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

No. F.DE.15 (661)/PSB/2022/4040-4044 Dated: 03/06/22

Order

WHEREAS, **Kulachi Hansraj Model School, (School ID – 1411222), Ashok Vihar, Phase III, Delhi- 110052,** (hereinafter referred to as **"the School"**), run by the **DAV College Trust & Management Society** (hereinafter referred to as the "**Society"**), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

"27....

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate, **Kulachi Hansraj Model School (School ID – 1411222), Ashok Vihar, Phase III, Delhi- 110052** had submitted the proposal for fee increase for the academic session 2019-20. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by the said school for the academic session **2019-20**.

AND WHEREAS, in order 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 16.10.2019 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. During the aforesaid hearing compliances against order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18 were also discussed and school submissions were taken on record.

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 and status of compliance against order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18 are as under:

A. Financial Observations

1. Rule 177 of DSER, 1973 specified the manner in which the school should utilise fee collected from the students. And the Director's Order No. DE15/ Act/ Duggal.com/203/99/23033/23980 dated 15.12.1999 states " *management of the school is restrained form transferring any amount from the recognised school fund to society or trust or any other institution*". The Supreme Court also through its judgements on a review petition in 2009 confirm restriction on transfer of fund to the society"

   The audited financial statements of the school for FY 2017-18, reflected receivable balance (Reserve Fund) of INR 7,86,62,032 from DAV CMC (Society) which has been carried over from the previous year. The Directorate through order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18 directed to recover the balance from DAV CMC.

   As per the response submitted by the school vide letter dated 29.09.2019 that the school has Reserve Fund of INR 7,86,62,032 and receiving 8% per annum compounded interest annually lying with DAV CMC against contingent liability as provision for 3 months plus 1 month buffer salary total INR 11.47 crores as per CBSE by laws which is still short of INR 3.61 crores.

   On review of Financial Statements for FY 2018-19, it has noted that the school has shown the contingent liability for 4 months' salary in notes to accounts and has neither created any provision for 3 months' salary nor made any investment in the joint name of manager of the school and DY. Director of Education till date. Therefore, the plea taken by the school cannot be accepted.

   During the personal hearing, the school has submitted that the society is paying interest @8% per annum. In financial year 2018-19 the school has booked INR 62,92,963 towards interest on this fund. Moreover, interest @ 8% is getting accrued every year, but actual collection is not being made in the financial year. Therefore, the amount recoverable of INR 8,49,54,995 (with interest) has been included while deriving the fund position of the school with the direction to the school to the recover this amount from the society within 30 days from date of issue of this order.

2. Clause No. 2 of 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 titled Delhi Abibhavak Mahasangh concluded states "T*he 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.*"

   Thus, based on the aforementioned provisions, cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds should not be utilized for this purpose.

   The Directorate through order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18, observed that the school has incurred expenditure of INR 2,40,19,904 on construction of building out of the school funds in FY 2014-15 to FY 2016-17 which is in contravention of the aforesaid provisions. Moreover, the above capital expenditure was incurred without complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, the school was directed to recover this amount of INR 2,40,19,904 form the society which is still pending for recovery.

Further, in addition to the amount incurred till FY 2016-17, the school has incurred INR 55,06,982 in FY 2017-18 for development of infrastructure which is being capitalised under the head building. Therefore, the school is directed to recover INR 2,95,26,886 (INR 2,40,19,904 + INR 55,06,982) from the Society. Accordingly, this amount has been included 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 the issued of this order.

3. 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, fixtures and equipment.*" Thus, the development fee should not be utilised any other purposes other than those specified in cluse 14 of the order dated 11.02.2009.

However, during the evaluation of fee increase proposal, it was noted that the school had incurred expenditure for purchase of bus and library books, construction of building and development of web portal and presented the same as utilisation of development fund in its audited financial statements which is not in accordance with the direction of clause 14 of the order dated 11.02.2009. The summary of misutilisation of development fund is given below.

