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

No. F.DE.15(325)/PSB/2021 2087 - 2091

Dated: 21 04 22

ORDER

WHEREAS, Decent Public School (School ID- 1413203), B-Block Sector-3, Rohini, New Delhi-110085 (hereinafter referred to as "the School"), run by the Decent Edu & Child Dev 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

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authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

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

"27....

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

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 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 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 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 19.11.2019 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. F.DE. 15(256)/PSB/2019/1405-1409



dated 29.03.2019, issued for academic session 2017-18, was also discussed and submission were taken on record.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Observations:

The 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

Further, Para 7.14 of the Accounting Standard 15 defined Plan assets as:

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

The examination of the financial statements of FY 2018-2019 revealed that the school has recorded liability for gratuity as per management estimate basis without obtaining an actuarial valuation from the Actuary. Further, the school has not recorded any liability for leave encashment. Also, the school has not invested any amount that qualifies as 'Plan Assets' within the meaning of Accounting Standard 15.

Accordingly, the amount proposed by the school of INR 6,00,000 in its budget for the retirement benefit (gratuity) has not been considered while deriving the fund position of the school because it was not determined by the actuary as per the requirement of AS-15 issued by ICAI.

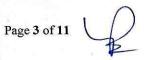
Therefore, the school is directed to obtain actuarial valuation of its liability towards gratuity and leave encashment and record provision for gratuity and leave encashment in its books of account in accordance with the actuarial valuation report. Also, the school should start creating investments that qualify as 'plan-assets' as per AS-15 in order to secure the statutory liabilities of the staff.

Other Observations:

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

Further clause 21 of the aforesaid order states, "No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."

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."



Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."

Sub-rule 3 of Rule 177 of DSER, 1973 states "Funds collected for specific purposes, like sports, cocurricular 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-21 'Accounting by Schools' issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

The aforementioned Guidance Note-21 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).

The information/documents provided by the school were taken on record, from the emanation of the documents it was noted that the school charges earmarked levies in the form of Transport Fees, Pupil Fund, Lab Fees and Smart Class fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from transport fee and lab fee, which has been utilised for meeting other expenses of the school. Details of the calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-2017, 2017-18 & 2018-19 is given below:

Particulars	Transport Fee	Pupil Fund	Lab Fee	Smart Class Fee
For the year 2016-17				
Fee Collected during the year (A)	4,46,200	-1	5,56,513	
Expenses during the year (B)	2,21,000	-	5,211	23,060
Difference for the year (A-B)	2,25,200		5,51,302	(23,060)
For the year 2017-18				
Fee Collected during the year (A)	3,25,750	4,22,002	5,25,070	8,07,127
Expenses during the year (B)	2,03,262	4,22,002	5,29,108	7,86,205
Difference for the year (A-B)	1,22,488		(4,038)	20,922
For the year 2018-19				
Fee Collected during the year (A)	3,25,000	3,76,128	4,78,588	7,34,079
Expenses during the year (B)	4,65,066	3,76,128	5,05,544	7,58,580
Difference for the year (A-B)	(1,40,066)		(26,956)	(24,501)
Total	2,07,622		5,20,308	(26,639)



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Based on the above, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as collection of capitation fee in other manner and form. The school is charging smart class fees from the students of all classes. Thus, the fee charged from all students loses its character of the earmarked levy, being non-user-based fees. Thus, based on the nature of the smart class fees and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these either from tuition fee or from the annual charges.

Therefore, the school is directed to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from the 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 is also directed to evaluate costs against each earmarked levy and propose the fee structure for earmarked levies during subsequent years proposal for enhancement of fee ensuring that the proposed levies have been calculated on a no-profit no-loss basis and not to include fee collected from all students as earmarked levies. Also, the school should appropriately report income from each earmarked levy together with expenses incurred against the same in its audited financial statements following the fund-based accounting.

- 2. The Directorate of Education in its 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 & Others.

From the examination of the record of the school, it was noted that the school's fee structure includes pupil fund, which is collected from all the students and based on details submitted by the school the



same has been utilized during the year itself. However, no break-up of such expenses has been provided. Details of collection and utilization of pupil fund provided by the school for FY 2017-2018 & 2018-2019 is provided below.

Particulars	Pupil Fund
For the year 2017-18	
Fee Collected during the year (A)	4,22,002
Expenses during the year (B)	4,22,002
Difference for the year (A-B)	
For the year 2018-19	
Fee Collected during the year (A)	3,76,128
Expenses during the year (B)	3,76,128
Difference for the year (A-B)	
Total	

As the school has not provided a detailed breakup of the cost for which it was utilized, rather reported an amount equivalent to the receipt as an expenditure towards pupil funds. Further, as per the Minutes of Meeting held on 23.03.2019 for fees hike, it has been proposed that INR 5,000 per annum per student will be charged as "facility charges" for AC classroom, which is also not in compliance with the recommendation of the Duggal committee.

