83,151	2,12,762	(17,87,950)	(89,560)
For the year 2018-19					
Fee Collected during the year (A)	25,86,810	2,03,700	21,10,892	58,30,496	5,33,100
Expenses during the year (B)	23,48,664	2,68,575	17,62,741	90,35,350	5,32,744
3) Difference for the year (A-B)	2,38,146	-64,875	3,48,151	(32,04,854)	356
Total=1+2+3	15,28,235	77,626	5,60,913	(48,14,020)	(1,27,934)

* Expenses for FY 2016-17 does not include salary provided to drivers of the buses used for transportation of students in the expenses stated in table above hence does not depict clear picture of surplus available with the school for FY 2016-17.

The school has submitted that annual charges collected from students are not sufficient to meet the revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting general revenue expenditure of the school 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 income and expenses (included those for earmarked purposes) while deriving the fund position of the school.

Thus, the school is again directed to maintain separate fund account against each amount collected, utilised and the balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year with evaluation being made against each earmarked levy in such way that the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee indicates no-profit no-loss.

Further, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, etc., and Science and Computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the fourth category should consist of all "Earmarked Levies" for the services rendered by

the school and to be recovered only from the 'User' students. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. It has been noted that the School has been collecting "Smart Class fee" and "Technology fee" from all the Students of the School therefore, the school is directed to stop collecting separate charges in the name of the "Smart Class fee" and "Technology fee".

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. Further, the school is also directed to determine its fee structure in accordance with above mentioned provisions.

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

Also, Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India *"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."* 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."*

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

On review of audited financial statements of FY 2018-19, it has been noted that school has segregated assets purchased from development fund and those purchased from general fund and has prepared two fixed assets schedule i.e. assets purchased out of the development fund and assets purchased out of the

general funds and reported the same in its audited financial statements. Further, the DoE in its order No. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued to the school, detailed reconciliation of total amount reported with respect to purchase of assets in the audited financial statements for FY 2014-15 and FY 2015-16 with the amount re-categorised by the school during FY 2016-17 were asked to be submitted along with its next proposal for enhancement of fee, which has not been submitted by the school. Further, the School has not transferred the amount from deferred income account to the credit of income and expenditure account in proportion of the depreciation charged.

Further, depreciation reserve fund as on 31.03.2017 reported by the school in the audited financial statements which did not reconcile with the balance of the accumulated depreciation reported in the fixed assets schedule(s). For which the school has not provided any details explanation during the evaluation of fee increase proposal for FY 2019-20.

Therefore, the School is hereby directed to comply with directions as indicated under Guidance Note-21 by following presentation and disclosure requirements therein and to make necessary rectification entries relating to treatment of amount utilised for purchase of fixed assets out of development fund by creating deferred income account to the credit of income and expenditure account in proportion of the depreciation charged.

- III. During the evaluation of fee increase for FY 2019-20, it has been noted that school has not submitted Fixed Asset Register (FAR). An ideal Fixed asset register should not only capture asset name, date and quantity but should also include details such as supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

Hence, the school is directed to prepare and submit 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.

- IV. Rule 107- 'Fixation of Pay' of DSER, 1973 states "(1) *The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum of the scale of pay. Provided that a higher initial pay, in the specified scale of pay, may be given to a person by a appointing authority....*

(2) The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school."

The Directorate in its Order No. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued for academic session 2017-18, stated that gross monthly salary of Principal was computed by the school as INR 2,65,044 (with a grade pay of INR 10,000) for the month of Nov 2017, which appeared excessive in comparison to the salary paid to comparable staff in government schools. However, reconciliation of salary from date of joining and subsequent increments was not provided by the school. In absence of detailed reconciliation, it could not be concluded whether excessive salary is being drawn by the principal of the school.

On review of the audited financial statement, it has been noted that the school has paid INR 2,23,823 per month for the month of March 2019 to the principal which is less as compared to the salary which was given for the month of November 2017. However, the school has not submitted detailed reconciliation of salary of the principal. Hence, the school is directed to provide complete details of salary provided to principal of the school as the same shall be verified at the time of evaluation of the fee hike proposal for next financial year.

- V. On review of submission of documents made by the school post personal hearing, it has been noted that, School has not submitted any process in relation to calling of quotations from vendor, approval process, gate inward control and payment and no documentation is produced for the same. The school was not preparing any comparative statement for evaluating the quotations received from major vendors etc. and no approval of purchase committee has been provided. Similar observation was noted in Order No. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued for academic session 2017-18.

Accordingly, the school is again directed to follow proper procurement process and submit documentation in relation to procurements and purchases done by the school. Compliance of the same shall be validated at the time of evaluation of subsequent fee increase proposal. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

- VI. Clause no. 3 of the public notice dated 04.05.1997 published in the Times of India "*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.*"

However, on review of audited financial statement for the FY 2017-18 and 2018-19, it has been observed that the School is refunding only the principal amount to the student at the time of leaving the School, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009.

Accordingly, the School is again directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009. The balance of caution money as on 31/03/2019 is INR 50,000 as per audited financial statements for the FY 2018-19 and has been considered while deriving the fund position of the School.

- VII. Clause 103 on Related Party Disclosure, contained in 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.



From review of 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 transactions entered into 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.

- VIII. The Directorate in its Order no. F.DE.15(314)/PSB/2019/1630-1634 dated 24.04.2019 issued to the School of FY 2017-18 mentioned that school increased its fees by 10% during FY 2016-2017 without obtaining prior approval from Director (Education). Whereas post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the fee increase proposal was rejected by DoE with the direction that in case increased fee has already been charged from the parents, the same shall be refunded/adjusted vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/883 dated 4 September 2017.

