GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

DIRECTORATE OF EDUCATION

(PRIVATE SCHOOL BRANCH)

OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (634)/PSB/2022/ 3850-3854 **Dated: 31/05/22**

ORDER

WHEREAS, **Sumermal Jain Public School (School ID-1514089), B-2, Janakpuri, Delhi-110058**, (hereinafter referred to as **"the School**"), run by the **Sumermal Jain Educational & Welfare Society (Regd.)** (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 **Sumermal Jain Public School (School ID-1514089), B-2, Janakpuri, Delhi-110058,** 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 28th November 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.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school till 16th December 2019 and email dated 30th December 2019, 23rd January 2020, 20th February 2020 were thoroughly evaluated by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submission including the representation of previous orders compliance. The key observations noted are as under:

A. Financial Observations

1. As per 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 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 67 of the Guidance Note on 'Accounting by Schools' issued by Institute of Chartered Accountants of India, "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*" Further, Notes to Part II of Appendix III to the aforementioned Guidance Note states "Under each head, the original cost, the additions thereto and deductions therefrom during the year, depreciation written off or provided during the year, and the total depreciation written off or provided up to the end of the year should be stated."

   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."

   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."

   The financial statements of the school for FY 2018-19 revealed that the school has started maintaining Depreciation Reserve Fund in its financial statements. Further, the school has not correctly calculated the Deprecation Reserve on the fixed assets purchased out of the development fund. The amount of Depreciation Reserve Fund was derived by taking the opening written down value of the assets as on 01.04.2018 plus asset purchased during the financial year 2018-19. Thus, the amount derived by the school for Depreciation Reserve Fund was under calculated. Also, the fixed asset schedule enclosed with the financial statements of the school did not disclosed the opening gross block of the assets, closing gross block of the assets, opening balance of depreciation of accumulated depreciation reserve and closing balance of depreciation reserve.

   Accordingly, the school is directed and to ensure proper maintenance of depreciation reserve equivalent to the depreciation charged in the revenue accounts. Further, the school is directed to ensure that fixed assets are reported in its financial statements at historic value instead of the written down value. Thus, the school should reinstate its fixed assets at historic cost in its subsequent financial statements.

   Further, the Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, up gradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 April 2010 states "*All schools must, first of all, explore and exhaust the possibility of 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.*" While the Financial Statements of the School of the FY 2017-18 revealed that he school has utilised development fund for purchase of assets and smart class expenses.

Because of non-maintenance of depreciation reserve fund correctly and non-utilisation of development fund in accordance with requirements of provisions mentioned above. No adjustment towards development fund has been made while calculating the available fund of the school.

2. 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 the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*
    1. *award of the scholarships to students,*
    2. *establishment of any other recognised school, or*
    3. *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:
    (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."

   It was observed that the school had paid INR. 1,61,000, INR. 2,13,600 and INR. 8,50,198 as scholarships to students during FY 2016-17, 2017-18 and 2018-19 respectively which should not have been paid without complying with the requirements of sub-rule 2 of Rule 177.

   Therefore, total amount of INR. 12,24,798 paid by the school as scholarship without complying with the requirements of Rule 177 of DSER, 1973, is hereby included in the calculation of available fund of the school with the direction to the school to recover this amount from the society within 30 days from the date of this order. While as per the representation submitted by the school against Directorate's Order No. F.D.E.15/ (280)/PSB/2019/1465-1469 dated 04.04.2019, the school has agreed to get this cost reimbursed from the parent's society. In view of this amount proposed by the school in it's for the financial year 2019-20 amounting to INR. 2,46,200 has been excluded while deriving the fund position of the school.

3. Section 18(4) of DSEA-1973 states "(a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and (b) Charges and

payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received". And Rule 176 of DSER, 1973 state "Income derived from collection for specific purpose shall be spent only for such purpose.

In view of the above, it has been observed that school has incurred INR. 77,000 (INR. 27,000 in FY 2016-17, INR. 25000 in FY 2017-18 and INR. 25000 in FY 2018-19) on membership expenses which with no stretch of imagination cannot be construed as educational expenses. Accordingly, the membership expenses paid by the school has been included in the calculation of available fund of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Accordingly, the budgeted expenditure of INR. 28,900 proposed by the school for the financial year 2019-20 has been excluded while deriving the fund position of the school.