(Amount in INR)

Particulars	FY 2016-17	FY 2017-18	FY 2018-19	Total
Building	99,78,155	55,06,982	-	**1,54,85,137**
Buses	25,87,013	-	-	**25,87,013**
Development of Web portal	1,23,164	1,20,183	96,465	**3,39,812**
Library Books	4,34,124	1,47,828	1,67,120	**7,49,072**
Surplus in each year	**1,31,22,456**	**57,74,993**	**2,63,585**	**1,91,61,034**

4. Para 99 of the Guidance Note-21, Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

However, the school on purchase of assets out of the development fund transfers an amount equivalent to the cost of the assets to general reserve instead of transferring it to a separate account e.g., "Development Fund Utilisation Account" or any other account whatever name it may be called. This separate account shall be treated as deferred revenue income and need to be written off in proportion of deprecation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilisation resulting incorrect reporting of the balance of General Reserve in the audited financial statements. Thus, the accounting treatment adopted by the school is not in accordance with the above guidance note.

During the personal hearing, school accepted this fact and agreed to rectify its accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of next academic session.

5. As explained by the school an administrative charge payable to DAV CMC are accounted for @ 4% of the basic salary paid by the school to its staff up to financial year 2016-17. However, DAV CMC has increased this administrative charge to 7% of the basic salary paid by the school to its staff from the financial year 2017-18. While evaluating the fee increase proposal for the financial year 2017-18, the school was directed to reduce percentage of administrative charges to 2% instead of 7% of the basic salary paid to its staff. Thus, the school instead of following the direction of the department, has increased the rate of administrative charge payable to DAV CMC. Administrative charges paid by the school to DAV CMC has been provided below.

(Amount in INR)

Particulars	FY 2017-18	FY 2018-19
Basic Pay	8,15,84,847	21,00,67,291
Total	**8,15,84,847**	**21,00,67,291**
Applied Rate	18%	7%
Administrative charges (as per applied rate) (A)	1,49,15,947	1,47,27,776
Allowable rate	2%	2%
Administrative charges (as per allowable rate) (B)	16,31,697	42,01,346
Difference (A-B)	1,32,84,250	1,05,26,430
Less: Administrative charges payable as on 31.03.2019 as per audited financial statements	-	12,18,823
Balance recoverable from Society	**1,32,84,250**	**93,07,607**

Accordingly, the excess amount of INR 2,25,91,857 (i.e., 1,32,84,250 plus 93,07,607) INR paid by the school to DAV CMC by way of administrative charge is recoverable from the society and has been included while deriving the fund position of the school considering the same fund is available with 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 do not pay balance amount INR 12,18,823 to the society.

6. As per practice adopted by the schools under the management of the DAV CMC, the school provides for Gratuity and Leave encashment expense @ 7% and 3% respectively of Basic Pay and Dearness Allowance and then this is transferred to the DAV CMC. The DAV CMC in turn manages and maintains common pool of funds for all the schools under its management and uses the same for payment of gratuity and leave encashment liability as and when arises on account of his/her resignation or retirement. The department had directed to the school through its order no. F.DE-15/Act/-I/WPC-4109/Part/13/956 dated 13.10.2017 to obtain an actuarial valuation of its gratuity and leave encashment liabilities and disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in its financial statements.

Further, during personal hearing of last academic session 2017-18, the school had agreed to report its liability as per the actuarial valuation along with investment in plan assets as per the requirements of AS-15 from financial year 2018-19. The school also agreed to invest the amount of funds available with DAV CMC in plan assets.

The school for the first time has obtained Actuary report for gratuity and leave encashment as at 31.03.2019 which has been taken on record. As per the Actuary report, the school has liability towards gratuity and leave encashment as on 31.03.2019, INR 15,05,31,755 and INR 4,07,50,112 respectively. But the school has not recorded total liability towards gratuity and leave encashment in its audited financial statements. The details are as under.

