

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

No. F.DE.15 (68)/PSB/2022/ 3660-3664

Dated: 26/05/22

ORDER

WHEREAS, **Jain Bharti Model School, (School ID-1413208), E-Block, Sector – 16, Rohini, Delhi -110089** (hereinafter referred to as “**the School**”), run by the Skyland Educational 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 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 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DOE, the **Jain Bharti Model School, (School ID-1413208), E-Block, Sector – 16, Rohini, Delhi -110089**, submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the School for the academic session **2019-20**.

AND WHEREAS, to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 06.12.2019 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(246)/PSB/2019/1385-1389 dated 29.03.2019 issued for academic session 2017-18 were also discussed and school 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 observations noted are as under:



A. Financial Observations

1. Clause 14 of this DoE'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 on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India "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."

As per, Para 102 of the aforementioned 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/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."

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

As per clause 14, Development fee should be treated as capital receipt but school is treating development fee as revenue receipt and the same observation was also seen in the previous order No.F.DE-15(246)/PSB/2019/1385-1389 dated 29.03.2019. In previous order, the school was directed to treat development fees as capital receipt and open separate bank account for deposit and utilisation of development fund.

However, on review of the audited financial statements of the FY 2018-19, it has been noted that school has neither opened separate bank nor has it earmarked any fixed deposits against development fund to ensure availability of funds for incurring capital expenditure on furniture, fixture and equipment in accordance with clause 14 of the order dated 11.02.2009.

During the personal hearing the school explained that prior to 2018-19, school has been utilizing the amount of development fund for payment of salaries and repair & maintenance expenses along with purchase of furniture, fixture and equipment.

On review of audited financial statement for 2018-19 school had collected INR. 24,67,880 as development fund and reported the same as revenue receipt. From the presentation made in the

audited financial statements of FY 2018-19, it was noted that school is not following accounting treatment as mentioned in para 99 and 102 of guidance note mentioned above.

As the school has not reported the following:

- "Fund utilized against assets", which should be equal to cost of assets purchased from development fund minus depreciation charge.
- Depreciation Reserve account which should be equal to the amount of depreciation charged on assets purchased from development fund.
- Schedule of "Development fund" and its respective amount held in bank/Fixed deposit.

Further, as per para 67, the school should report fixed assets value in the balance sheet at the historical cost basis but on review of audited financial statements of FY 2018-19, it was observed that school has reported fixed asset value in the balance sheet at written down value.

Therefore, the school is hereby directed to follow clause 14 of the order dated 11.02.2009 relating to collection and utilisation of development fund/fee and also follow proper accounting treatment in accordance with para 67, 99 & 102 of the above mentioned guidance note.

B. Other Observations

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 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 Feb 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.*"

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*"

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 has been noted that the school charges earmarked levies in the form of transport fees, computer fee, science fees, activity fees etc. from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies that has been utilised for meeting other expenses of the school, which was also mentioned in Directorate’s order no. F.DE-15(246)/PSB/2019/1385-1389 dated 29.03.2019. Details of calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-17, 2017-18 & 2018-19 is given below:

(Amount in INR.)

Particulars	Lab Charges	Computer Fees
For the year 2016-17		
Fee Collected during the year (A)	8,52,000	3,13,200
Expenses during the year (B)	4,25,820	-
Difference for the year (A-B)	4,26,180	3,13,200
For the year 2017-18		
Fee Collected during the year (A)	7,56,600	3,30,840
Expenses during the year (B)	6,02,787	3,60,155
Difference for the year (A-B)	1,53,813	(29,315)
For the year 2018-19		
Fee Collected during the year (A)	6,88,800	3,27,060
Expenses during the year (B)	6,92,411	3,27,620
Difference for the year (A-B)	(3,611)	(560)
Total	5,76,382	2,83,325

Based on the above-mentioned provisions, 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).

Further, based on the fact that the fee head of ‘Lab fees & computer fees’ has not been defined for recognised private unaided school and the purposes for which the school has utilised the same is covered under ‘Annual Charges’ collected by the school from the students. Therefore,

the school is directed not to collect activity charges separately from students with immediate effect.

Further, the school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students and not to collect pupil fund from students with immediate effect. 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.

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. 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.

During the personal hearing, the school confirmed that it will update the FAR as per the recommendations of the Directorate. 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.