4. As per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprised of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditures not included in the second category and the fourth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Clause 20 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11/02/2009 states that "no fee, fund or any other charges 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 and unless the representatives of the PTA and the nominees of the undersigned are associated with these directions"

In view of the above, the school cannot collect or levy any fees or charges other than those mentioned above. However, the financial statements for FY 2018-19 revealed that the school has received INR. 1,14,956 as PTA Fund from the parents which does not come under the ambit of either tuition fee or annual charges etc. as mentioned above.

Therefore, the collection of PTA Fund by the school in not accordance with the above-mentioned provisions. Accordingly, the school is hereby directed to stop the collection of PTA fund immediately and refund the amount collected to the parent within 30 days from the date of issue of this order. Thus, the closing balance of PTA fund of INR. 1,54,804 as on 31.03.2019 has been adjusted while calculating the fund position of the school.

5. 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, according to Para 7.14 of Accounting Standard 15, "Plan assets comprise:

a) Assets held by a long-term employee benefit fund; and

b) Qualifying insurance policies."

According to sub rule (4) of Rule 173 – 'School fund how to be maintained' of DSER, 1973 "Every Recognised Unaided School Fund shall be kept deposited in a nationalised bank or a scheduled bank or in a post office in the name of the school, and such part of the said Fund as may be specified by the Administrator or any officer authorised by him in this behalf shall be kept in the form of Government securities and as cash in hand respectively."

The school had made investments of INR. 2,50,15,000 in capital market linked schemes offered by AVIVA and HDFC insurance and has created SMJS Gratuity Trust corresponding to it. As per the terms and conditions of the policy taken by the school, "the premium paid are subject to investment risks associated with capital markets and the NAVs of the units may go up or down based on the performance of the funds and factors influencing the capital markets and the insured is responsible for his/her decisions."

Based on sub-rule (4) of Rule 173, the schools had not deposited school funds in nationalised bank or a scheduled bank or in a post office or any officer authorised them, thus, the school should transfer the amount deposited in capital market linked plans of AVIVA and HDFC insurance of INR. 2,50,15,000 to traditional plans (non-capital marked linked). Hence, for the purpose of evaluation of fee increase proposal for FY 2019-20 the amount of INR. 2,50,15,000 earmarked towards investments for gratuity has not been considered while deriving the fund position of the school. And the provision made by the school of INR. 54,26,900 for gratuity and INR. 26,50,200 for leave encashment in the financial statements of FY 2019-20 has not been considered in budgeted expenses for the FY 2019-20.

Therefore, the school is directed to make investments that qualify as 'Plan Assets' per AS-15 in accordance with sub-rule (4) of Rule 173 within 30 days from the date of this order. Further, the school is directed to follow the provisions laid down under DSER, 1973 and not to invest school funds in volatile investments, which are subject to market risks. The same direction was also given to the school by the Directorate's order issued for financial year 2017-18 but the same still pending for compliance.

6. As per Clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, no caution money/ security deposit of more than INR. 500 per student shall be charged. The caution money thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the Bank interest.

   Based on the above provision and as per the documents submitted by the school post personal hearing now the school has started to refund the caution money to the ex-students along with interest. However, the school has not maintained separate bank accounts for such security deposit/ caution money.

   Therefore, school is directed to open the bank accounts in the name of security deposit and make the investment or maintain the bank balance equivalent to the security amount reflected in the Balance Sheet. Thus, the balance of caution money pending refund of INR. 9,81,000 as on 31.03.2019 has been considered while deriving the fund position of the school.

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 11.02.2009 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, 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."

   Clause 6 of Order No. DE 15/ Act/ Duggal Committee /203 /99 /23033-23980 dated 15.12.1999 states that "earmarked levies shall be charged from the user student only".

   Thus, the 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. All transactions relating to the earmarked levies shall be an integral part of the school accounts.

   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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account

   On review of the financial statements, it has been noted that the school charges earmarked levies in the name of science fees, transport charges, computer fees, biology fee, fashion studies fee, home science fee, psychology fee, dairy and I card, summer school of drama, summer hobby course, summer academy of sports from students.

However, the school has not maintained separate fund accounts for these earmarked levies which implies that the school has been either generating surplus from these earmarked levies, which is being utilised for meeting other expenses of the school or incurring losses (deficit), which is being met from other fees/income (Tuition Fees and annual charges). This observation was also noted in vide Directorate's Order No. DE.15 (280)/PSB/2019/1465-1469 dated 04/04/2019 but no corrective action taken by the school.