(Amount in INR)

Head	As per Actuary Report as on 31.03.2019 (A)	As per Audited FS as on 31.03.2019 (B)	Difference C=(A-B)
Gratuity	15,05,31,755	3,78,49,842	11,26,81,913
Leave Encashment	4,07,50,112	81,15,930	3,26,34,182

Further, according to Para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:

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

Based on the discussion with the school during the personal hearing, the school has not invested any amount in the plan assets in accordance with the requirement of AS-15. During the discussion the school also provided details of fund balance with DAV CMC in respect of payment made to DAV CMC towards maintenance of gratuity and leave encashment including the interest accrued. However, this investment in the form of fund balance maintained by DAV CMC. The balance disclosed by the school based on records maintained by the DAV CMC have been indicated below.

(Amount in INR)

Head	Balance as on 31.03.2019
Gratuity & Leave Encashment balance with DAV CMC	4,59,65,772

Accordingly, the investment in the form of fund balance maintained by DAV CMC in respect of the liability towards retirement benefits of the school does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). Further, the school has proposed INR 1,73,20,772 towards gratuity and INR 74,23,221 towards leave encashment for the FY 2019-20 without depositing any amount in the plan assets in accordance with AS-15 despite being directed several times. Since the school has not deposited any amount in the plan assets in accordance with AS-15 and not complied with the directions given in order no. FDE15(648) PSB/2018/30703-30707 dated 19.12.2018 issued for academic session 2017-18 and Order no. F.DE-15/Act/-I/WPC-4109/Part/13/956 dated 13.10.2017. Therefore, these provisions towards gratuity and leave encashment have not been considered while deriving the fund position of the school.

Since the school has not invested equivalent amount of its liability in plan assets within the meaning of AS-15 and has not provided the details of actual payment made towards gratuity and leave encashment during FY 2019-20, the amount proposed INR 1,73,20,772 towards gratuity and INR 74,23,221 towards leave encashment have been restricted to INR 1,80,75,433 based on the actual payment details provided by the school during the evaluation of fee increase proposal for FY 2017-18.

Accordingly, the school is again directed to recover the amount deposited with DAV CMC within 30 days from the date of this order. The school is also directed to report total liability of gratuity and leave encashment in its audited financial statements as determined by the actuary and make equivalent investment in plan assets.

7. The Director's Order no. DE.15/Act/Duggal.Com/203/99/23033-23980 dated 15.12.1999, indicated the head of fee that recognised private unaided school can collect from the students/ parents which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Also, the order no. 9 of the aforesaid order states " *no fee, fund or any other charge by whatever name called, shall be levied or released unless it is determined by the Managing Committee in accordance with the directions contained in this order....* "

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

However, on review of school fee proposal for academic session 2019-20 it has been noted that the school has been charging fee in the name of Students Activity Welfare Fund (For Orientation programme, Stipulated Learning programme and Community Outreach Programme) amounting INR 10,000 at the time of new admission. During discussion, the school has submitted that earlier it was charging and collecting fee in the name of Students Activity Welfare Fund amounting INR 10,000 at the time of new admission and charged the same till FY 2017-18 only.

The Directorate through its order issued post evaluation of fee increase proposal for academic session 2016-17 instructed to schools running by DAV CMC.

......School is not allowed to charge one-time fees at the time of admission for development activity of students. Charging of one-time fees at the time of admission tantamount to capitation fee which is prohibited under section 13 of the Right of Children to Free and Compulsory Education Act, 2009. The school is hereby directed not to charge any such fee from the students in future and to adjust the fee already collected against monthly fee due...

However, on review of school fee proposal for academic session 2019-20 it has been noted that the school has been charging fee in the name Students Activity Welfare Fund amounting INR 10,000 at the time of new admission.

Thus, in view of the above, the school is not allowed to charge any fee in the name of Students Activity Welfare Fund from the students at time of admission as a capitation fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Therefore, the school is hereby directed to stop such collection of Students Activity Welfare Fund with immediate effect.