3. 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 sub-rule (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”, 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 account 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 person misrepresenting themselves as CA Members are misleading the Authorities and Stakeholders. ICAI is also receiving number of 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 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 17.12.2018 and 18.12.2018, made mandatory for all practicing member 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 are instructed to ensure this compliance from the Auditor of the school.

4. As per 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:
- i. Assets held by a long-term employee benefit fund; and
 - ii. Qualifying insurance policies

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "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."

The school was directed by Directorate through its Order No. F.DE-15(246)/PSB/2019/1385-1389 dated 29.03.2019 issued post evaluation of the proposal for fee enhancement for FY 2017-18, to get the actuarial valuation for gratuity and leave encashment and report the same in its audited financial statements equivalent to the liability determined by the actuary. The school was also directed to invest equivalent amount in plan assets as per requirement of AS-15 issued by ICAI.



From the record submitted by the school, it has been noted that, neither school has recognized the liability of retirement benefits in the books of accounts nor actuarial valuation has been obtained to ascertain the liability of retirement benefit.

Therefore, the school is hereby directed to recognize the provisions of retirement benefits in its financial statements and invest an amount equivalent to liability determined by the actuary in plan assets as per the requirement of AS-15 issued by ICAI within 30 days from the date of issue of this order.

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

- i. The total funds available for the year 2019-20 amounting to INR. **2,84,52,793** out of which cash outflow in the year 2019-20 is estimated to INR. **2,99,57,943**. This results in net deficit of INR. **15,05,150**. The details are as follows:

Particulars	Amount (INR.)
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements	78,477
Investments as on 31.03.19 as per Audited Financial Statements	4,94,059
Liquid Funds	5,72,536
Add: Fees for FY 2018-19 as per Audited Financial Statements (On the assumption that assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	2,53,64,565
Add: Other Income for FY 2018-19 as per Audited Financial Statements (On the assumption that assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	70,340
Add: Impact of fees hike @15% as per DoE Order No. F.DE-15(246)/PSB/2019/1385-1389 dated 29.03.2019	27,07,117
Estimated availability of funds for FY 2019-20	2,87,14,558
Less: Fixed Deposit in the joint name of Jain Bharti Model School and Deputy Director of Education	2,61,765
Net Available Funds for FY 2019-20	2,84,52,793
Less: Budgeted expenses for session 2019-20 (Refer Note 1 & 2 below)	2,99,57,943
Net Cash Surplus/ (Deficit)	(15,05,150)

Note No. 1: Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2018-19 for which the school has not offered satisfactory explanation/ justification. Therefore, the aforesaid expenditure in excess of 10% over the previous year have not been considered in the evaluation of fee increase proposal.

Particulars	Audited Expenditure in FY 2018-19	Budgeted Expenditure in FY 2019-20	Net Increase/ (Decrease)	% Change	Amount disallowed in excess of 10%
Examination Expenses	2,20,750	5,00,000	2,79,250	127%	2,57,175
Gardening Expenses	45,500	2,50,000	2,04,500	449%	1,99,950
Building Repair & Maintenance	2,19,555	12,00,000	9,80,445	447%	9,58,490

Student welfare	28,143	2,00,000	1,71,857	611%	1,69,043
Total	5,13,948	21,50,000	16,36,052		15,84,657

Note No. 2: As per previous order no. F.DE-15(246)/PSB/2019/1385-1389 dated 29.03.2019, the school has submitted that it is not possible to pay arrear salary to the staff with retrospective effect i.e. 01.01.2016

- ii. In view of the above examination, it is evident that the school does not have surplus fund to meet its budgeted expenditure for the academic session 2019-20 at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other observations that the sufficient funds are not available with the school to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2019-20.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears are not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (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 7% to be effective from 01 July 2022.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance 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 fee increase for the academic session 2019-20 of **Jain Bharti Model School, (School ID-1413208), E-Block, Sector – 16,**

Rohini, Delhi -110089 is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 7% to be effective 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 is issued with the prior approval of the Competent Authority



(Yogesh Pal Singh)

Deputy Director of Education
(Private School Branch)

Directorate of Education, GNCT of Delhi

To:

The Manager/ HoS
Jain Bharti Model School, (School ID-1413208),
E-Block, Sector – 16, Rohini,
Delhi -110089

No. F.DE.15 (608)/PSB/2022/ 3660 -3664

Copy to:

Dated: 26/05/22

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