The fee head namely 'Pupil Fund' & "facility charges" has not been defined for recognized private unaided school and the purposes for which the school has been utilizing this may get covered either from the tuition fee or from the annual Charges. 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 directed not to collect Pupil Fund' & "facility charges from students with immediate effect and submit the compliance report within 30 days from the date of issue of this order.

3. As per 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."

As per Para 99 of 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."

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Para 102 of the aforementioned Guidance Note-21 also 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/utilisation 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 utilisation of each fund balance.
- (d) Restrictions, if any, on the utilisation of specific assets."

The review of the audited financial statements of the school of FY 2018-2019, revealed that the school is not treating development fee as capital receipt. However, it was noted that the school has utilized part of the development fund for meeting salary expenditure of the school. Further, the school has not opened to separate bank account for collection and keeping of the development fund balance.

Further, no disclosure is given on the face of the balance sheet for "Fund utilized against assets", which should be equal to the cost of all assets purchased out of the development fund and this account should be written off in the proportion of depreciation charge to income and expenditure account which the school has not been following.

Therefore, the school is directed to follow the requirement of clause 14 and accounting treatment specified under Guidance Note-21 issued by ICAI and maintain a separate bank account for deposit and utilization of development fund. Further, the school should ensure that the development fund is utilized only towards the purchase of furniture, fixture and equipment not for other purposes.

4. The school has prepared a Fixed Asset register (FAR) that only captures asset name, date and amount. The school 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.

Further, as per financial statement for the year ended 31.03.2019 while calculating WDV of assets opening depreciation reserve has been considered twice due to which WDV reported in balance sheet is incorrect.

The school is directed to update the FAR with details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

5. As per Section 18(5) of the DSEA, 1973, the management committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed.

Further, Rule 180 of DSER, 1973 states "(1) every unaided recognised private schools shall submit the returns and documents in accordance with Appendix-1, (2) Every return or documents referred to in subrule (1), shall be submitted to the Director by the 31 July of each year.(3) The account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by any officers authorised by the Comptroller and Auditor General of India"

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

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

And It has been noticed that Financial Documents/ Certificates Attested by third persons misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving several complaints of signatures of CAs being forged by non-CAs.

To curb such malpractices, the Professional Development Committee of ICAI has come out with an innovative concept of UDIN i.e. Unique Document Identification Number which is being implemented in a phased manner. It will secure the certificates attested/certified by practicing CAs. This will also enable the Regulators/Banks/Third parties to check the authenticity of the documents.

Accordingly, the Council in the 379th meeting of ICAI held on 17.12.18 and 18.12.2018, made it mandatory for all practicing members to obtain 18 digits UDIN before issuing any audits reports/certification, etc. in the following manner:

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

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

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

i. The total available funds for the year 2019-20 amounting to INR **1,70,82,294** out of which cash outflow in the year 2019-20 is estimated to be INR **1,75,91,072**. This results in estimated deficit amounting to INR **5,08,778**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per the audited Financial Statements	1,02,660
Investments (Fixed Deposits) as on 31.03.19 as per the audited Financial Statements	2,00,000
Total Liquid Funds	3,02,660
Add: Fees for 2018-19 as per the audited Financial Statements	1,56,19,472
Add: Other income for 2018-19 as per the audited Financial Statements	1,46,679
Add: Impact of fee increase as per DoE order issued for academic session 2017-2018	10,13,483
Estimated Availability of the Funds for 2019-20	1,70,82,294



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Budgeted Expenditure for FY 2019-20 (Refer Note 1) (Revenue Expenditure + Capital Expenditure - Depreciation)	1,75,91,072
Less: Arrears for Implementation of 7th CPC (Refer Note 2)	
Estimated Deficit	5,08,778

Notes:

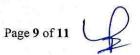
- All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except gratuity of INR 6,00,000 because it was not determined by the actuary as per the requirement of AS-15 issued by ICAI.
- School was requested to submit the bifurcation of expenses related to pupil fund, cultural expense, skill development, smart class expenses, etc. and details of "Arrears of Salary" (if any) which has not been provided by the school.
- The availability of funds is arrived after considering the liquidity of the school for meeting its expenditure for the period of twelve months in the academic session 2019-2020. Also, Current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of income and expenses for FY 2018-2019 and these current assets, loans and advances and current liabilities will always remain outstanding in the balance sheet at the end of the financial year. In light of the above, the amount of current assets, loans and advances and current liabilities has not been considered in the fund position.
- The School do not have sufficient funds to carry on its operation for the academic session 2019-20 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the Schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that 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, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

AND WHEREAS, 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 do not have sufficient funds for meeting financial implication for the academic session 2019-20. Further, 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 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 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 5% to be effective from 01st July 2022.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for academic session 2019-20 of **Decent Public School (School ID- 1413203)**, **B-Block Sector-3**, **Rohini**, **New Delhi- 11008** is accepted by the Director (Education) and the school is allowed to increase the fee by 5% (Five percent) with effect from 1st July 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEAR 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.

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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 Decent Public School (School ID- 1413203), B-Block Sector-3, Rohini, New Delhi- 110085

No. F.DE.15(325)/PSB/2021/2087-2091

Dated: 21 04 22

Copy to:

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