Details of calculation of surplus/deficit, based on breakup of expenditure given in the financial statement for FY 2018-2019 is given below:

Particulars	Fee Collected for the Year 2017-18	Expenses for the year 2017-18	Difference for the year 2017-18 (A)	Fee Collected for the year 2018-19	Expenses for the year 2018-19	Difference for the year 2018-19 (B)	Total (Surplus) = A+B
Science Fees*	3,52,555	-	3,52,555	4,56,818	73,667	3,83,151	7,35,706
Transport Charges	8,18,925	6,04,567	2,14,358	6,64,875	5,55,061	1,09,814	3,24,172
Computer Fees*	5,06,415	3,82,970	1,23,445	6,12,917	2,01,640	4,11,277	5,34,722
Biology Fee*	50,712	-	50,712	55,690	-	55,690	1,06,402
Fashion Studies Fee*	3,64,646	-	3,64,646	3,76,774	-	3,76,774	7,41,420
Home Science Fee*	2,90,664	-	2,90,664	2,43,144	-	2,43,144	5,33,808
Psychology Fee*	3,13,896	-	3,13,896	2,68,530	-	2,68,530	5,82,426
Diary and I Card Received	2,34,059	2,05,800	28,259	2,53,440	1,76,724	76,716	1,04,975
Sumer School of Drama	92,750	57,550	35,200	53,650	29,097	24,553	59,753
Summer Hobby Course	2,75,600	1,36,399	1,39,201	10,67,400	7,11,719	3,55,681	4,94,882
Sumer Academy of Sports	54,272	38,095	16,177	-	38,506	(38,506)	(22,329)
Smart Class Fee	-	-	-	32,81,730	32,56,213	25,517	25,517
ERP Fee	-	-	-	10,87,722	10,69,729	17,993	17,993
Net Surplus							**42,39,447**

*The school is not maintaining a separate fund account for the above-mentioned earmarked fees, therefore the expenses incurred with respect to science fees, biology fees, fashion studies fee, home science fee and Psychology fee could not be traced from the financial statements to calculate surplus/deficit.

Based on the aforesaid 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).

Therefore, 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.

And 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. This being procedure observation no financial impact has been while deriving the fund position of the school.

Further, as per condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. And accordingly, The Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016

However, the financial statements of FY 2018-19 revealed that the school has introduce two new earmarked levies namely 'Smart Class' and 'ERP fee' without obtaining the approval from the Directorate and collected INR. 10,87,722 and INR. 32,81,730 respectively during the financial year. Therefore, the school is also directed to adjust this collection against future dues from the students and stop immediately stop to charge these levies from the students.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

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

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

   While preparing order for fee hike in FY 2017-18, it was noted from the examination of salary computation as per 7th CPC that the gross salary of Principal was computed as INR. 2,13,057 (with a grade pay of INR. 8,700) for the month of December 2017 and which was found excess in comparison to the salaries paid to comparable staff in government schools.

Accordingly, the Directorate's in its Order No. DE15 (280)/PSB/2019/1465-1469 dated 04/04/2019 issued for financial year 2017-18 stated the compliance of the above will be examined at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

The school explained vide its representation dated May 13, 2019 that the principal was working for a long time with the school and received annual increments as per their experience and tenure of services. The school further stated that this is the prerogative of the management to give higher salary to principle and teachers and other staffs for the larger interest of the institutions. Accordingly, the management has decided to pay higher salary to the Principal who has to independently look after various aspects of Management. But the school did not submit the reconciliation of salary from her date of joining and subsequent increments. In absence of such details it could not be concluded whether excessive salary is being drawn by the principal of the school is within the limit prescribed under fixation of Pay or it would be in higher side.

Moreover, school failed to explain why salary of the principal was not fixed in accordance with Rule 107 of DSER, 1973 and did not provide details of her salary from the date of her joining and subsequent increments. Now it is important here to reiterate the provision of Section 10 (1) of DSEA, 1973. Section 10(1) states "the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefit of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority". Accordingly, the provisions of section 10(1) apply to all the staffs of the school not on the selected staff of the employee. In view of this the contention of the school is not tenable and the school is again directed to comply with the above direction of the Directorate's and submit the compliance report within 30 days from the date of issue of this order. Further, in case school wish to pay salaries to its selected employees more than those of the employees of the corresponding status in school run by the appropriate authority, then the same should be either borne by the society or management of the school. Accordingly, the students should not be burdened for this.