B. Other Observations

1. As per Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 "*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 "*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.*"

And as per clause 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 "*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.*"

And Rule 176 of the DSER, 1973 "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Further, 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).*" And 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.*"

However, as per audited financial statements of the school, it has been noted that the school charges earmarked levies in the form of Transport Fees, Science fee, IT Charges, Sports fee. 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.

The aforementioned Guidance Note also 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). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has 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 and not to include fee collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

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.

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that 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

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ... ...*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Other.

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing, and stationery etc.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Also, the school is directed not to collect pupil fund form students with immediate effect. A similar observation was also noted while evaluating the fee increase proposal for financial year 2017-18.

3. As per the Director's order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18, it was observed that the school has prepared Fixed Asset Register (FAR) only captures asset name and amount. .

The fixed assets register normally include basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. Therefore, the school is directed to prepare and submit the fixed assets register at the earliest. The same shall be verified at the time of evaluation of fee proposal of the school for next academic session.

4. Clause 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 Rs. 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.*"

However, as per order no. FDE15(648) PSB/2018/30703-707 dated 19.12.2018 issued for academic session 2017-18, the school was directed to maintain a separate bank account for deposit of caution money collected and interest earned thereon. The school has explained that it has been refunding only the principal amount of caution money to the students at the tile leaving from the school.

However, during the personal hearing, the school submitted that it has stopped collecting caution money from students and has started adjusting the caution money already collected from old students against the dues from them. And the balance caution money if any left the school shall be treated as income of the ensuing year. Thus, the outstanding balance of caution money INR 3,53,500 as on 31.03.2019 has been adjusted while deriving the fund position of the school.

5. As per the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi, every recognized unaided schools whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of DoE. Further, as per the directions of Supreme Court in ***Modern School vs. Union of India & Ors.*** (supra), a Circular dated 16.04.2010 has been issued reiterating as under:

a) It is reiterated that annual fee-hike is not mandatory.
b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
a) If any school has collected fee in excess of that determined as per procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

However, on review of Fee Receipts and Fee Structure submitted by the school, it has been noted that, the school has already increased fee for the FY 2018-19 without obtaining prior approval from DOE which is in contravention of the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi. Also, the school has introduced some new heads of fee in FY 2018-19 without getting prior approval from Directorate of Education. Further, as per the records submitted by the school, it appears that the school has merged some portion of Pupil Fund, Development Fund, and IT Fund in the Tuition Fee. Therefore, it is concluded that, the school has enhanced the fees without taking the prior permission of the DoE and thus indulging in profiteering and commercialization of school education. The details of fee increased, and new heads introduced by the school during FY 2018-19 are as under:

Particulars	**FY 2017-18**	**FY 2018-19**	**Fee Increased**
Tuition Fee			
PS-PP	4230	6085	**1855**
I-IV	3505	4130	**625**
V-VIII	3355	3955	**600**

Particulars	FY 2017-18	FY 2018-19	Fee Increased
IX-X XI-XII	3590 3910	4225 4445	**635** **535**
Annual Charges PS-PP I	 6000 4000	 6600 5500	 **600** **1500**
Science Fee	150	200	**50**
Home Science Fee	250	300	**50**
Computer Science	-	300	**300**
Humanities Fine Arts Geography Music Physical Education Phy. History	 - - - - - -	 250 300 250 300 300 50	 **250** **300** **250** **300** **300** **50**
FDCC	-	250	**250**
Com./Maths ECO B Studies Accounts Marketing	 - - - -	 50 50 50 50	 **50** **50** **50** **50**
SUPW (IX- X)	300	500	**200**
DAV U. Magaz. (IX- XII)	250	300	**50**
New Admission PS-PP Print Material	 -	 1000	 **1000**

Accordingly, School is directed to refund/adjust the same against subsequent instalments of fee payable by students and submit the compliance report within 30 days.

