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

No. F.DE.15(782)/PSB/2022/4954-4958 Dated: 23/06/22

ORDER

WHEREAS, **Maxfort School, (School ID-1413291), Sector-23(H-2),Rohini** (hereinafter referred to as "School"), run by the Mohini Chandnani Charitable Trust (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 authorized 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/ other 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 & 2019-20.

AND WHEREAS, in pursuance to Order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2019-20.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School very carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

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 24.02.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues were noted.

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

A. Authenticity of Audited Financial Statements

1. As per Appendix II to Rule 180(1) of DSER, 1973, the school is required to submit final accounts i.e. receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practising Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practising Chartered Accountants from 1 Jul 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 Jun 2019 for the attention of its Members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated "*With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing.*"

The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 26 Sep 2019 signed by the Chartered Accountant did not cite UDIN, as mandated by ICAI. Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.

Further, on review of the audited financial accounts for the FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the receipt and payment accounts were only stamped and initialled by the auditor and no reference thereon was drawn to the audit report of the auditor. Also, in its audit report, the auditor only gave his opinion on the true and fair view on:

- In the case of balance sheet of the state of affairs as at 31 March and
- In the case of Income and Expenditure account of the Deficit for the accounting year.

Thus, the auditor did not give his opinion on the receipt and payment accounts. The school did not provide reasonable justification for auditor's non-inclusion of receipt and payment account in his audit opinion.

While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2019-2020 assuming the same as unaudited/provisional financial statements.

The school is directed to confirm from the auditor whether UDIN was generated in respect of the audit opinion issued by the auditor on the financial statements of the school for FY 2018-2019. If it was generated, the same should be mentioned by the school in its compliance report. In case, UDIN was not generated by the auditor, the school is directed to seek explanation from the auditor for not complying with the requirements notified by ICAI and get the said audit report and financial statements verified from the Institute of Chartered Accountants of India for its authenticity and validity.

The school is also directed to ensure the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted to the Directorate. The school is also directed to ensure that the audit opinion is issued by the auditor on the complete set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account.

The school is further directed to ensure that the audit opinions issued on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

2. On examination of the financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that any of the financial statements (all 3 years) submitted by the school were not appropriately authenticated by the representatives of the school, since only the Balance Sheet, Notes to Account and last page of Income and Expenditure Account and Receipt and Payment Account were signed by the principal and manager, rest of the pages of the financial statements (schedules and first two pages of Income and Expenditure Account and Receipt and Payment Account) were not signed by the representatives of the school. Thus, the authenticity of the financial statements and financial information included therein cannot be confirmed.

   The school is directed to ensure that the entire set of financial statements (all pages) must be signed or initialled (as appropriate) by two representatives of the school authorised in this regard as per Bye laws or other governing documents.

B. Financial Observations

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*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 Oct 1998 in the case of

Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*"

Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 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 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.*"

Accordingly, based on the aforementioned public notice and High Court judgement, the 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 i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

Directorate's Order No. F.DE.15 (178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school had utilised development fees for renovation of school building amounting to INR 99,47,264 and for upgradation of assets amounting to INR 66,39,277 but the same was neither reflecting in Income and Expenditure Account nor reflected in the fixed assets schedule annexed with the audited financial statements. Therefore, the school was directed to recover the cost of INR 1,65,86,541 incurred on renovation of school building and upgradation of assets from the society. Further, in the above mentioned order, it was also noted that the school had utilised development fees for addition to the school building totalling to INR 40,97,133 (INR 9,64,700 in FY 2015-2016 and INR 31,32,433 in FY 2016-2017) and the school was directed to recover the same from the society.

Based on the aforementioned order, development fund can be utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others. Based on the presentation made in the financial statements of the school for FY 2017-2018, it was noted that the school has continued to utilized development funds amounting to INR 82,68,899 towards upgradation of assets and the same was neither routed through the Income and Expenditure Account nor capitalised as fixed asset in the fixed assets schedule during the FY 2017-2018 indicating that the school diverted these funds. While the school routed the regular repair and maintenance expenses through the Income and Expenditure Account, it chose to utilise development fund for expenditure on the upgradation of the building indicating that such expenses were not regular repair and maintenance expenses of the school.