3. As per the provisions of Para 7 of Accounting Standard 10 issued by the Institute of Chartered Accountants of India, "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."

   Further, the contract between the school and the smart class provider states, "4.1 EM shall sell to school all the goods described in annexure-2 hereto. Subject to clause 4.4. Below, EM shall ensure that all the hardware and accessories provided to the school remain in working condition throughout the duration of the agreement, provided that the school timely fulfils its payment obligations for the same.

   4.2 School shall earmark the classrooms in which the goods are to be installed by EM.

   4.3 School shall provide proper electrical wiring and earthing to the point of installation in the classroom and ensure uninterrupted power supply through adequate backup for smooth operation and running of the classroom.

4.4 School shall provide necessary documentation, including gate entry pass forms for entry of hardware into the state in which the school is situated. School shall be responsible for obtaining such forms from the GST Department as may be required. EM can, if required, assist in procurement of the same, on submission of, inter alia, No objection certificate, by the school, along with Pan Card copy of the school and principal and any other document, as may be required."

From the above-mentioned terms and conditions of the contract, it is clearly visible that future economic benefits associated with the item will flow to the enterprise and the cost of the item can be measured reliably. Therefore, the assets purchased for providing smart classes to the students should have been recognized as fixed assets of the school.

However, on review of the record submitted by the school, it has been observed that school has incurred expenditure of INR. 32,56,213 towards purchase of hardware during financial year 2018-19 and the same has been accounted for as revenue expenditure instead of capital expenditure by the school. Similar observation was also observed by the Directorate in its order issued for fee hike for the financial year 2017-18. Wherein the school was directed to capitalize the expenditure incurred towards the purchase of smart class equipment and correspondingly charge depreciation on the same. However, no corrective action has been taken by the school till date. Therefore, the school is again directed to comply with the correct accounting principle and capitalize the hardware part of the smart class and charge depreciation on the same.

4. The school has prepared and submitted a Fixed Asset register (FAR) that only captures asset name, date of purchase and amount of the assets. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location of the assets, depreciation, identification number, etc. to facilitate identification of asset and documenting complete details of fixed assets at one place.

   Therefore, school is directed to prepare the Fixed Assets Register on the basis of the above parameters.

5. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as S.No.18 of DDA land allotment letter, every school shall provide 25% reservation to children belonging to EWS/DG category students. However, on review of the information provided by the school for FY 2017-18 and FY 2018-19, it has been noticed that the school has not complied with above requirement. Therefore, concerned DDE District may be requested to please look into this matter. The details of total students and EWS students for the FY 2017-18 & 2018-19 are given below:

Financial Year	Total Number of Students	EWS Students	Percentage of EWS Students
2018-19	2124	275	13%
2017-18	2022	262	13%

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 estimated total available funds for the year 2019-20 amounting to **INR.12,52,24,622** out of which cash outflow in the year 2019-20 is estimated to be **INR.13,02,21,401**. This results in net deficit amounting to INR. **(49,96,779).** The details are as follows:

Particulars	**Amount (in INR.)**
Cash and Bank balances as on 31.03.19 **[as per Audited Financial Statement of FY 2018-18]**	4,50,464
Bank Overdraft as on 31.03.2019 **[as per audited balance sheet of FY 2018-19]**	(1,22,98,192)
Investments as on 31.03.2019 **[as per Audited Financial Statements of FY 2018-19]**	95,78,152
Value of Investment in Unit linked plans as on 31.03.2019 **[as per audited financial statements of FY 2017-2018]**	2,50,15,000
Total Liquid Funds Available with the School as on 31.03.2019	**2,27,45,424**
Add: Recovery from Society against scholarship paid to students during FY 2016-2017 to 2018-19 **[Refer Financial Observation No. 2]**	12,24,798
Add: Recovery from Society against Membership paid by the School during FY 2016-2017 to 2018-19 **[Refer Financial Observation No. 3]**	77,000
Add: Fees as per audited Financial Statements of FY 2018-19 [we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20] **(Refer Note 2 Below)**	9,21,93,436
Add: Other Income as per audited Financial Statements of FY 2018-19 [we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20] **(Refer Note 2 below)**	10,96,122
Add: Impact of Increase Fee vide Directorate's Order No. F.DE.15(280)/PSB/2019/1465-1569 dated 04.04.2019 issued for academic session 2017-18 (15% of Tuition Fee of INR. 6,35,35,913 (as per audited financial Statements of FY 2018-19)	95,30,387
Total Estimated Funds Available for FY 2019-20	**12,68,67,167**
Less: Development Fund as on 31.03.2019 **[Refer Financial Observation No.1]**	-
Less: FDR with joint name of School Manager and CBSE/DOE as on 31.03.2019 **[Refer Note No 1 below]**	5,06,741
Less: Caution Money Fund as on 31.03.2019 **(Refer Financial Observation No. 6)**	9,81,000
Less: Retirement Benefits – Gratuity [Value of investment on 31 March 2019 as per audited financial statements of FY 2018-2019, **(Refer Financial Observation No. 5)**	-
Less: PTA fund as on 31.03.2018 and amount collected during the FY 2018-19 **(Refer Financial Observation No. 4)**	1,54,804
Total Funds for FY 2019-20	**12,52,24,622**
Less: Budgeted expenses as per the Budgeted Financial Statement for the Financial Year 2019-20 (after making adjustment) **(Refer Financial Observation No. 5 and Refer Note 3 below)**	**13,02,21,401**
Less: Arrear of Salary as per 7 CPC **[as submitted by school, Refer Note No 3 (c) Below]**	-
Net Cash Surplus/ (Deficit)	**(49,96,779)**

Note: 1. Fixed Deposit made in the joint name of Dy. Director of Education and with Manager of the School and with CBSE has been considered while deriving the fund position of the school.

Note: 2. For calculation of fund availability, all income (except deferred income of Development Fund utilization, amounting INR.53,17,893 which is a non-cash income) as per the audited Financial Statements of FY 2018-19.

Note: 3 The total budgeted expenditure proposed by the school for FY 2019-20 has been considered while deriving the fund position of the school except the following:

- **a.** The amount proposed by school for one month's salary reserve of INR. 62,09,800 because it was invested by the school in joint name of Dy. Director (Education and Manager of the school. As per Form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3 months' salary and this amount should be invested in joint name of Dy. Director (Education) and manager of the school.

- **b.** Membership Expense of INR. 28,900 and Scholarship expenses of INR. 2,46,200 has not been considered while deriving the fund position of the school; refer financial observation no. 2 & 3.

- c. The School has proposed INR. 9,07,41,700 towards salary expenditure for the FY 2019-20. There is increase of salary expenditure of 50% as compared to expenditure incurred in FY 2018-19. On the assumption that arrears of 7 th CPC for the FY 2018-19 & FY 2019-20 are already included in proposed salary expenditure for the FY 2019-20 hence, arrears of 7 th CPC are not considered in above fund flow statement.

- d. On review of budget submitted by the school for FY 2019-20 it has been observed that the School has budgeted an amount in excess of 110% of the actual expenditure incurred in FY 2018-19 under some of expenditure's head. During personal hearing school was asked to provide/submit proper justification for these unusual increase under these head of expenditures but the school failed to provide appropriate justification for such unusual increase. Accordingly, some of the expenditures found unreasonable has been disallowed. Details of such expenditure are as follows:

Particulars	Expenses Incurred in FY 2018-19	Expenses Proposed in FY 2019-20	Amount Allowed	Amount Disallowed
Conveyance Expenses of Teaching and Non-Teaching	13,27,059	18,40,300	14,60,300	3,80,000
Annual Function	20,79,803	33,45,500	22,95,500	10,50,000
Fair & Exhibition	2,09,353	9,86,500	2,30,500	7,56,000
School Magazine	11,460	98,300	13,300	85,000
Total				22,71,000

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 noticed that the school has utilised INR 13,01,798 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover INR 13,01,798 from the society. The amount of above receipt along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, 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 5% 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 **Sumermal Jain Public School (School ID-1514089), Janakpuri, Delhi-110058** is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 5% 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
Sumermal Jain Public School (School ID-1514089),
Janakpuri, Delhi-110058
No. F.DE.15 (634)/PSB/2022/ 3850-3854 Dated: 31/05/22

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 (West A) 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