6. On review of audited financial statements submitted by the school for the FY 2015-16 to 2018-19, it has been noted that the Profit/Loss on sale of fixed assets computed by the school is not correct. During the course of discussion, the school was asked to submit computation of profit/loss on sale of fixed assets for the FY 2015-16 to 2018-19, but the school has submitted the aforesaid computation with respect to FY 2017-18 only. As per the computation provided by the school, profit on sale of assets was INR 32,781. However, school has shown profit of INR 1,62,054 in the income and expenditure account which is not correct. Further, same practice is being followed by the school in FY 2015-16, FY 2016-17, and FY 2018-19 too. Therefore, the school is directed to compute profit/loss on sale of fixed assets accurately.

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

i. The total funds available for the FY 2019-20 amounting to INR **68,37,02,435** out of which cash outflow in the FY 2019-20 is estimated to be INR **48,66,51,094.** This results in net balance of surplus amounting to INR **19,70,51,342** for FY 2019-20 after all payments. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per audited Financial Statements	7,62,64,601
Investments (Fixed Deposits) as on 31.03.19 as per audited Financial Statements	5,95,88,762
Current Account Balance with DAV CMC as on 31.03.2019 as per audited Financial Statements	-
Gratuity and Leave encashment fund with DAV CMC	4,59,65,772
Liquid Funds as on 31.03.2019	**18,18,19,135**
Add: Capital fund/ Reserve fund of Schools/Colleges with DAV CMC in the books of Schools/ Colleges as on 31.03.2019 as per audited financial statements (as per Financial observations no. 1)	8,49,54,995
Add: Recovery of additions to building from the Society (as per Financial observations no. 2)	2,95,26,886
Add: Recovery of excess administration charges from DAV CMC (for FY 2017-18, 2018-19) (as per Financial observations no. 5)	2,25,91,857
Add: Fees for 2018-19 as per audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 as well.	37,16,74,810
Add: Other income for 2018-19 as per audited Financial Statements on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20 as well. (Refer Note 1 below)	1,26,01,251
Gross Available Funds for FY 2019-20	**70,31,68,934**
Less: Development Fund (Refer Note 2 below)	79,62,250
Less: Excess fee collected by school during the FY 2016-17 to be refundable (Refer Note 3 below)	34,35,918
Less: Onetime fee collected in FY 2016-17 by the school to refunded / adjusted as per the order no. F.DE-15/Act/-I/WPC-4109/Part/13/956 dated 13.10.2017 (Refer Note 4 below)	68,64,158
Less: Caution Money as on 31.03.2019	3,53,500
Less: Fixed Deposits in the joint name of Secretary, CBSE and Manger, School as on 31.03.2019 (as per School's submission)	8,50,673
Less: Staff Retirement Benefits (as per Financial observations no. 6)	-
Net Available Funds for FY 2019-20	**68,37,02,435**
Less: Proposed expenditure for FY 2019-20 (cash outflow) (Refer Note 5 & 6 below)	43,94,11,978
Less: Arrears of salary as per 7th CPC (as per financial statements) (Refer Note 7 below)	4,72,39,116
Cash Surplus/(Deficit)	**19,70,51,342**

Note 1: The Other income as per audited Financial Statements for FY 2018-19 consist of Liability Written Off amounting to INR 1,44,194, Interest on Reserve Fund DAVCMC of INR 62,92,963, Profit from sale of fixed assets & Foreign Exchange Programme etc of INR 1,07,401 and closing stock of INR 7,44,534 has been adjusted in above fund position.

Note 2: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 April 2010 states "All schools must, first of all, explore and exhaust the possibility of utilizing the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase." Over the number of years, the school has accumulated development fund and has reflected the closing balance of INR 2,28,33,700 in its audited financial statements of FY 2018-19. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school. However, development fund equivalent to amount collected during financial year 2018-19 for INR 79,62,250 has been left with the school to meet its future requirements.