Therefore, the expenditure, which was reflected as upgradation of assets, was incurred by the school in contravention of the aforementioned provisions. Further, any expenditure incurred on upgradation of an asset, which increases the useful life of the asset, it must be capitalised in accordance with para 7 of Accounting Standard 10 (Revised 2016) titled 'Property, Plant and Equipment' issued by the Institute of Chartered Accountants of India (applicable from FY 2017-2018 onwards), which states "*The cost of an item of property, plant and equipment should be recognised as an asset if, and only if:*

(a) *it is probable that future economic benefits associated with the item will flow to the enterprise; and*
(b) *the cost of the item can be measured reliably.*"

The expenditure on renovation/development of school building, being an expense of developmental nature is covered under Rule 177 of DSER, 1973. However, the school incurred the same without ensuring compliance with the requirements of Rule 177. Based on the fact that the school did not implement the recommendations of 7th CPC till date and did not make any investment in plan-assets such as group gratuity scheme and group leave encashment scheme of LIC or other insurer for securing staff gratuity and leave encashment till date, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school*".

During the personal hearing, the school was asked to provide the details of upgradation of assets out of development funds. However, the school did not provide any details for the same.

Since the school has not recovered any amount from the Society till date, the above mentioned expenditure totalling to INR 2,89,52,573 (INR 99,47,264 plus INR 66,39,277 plus INR 82,68,899 plus INR 40,97,133) pertaining to FY 2015-2016 to FY 2017-2018 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Further, the school is directed to follow DOE instruction regarding development fund and ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment and not to incur capital expenditure on building from school funds without ensuring compliance of Rule 177.

2. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*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 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*"

   Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Directorate's order No. F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that certain assets such as building, tennis court, air conditioner, electric installations, EPABX, fire extinguishers, logo and Photostat machine totalling to INR 14,75,68,085 were transferred from society to school during FY 2014-2015, out of which INR 14,05,07,856 was related to building but corresponding contribution from society was not appearing in the financial statements.

The school was asked to provide the details of such transfer along with accounting entries passed in the books of accounts. However, the school did not provide the details for the same and the school was directed to recover INR 6,35,35,454 (INR 14,05,07,856 being amount of building transferred from the society to the school less INR 7,69,72,402 being closing balance of interest free loan (balance of the society as on 31 Mar 2017)) from the society.

Since the school has not recovered any amount from the Society till date and did not provide requisite details for the transfer made by it, the above mentioned expenditure on building amounting to INR 6,35,35,454 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

3. Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   - *award of the scholarships to students,*
   - *establishment of any other recognised school, or*
   - *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

   (2) The savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:
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   (a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,
   (b) the needed expansion of the school or any expenditure of a development nature,
   (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,
   (d) co-curricular activities of the students,
   (e) reasonable reserve fund, not being less than ten percent, of such savings."

   As per direction no. 2 included in the Public Notice dated 4 May 1997, "*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 Oct 1998 in the case of

Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*"

Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Accordingly, based on the aforementioned public notice and High Court judgement, the 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 i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

Directorate's order No. F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the audited financial statements of the school for FY 2014-2015 and FY 2015-2016 revealed that school had paid principal repayment of INR 1,90,27,765 and interest INR 27,94,884 out of school funds, in respect of loan of INR 5,00,00,000 taken from Indian overseas Bank during FY 2010-2011 for upgradation, renovation of building, purchase of furniture and equipment etc., which was not in accordance with aforesaid Rule 177 of DSER, 1973.