In the aforesaid order, it was noted that the school did not refund/adjust the increased fee (Tuition fee, Development fee, Annual charges and Transport fee) collected from students during FY 2016-2017. Further, during discussion with the school in personal hearing, the school mentioned that it has continued to collect increased fee during FY 2017-2018 and FY 2018-2019. The school mentioned that the fund position of the school does not allow refund/adjustment of increased fee collected from the students. However, the school did not provide details of total amount of increased fee collected from students during the FY 2017-2018 and FY 2018-2019. In absence of details, no amount has been considered while deriving the fund position 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 Academic session 2019-20 amounting to INR **11,12,63,412** out of which cash outflow in the Academic session 2019-20 is estimated to be INR **12,38,80,186**. This results in net deficit of INR **1,26,16,774**. 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	49,45,737
Investments as on 31.03.19 as per audited financial statements of FY 2018-19	82,31,634
Liquid funds as on 31.03.19	1,31,77,371
Add: Recovery from the society for purchase of Cars in contravention of Rule 177 of DSER, 1973 (Refer financial observation no. I)	34,22,057
Add: Recovery from the society for purchase of Buses in contravention of Rule 177 of DSER, 1973 (Refer financial observation no. II)	61,01,061
Add: Fees for FY 2018-19 as per audited financial statements (Refer note 1 below)	8,59,77,541
Add: Other income for FY 2018-19 as per audited financial statements (Refer note 1 below)	27,96,936

Particulars	Amount (in INR)
Available funds for FY 2019-20	11,14,74,966
Less: FDR's jointly held with Directorate of Education as on 31.03.2019	1,61,554
Less: Caution Money balance as on 31.03.19 as per audited financial statements of FY 2018-19 (Refer other observation no. VI)	50,000
Less: Investment made for provision for Retirement benefits (Refer financial observation no. III)	-
Less: Depreciation reserve fund (Refer note 2 below)	-
Net Available funds for FY 2019-20	11,12,63,412
Less: Budgeted expenditure for the FY 2019-20 after certain adjustments (Refer note 3 below)	10,52,68,002
Less: Salary arrears payable for implementation of recommendations of 7th CPC (1.1.16 to 31.3.19) (Refer note 4 below)	1,86,12,184
Net Deficit	1,26,16,774

Note 1: Fee and income as per audited financial statements of FY 2018-19 has been considered assuming that fee accrued in FY 2018-19 will at least accrue in FY 2019-20.

Note 2: 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 fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee 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 like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and 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 Directorate 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 and it is nowhere defined the usage of development fee or any other head of fee for investments against 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 the 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, 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 receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of 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 depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' 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."

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 Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of INR 39,71,732 as reported by the School in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the School.

Note 3: All budgeted expenditure proposed by the school has been considered in the above table except the following:

Particulars	Amount Disallowed (in INR)	Remarks
Revenue expenditure		
Salary expenditure	98,59,826	The school has proposed salary expenditure of INR 6,26,45,816 in FY 2019-20 including the impact of the 7 th CPC for FY 2019-20 which 42% of the actual expenditure incurred by the school during the FY 2018-19. The school has not provided any justification for such unusual increase. Therefore, this has been restricted to 20% of the actual salary incurred by the school during the FY 2018-19 considering the impact of 7 th CPC along with the salary arrears of INR 1,86,12,184 from Jan 2016 to Mar 2019 which has been shown separately in the above table. Accordingly, INR 98,59,826 has not been considered in the budgeted expenditure of the school.

Particulars	Amount Disallowed (in INR)	Remarks
Function expense	87,600	The School has proposed unusual increase under these heads and has not provided any justification and clarification for such unusual increase. Therefore, these expenses have been restricted to 110% of actual expenditure incurred during the previous year.
Security expense	10,59,354	
Legal and professional expense	9,26,834	
Seminar and workshop expense	4,04,850	
Sports expense	4,44,785	
Repair and maintenance expense	3,91,965	
<u>Capital expenditure</u>		
Auditorium	35,00,000	Not in accordance with Direction No. 2 of Public Notice dated 04.05.1997 and Rule 177 of DSER,1973.
Lift	15,00,000	
Games and sports	50,00,000	The school has proposed adhoc expenditure without providing any details and requirement of this expenditure. Therefore, the same has not been considered.

Note 4: 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 7th 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.

As per school submission, salary arrears of INR 1,86,12,184 from January' 2016 to March' 2019 has been considered while deriving the fund position of the School with the direction to the School to implement the recommendations of 7th 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. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expense for the financial year 2019-20. In this regard, the Directorate of Education vide circular no. 1978 dated 16.04.10 states 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, it has also been noted that the School has incurred INR 95,23,118 for purchase of car and buses, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 95,23,118 from the society. The amount of above receipt along with copy of 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 DSEA & R, 1973.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread 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 is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) 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 15% to be effective from 01 July 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication 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 status 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 **M.M. Public School (School ID-1411192), Pitampura, Delhi-110034** has been accepted by the Director of Education and the school is hereby allowed to increase the fee by 15% with effect from 01 July 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

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

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

This 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
M.M. Public School
School ID-1411192
Pitampura, Delhi-110034
No. F.DE.15(805) / PSB / 2022/ 5211-5215

Dated: 29/06/22

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) 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