Note 3: The Directorate vide its Order no. F.DE-15/WPC-4109/Part/13/956 dated 13.10.2017 issued with respect to fee increase proposals for FY 2016-2017, "…. *the schools have already charged any increased fee prior to issue of this order, the same shall be liable to be adjusted by the schools in terms of the sanction of the Director of Education on the proposal*." Based on the details submitted by the school, it was noted that the school had increased the fee during FY 2016-17 without approval from Director of Education. However, based on the information provided by the school during the evaluation of fee increase proposal for academic session 2017-18. It was noted that out of the total excess fee INR 85,77,945 collected by school in FY 2016-17, the school has already refunded INR 51,42,027. The balance amount of INR 34,35,918 is yet to be refunded to the students. During the personal hearing the school has confirmed that no such refund/ adjustment has been made. Therefore, this excess fee of INR 34,35,918 collected by the school has been adjusted while deriving the fund position of the school with the direction to the school to refund/ adjust this within 30 days from the date of issue of this order.

Note 4: As per the Directorate Order no. F.DE-15/WPC-4109/Part/13/956 dated 13.10.2017 issued with respect to fee increase proposals for FY 2016-2017, the school was directed to refund/adjust the amount of INR 68,64,158 collected as onetime fee from new students during FY 2016-17. The school in its response as provided during fee hike evaluation of FY 2017-18, that the school has stop collecting aforesaid onetime fee after receipt of Directorate order dated 13th October 2017 and the provision of same has been created in the books of account. However, as per the order no. FDE15(648) PSB/2018/30703-30707 dated 19.12.2018 issued for academic session 2017-18, the school has explained that the amount will be refunded / adjusted in next fee collection cycle and its was directed to school to refund / adjust this amount immediately to the students and submit evidence of the same within 30 days from the issue of aforesaid order. However, the school has not provided the details of such refund / adjustment. Thus, it has been adjusted while deriving the fund position of the school for FY 2019-20 considering the same as funds refundable by the schools and with the direction to adjust this amount immediately to the students and submit evidence of the same within 30 days from the issue of this order.

Note 5: As per financial finding no. 6, the school has not deposited any amount to LIC or similar agency towards gratuity and leave encashment despite being instructed several times by the department. Further, the school has not provided the details of actual payment made towards gratuity and leave encashment during FY 2019-20, the amount proposed INR 1,73,20,772 towards gratuity and INR 74,23,221 towards leave encashment have been restricted to INR 1,80,75,433 based on the actual payment details provided by the school during the evaluation of fee increase proposal for FY 2017-18.

Note 6: As per financial observation no. 5, administrative charges budgeted by the school @7% of basic salary amounting to INR 1,55,72,528 for financial year 2019-20 has been restricted to 2% of the basis salary. Accordingly, the excess administrative charges amounting to INR 1,11,19,234 has not been considered while deriving the available fund of the school.

Note 7: The school has implemented 7th CPC w.e.f. April 2017 and arrears payable as per audited financial statements amounting to INR 4,72,39,116 has been considered in the evaluation of fund position of the school. Therefore, the school is directed to implement the recommendation of 7th CPC w.e.f Jan 2016. Non Compliance of the same will be reviewed seriously and strict action against the school will be taken u/s 24 of DSEA, 1973.

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 at the existing fee's structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that Change ,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural observations which were also noted (appropriate instructions against which 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 is noticed that the school has utilised INR 13,70,73,738 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover INR 13,70,73,738 from the society. The amount of above receipt along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

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 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 of enhancement of fee for academic session 2019-20 of **Kulachi Hansraj Model School, Ashok Vihar, Phase III, Delhi- 110052, (School ID – 1411222),** has been rejected by the Director of Education.

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

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2019-20 and if the fee is already increased and charged for the academic session 2019-20, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

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

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

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

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

To
The Manager/ HoS
Kulachi Hansraj Model School (School ID – 1411222),
Ashok Vihar, Phase III, Delhi- 110052

No. F.DE.15 (661)/PSB/2022/ 4040 - 4044

Dated: 03/06/22

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) 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