Against the secured loan taken by the school from Bank, it has repaid the principal amount and interest to bank from school funds during FY 2014-2015 and FY 2015-2016 as under:

Financial year	Principal (INR)	Interest (INR)
2014-2015	1,15,67,603	21,04,376
2015-2016	74,60,162	6,90,508
Total	**1,90,27,765**	**27,94,884**

Since the school has not recovered any amount from the society till date, the amount of principal and interest/financial expenses thereon in relation to secured loan availed for upgradation, renovation of school building, purchase of furniture, equipment, etc. totalling to INR 2,18,22,649 (principal of INR 1,90,27,765 and interest of INR 27,94,884) during FY 2014-2015 and FY 2015-2016 paid out of school fund is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

4. Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Directorate's order No. F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 noted that the school has repaid principal of INR 1,98,66,713 and interest of INR 23,83,013 to bank from school funds during FY 2014-2015 to FY 2016-2017, in respect of loan taken for purchase of car and bus. Against the vehicle loan taken by the school from Bank, it has repaid the principal amount and interest to bank from school funds during respective financial year as under:

Particulars	**FY 2014-15 (INR)**	**FY 2015-16 (INR)**	**FY 2016-17 (INR)**	**Total (INR)**
Principal repaid on loan	1,05,46,014	63,74,997	29,45,702	1,98,66,713
Add: Interest paid on loan	13,87,800	7,77,748	2,17,465	23,83,013
Total	**1,19,33,814**	**71,52,745**	**31,63,167**	**2,22,49,726**
Less: Sale proceeds of vehicle	-	-	61,50,000	61,50,000
Net Total	**1,19,33,814**	**71,52,745**	**(29,86,833)**	**1,60,99,726**

Since the school has not recovered any amount from the society till date, the amount of principal and interest/financial expenses thereon in relation to vehicle loan availed totalling to INR 1,60,99,726 (principal repayment of INR 1,98,66,713 with interest of INR 23,83,013 netted-off for sale proceeds of vehicle received by the school of INR 61,50,000) during FY 2014-2015 to FY 2016-2017 paid out of school fund is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. The school is further directed not to incur capital expenditure on building from school funds without ensuring compliance of Rule 177.

5. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, according to para 7.14 of the Accounting Standard 15, "*Plan assets comprise:*
    a) *assets held by a long-term employee benefit fund; and*
    b) *qualifying insurance policies.*"

The school submitted copy of its actuarial valuation report of its liability towards gratuity and leave encashment for FY 2018-2019, on review of actuarial valuation report it was noticed that the school has under recorded its liability towards gratuity and leave encashment in its financial statements as determined by the actuary. Thus, resulting in under-provisioning of gratuity and leave encashment as under:

Particulars	**Gratuity (In INR)**	**Leave Encashment (In INR)**
Liability determined by actuary as on 31 Mar 2019 (A)	58,44,190	40,60,005
Provision as on 31 Mar 2019 (as per financial statements for FY 2018-2019) (B)	49,82,254	33,14,335
Under Provisioning of liability as on 31 Mar 2019 (A-B)	**8,61,936**	**7,45,670**

Directorate's order No. F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of fee hike proposal for FY 2017-2018 directed the school to make equivalent investments against the provision for gratuity and leave encashment with LIC (or other agency) within 90 days from the date of receipt of the order, so as to protect statutory liabilities. However, the school has not made any investment in 'plan-assets' such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits.

Since the school has not started implementation of recommendations of 7th CPC till date and is yet to create investments equivalent to its liability towards staff retirement benefits in compliance with the directorate's order, no amount has been considered towards gratuity and leave encashment while deriving the fund position of the school (enclosed in the later part of this order) for FY 2019-2020.

The school is directed to start depositing amounts in investments that qualify as plan assets (such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers) in subsequent years so as to protect statutory liabilities towards staff and ensure that the value of the investments matches with the liability towards retirement benefits determined by the actuary.

Accordingly, based on above rationale, additional provisions budgeted by the school towards gratuity and leave encashment have not been considered as part of the Budgeted Expenses for FY 2019-2020 while deriving the fund position of the school (enclosed in the later part of this order).

C. 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.*"

   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, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

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

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport fee, Lab fee and Activity fee from students. However, the school has not maintained separate fund accounts for any of these earmarked levies separately and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income, which was also noted in Directorate Order No. F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked levies	**Income (INR)**	**Expense (INR)**	**Surplus/(Deficit) (INR)**
	A	**B**	**C=A-B**
Transport fee*	1,92,04,730	2,01,90,628	(9,85,898)
Lab fee	14,51,736	13,63,977	87,759
Activity fee	1,64,53,008	2,54,17,667	(89,64,659)

*The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

Based on aforementioned, 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 school is charging Activity fees from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Based on the nature of the Activity fees and details provided by the school in relation to expenses incurred against the same, the school should not charge Activity fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable collected from the students.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must 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. Further, the school is directed to stop collecting Activity fee, which is mandatorily collected from all the students. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

2. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*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. 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.*"

   Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon 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.*"

   Based on the presentation made in the financial statements of the school for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that while the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from development fund to "Development Fund Utilised against Fixed Assets" account. However, the school did not transfer an amount equivalent to the depreciation on assets from the "Development Fund Utilised against Fixed Assets" to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Thus, the school has not done the accounting and reporting of development fund in accordance with the requirements of Para 99 of Guidance Note 21.

   Further, from the financial statements submitted by the school, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. Thus, the school did not comply with the condition cited above.

   The school is directed to transfer an amount equivalent to the depreciation from "Development Fund Utilised against Fixed Assets" account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note. The school is also directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments to development fund account.

3. As per Order No. F.DE-15/ACT-I/WPC-4109/PART/13/7905-7913 dated 16 Apr 2016, *"The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix –II of Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute."*

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

   Further, para 58(i) of the Guidance Note states *"A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."*

   Directorate Order No.F.DE.15(178)/PSB/2019/1080-1084 dated 14 Mar 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 directed the school to follow the Guidance Note-21 "Accounting by School" issued by ICAI in respect of preparation and presentation of financial statements.

   Basis the presentation made in the financial statements for FY 2018-2019 submitted by the school, it was noted that though the fixed assets schedule (relating to both the assets procured from development fund and from general fund) annexed to the financial statements included opening gross block of fixed assets, additions, deletions, closing gross block of fixed assets, opening depreciation reserve, depreciation during the year, adjustment (if any), closing balance of depreciation reserve and net (WDV) opening and closing block of fixed assets, on the face of the Balance Sheet, the school reported Fixed Assets (other than those purchased from development fund) at written down value, which is not in accordance with the disclosure requirements included in the guidance note citied above.

   Further, the fixed assets schedule relating to assets procured from development fund annexed to the financial statements indicated building and vehicle. Development fund can be utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others. Thus, this was an incorrect reporting by the school in its fixed assets schedule.

   Further, from the financial statements of the school, it was also noted that the school did not charge depreciation at the rates specified in Appendix I to the Guidance Note, which was a contravention of the directions issued by this Directorate.

   Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. Further, the school is directed to make necessary adjustments in its fixed assets schedule in respect of building and vehicle. The school is further directed to follow rates of depreciation specified in the Guidance Note.

Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school .The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

4. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   Further, Clause 3 and Clause 4 Order no .DE/15(150)/Act/2010/4854-69 dated 9 Sep 2010 states "*In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded caution money belonging to the ex-students shall be reflected as income for the next financial year & it shall not be shown as liability. Further the income shall also be taken into account while projecting fee structure for ensuing academic year".*

   The following were noted under Directorate's order No.F.DE.15/(178)/PSB/2019/1080-1084 dated 14 Mar 2019:

   - School had not provided the details of number of students left during FY 2014-2015 to FY 2017-2018
   - School had not maintained separate bank account for deposit of caution money.

   From the information provided by the school, it was noted that the school was not refunding interest along with caution money to students. Further, while discussing with the school during personal hearing, it was mentioned by the school that no communication has been sent to ex-students for collection of their caution money and thus, the school has not made any adjustment towards unclaimed caution money.

   Therefore, the school is directed to communicate with ex-students to collect their caution money together with interest thereon and any unclaimed amount after 30 days of such communication should be treated as income by the school in its books of account.

5. Review of the proposal for enhancement of fee for FY 2019-2020 submitted by the school indicated that the school did not include/disclose transport fee and activity fee collected by it from students in its proposal for fee hike submitted for FY 2019-2020.

The school is directed to include details of all fee collected by it from students including all earmarked levies. Also, the school should be cautious while submitting details to the Directorate and ensure that such omissions are not repeated.

6. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school for FY 2018-2019, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	Number
Total No. of Students	1,994
No. EWS Students	258
% of EWS students to total no. of students	12.84%

While the school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

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 2019-2020 amounting to INR 31,36,97,301 out of which cash outflow in the year 2019-2020 is estimated to be INR 23,20,09,104. This results in net surplus of INR 8,16,88,197. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	1,10,69,520
Investments (Fixed Deposits) as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	4,96,322
Overdraft as on 31 Mar 2019 (as per financial statements of FY 2018-2019)	(25,24,093)
Total Liquid Funds Available with the School as on 31 Mar 2019	**90,41,749**
Add: Estimated Fees/Incomes for FY 2019-2020 (based on income reported in FY 2018-2019) [Refer Note 1]	20,47,75,395
Add: Amount recoverable from Society on account of Development fees utilized for renovation of building during FY 2015-2016 to 2017-2018 [Refer Financial Observation No. 1]	2,48,55,440

Particulars	Amount (INR)
Add: Amount recoverable from Society on account of Development fees utilized for addition to building during FY 2015-2016 to 2017-2018 [Refer Financial Observation No. 1]	40,97,133
Add: Recovery to be made from society on account of building transferred net of unsecured loan in FY 2014-2015 [Refer Financial Observation No. 2]	6,35,35,454
Add: Amount recoverable from the society for interest and principal paid on loan taken for construction of building in FY 2014-15 and 2015-16 [Refer Financial Observation No. 3]	2,18,22,649
Add: Amount recoverable from the society for interest and principal paid on loan on Vehicle during the FY 2014-15 to 2016-17 [Refer Financial Observation No. 4]	1,60,99,726
Gross Estimated Available Funds for FY 2019-2020	**34,42,27,546**
Less: FDR held jointly with DoE (as per financial statements of FY 2018-2019)	4,96,322
Less: Staff retirement benefits [Refer Financial Observation No. 5]	-
Less: Caution Money Fund balance (as per financial statements of FY 2018-2019)	4,92,000
Less: Development Fund balance (as per financial statements of FY 2018-2019)	2,95,41,923
Net Estimated Available Funds for FY 2019-2020	**31,36,97,301**
Less: Budgeted Expenses for FY 2019-2020 [Refer Note 2]	23,20,09,104
Estimated Surplus as on 31 Mar 2020	**8,16,88,197**

Notes:

1. Fees and incomes as per financial statements of FY 2018-2019 have been considered (other than liability no longer required, which is non-cash income) with the assumption that the amount of income during FY 2018-2019 will at least accrue during FY 2019-2020.

2. Per the Budget Estimate for FY 2019-2020 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2019-2020 of INR 29,48,73,000, which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expenses heads as budgeted were considered. Further, during review of budgeted expenses, certain Observations were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2019-2020:

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Salary provision	7,06,590	25,00,000	-	25,00,000	No justification provided as to the

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
					purpose for which this has been budgeted.
Gratuity	2,62,877	10,00,000	-	10,00,000	Refer Financial Observation No. 5.
Leave Encashment	4,96,395	6,50,000	-	6,50,000	
Ex Gratia		6,17,000	-	6,17,000	The school did not provide any rationale or explanation for these new heads of expenses proposed by it. Further, based on the expense heads proposed, most of these seem to be covered under existing expense heads, which the school has already budgeted on higher side. Thus, these additional expense heads have not been considered.
Course Books		3,88,000	-	3,88,000	
Cleaning of Glasses & wall		36,00,000	-	36,00,000	
Educational Exp- Robotics		1,25,00,000	-	1,25,00,000	
Educational Exp- Language Lab		1,00,00,000	-	1,00,00,000	
Sanitation & hygiene Exp		49,80,000	-	49,80,000	
Consultancy Fee		3,44,000	-	3,44,000	
Repair and maintenance School		34,50,000	-	34,50,000	
Security	1,21,40,359	1,39,13,000	1,33,54,395	5,58,605	No reasonable justification/ explanation provided by the school for such increase in expense as compared with FY 2018-2019. Accordingly, budgeted expenses for FY 2019-2020 have been restricted to 110% of the
Arts & craft coaching	90,75,000	1,04,36,000	99,82,500	4,53,500	
Property Tax	3,49,961	7,85,000	3,84,957	4,00,043	
Books, stationery and uniform (EWS students)	18,71,355	28,07,000	20,58,491	7,48,509	
Student Welfare Exp	10,80,763	18,83,000	11,88,839	6,94,161	
Free Meal Exp for students	15,68,904	20,00,000	17,25,794	2,74,206	
Newspapers, Books & Periodicals	1,61,475	6,22,000	1,77,623	4,44,378	

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Abacus & Vedic Maths	25,08,000	28,84,000	27,58,800	1,25,200	expense incurred during FY 2018-2019.
Cloud based learning	58,79,098	69,56,000	64,67,008	4,88,992	
Sports & Activities Expenses	1,00,61,548	1,99,20,000	1,10,67,703	88,52,297	
Yoga Coach expenses	67,01,400	77,07,000	73,71,540	3,35,460	
E- Curriculum Class I to V	15,00,000	17,25,000	16,50,000	75,000	
Lab Exp	13,63,977	15,77,000	15,00,375	76,625	
Vehicle Maintenance	1,91,30,637	2,15,57,000	2,10,43,700	5,13,300	
Electricity and water Exp	63,05,556	76,85,000	69,36,112	7,48,888	
Printing & Stationery	21,60,661	26,50,000	23,76,727	2,73,273	
Advertisement Exp	7,63,014	11,45,000	8,39,315	3,05,685	
Subscription	32,235	4,45,000	35,459	4,09,542	
Auditor Remuneration	70,800	2,95,000	77,880	2,17,120	
Repair and maintenance Air conditioner	16,93,586	19,00,000	18,62,945	37,055	
Façade and window cleaning	9,45,000	15,00,000	10,39,500	4,60,500	
Repair and maintenance Garden	3,28,280	4,69,000	3,61,108	1,07,892	
Air Conditional Plant Replacement		45,00,000	1,90,15,334	62,34,666	Capital expenditure restricted to the extent of development fees receipts (as per financial statements of FY
Furniture & Fixture		50,00,000			
Computer & peripherals		30,00,000			

Expense Heads	Actuals FY 2018-2019	Budget FY 2019-2020	Amount Allowed	Amount Disallowed	Remarks
Lab Infrastructure & Equipment's		12,50,000			2018-2019) as development fund balance as on 31 Mar 2019 (as per financial statements) has been separately considered in table above.
CCTV		15,00,000			
Smart Class Infrastructure		25,00,000			
Solar Plant		65,00,000			
Musical Equipment		10,00,000			
Total	**8,71,57,471**	**17,61,40,000**	**11,32,76,104**	**6,28,63,896**	

In view of the above examination, it is evident that the school has adequate funds for meeting all the budgeted expenses for the financial year 2019-2020.

i. In view of the above examination, it is evident that the school has adequate funds for meeting all the operational expense for the financial year 2019-20. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 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 that along with certain financial and other findings that 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 is rejected.

AND WHEREAS, it has been noted that the school is required to recover INR 2,89,52,573 from the Society for expense incurred towards construction to the building. The school further incurred INR 6,35,35,454 on account of building transferred net of unsecured loan, INR 2,18,22,649 for interest and principal paid on loan taken for construction of building and INR 16,09,972 towards purchase of vehicles without complying with the provision of DSEAR 1973 and other order/ circular issued by Director of Education from time to time in this regard. Thus, the school is directed to recover INR 11,59,20,648 from the society. The amount of above receipt along with copy of bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issuance of this order.

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 fee increases for the academic session 2019-20 of **Maxfort School, (School ID-1413291), Sector-23(H-2),Rohini,** has been rejected by the Director (Education).

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

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents. Further, the school is also directed to collect the fee in accordance with the fee structure determined by the DoE vide its order no FDE/756 dated 26.08.2019.

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

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

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

This 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
Maxfort School, (School ID-1413291),
Sector-23(H-2),Rohini
No. F.DE.15 (782)/PSB/2022/4954-4958 Dated: 23/06/22

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (Northwest B) to ensure the compliance of the above order by the School Management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

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