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

No. F.DE.15(640)/PSB/2022/3820-3824 **Dated: 31/05/22**

ORDER

WHEREAS, **Mahashai Chunilal Saraswati Bal Mandir, L-Block, Hari Nagar, New Delhi-110064 (School ID: 1514091),** (hereinafter referred to as "School"), run by the Samarth Shiksha Samiti (hereinafter referred to as the "Society"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

> *"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with...*
>
> *28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.......*
>
> *.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."*

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of 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 for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity of being heard on 19.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements. Based on discussions, the School was further asked to submit necessary documents and clarification on various issues. During the aforesaid hearing, compliances against Order No. F.DE-15/(285)/PSB/ 2019/1510-1514 dated 04.04.2019, issued for academic session 2017-18, was also discussed and submissions taken on record.

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. Financial Observations

1. As per Rule 177 of DSER,1973 states "*income derived by an unaided private 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 management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of 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. The abovementioned savings 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 developmental nature;*
   c) *The expansion of the school building or for the 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."*

   On review of the audited financial statements of FY 2017-18 and FY 2018-19, it has been noted that the School has purchased a bus of INR 20,94,000 by utilising the School funds. The school incurred the above expenditure without complying with the requirement of Rule 177 of DSER, 1973. It is also important to mention that the school has purchased this bus to provide service to specific users of transport facility. As per Rule 177 of DSER 1973, income of the school at first instance should be used for meeting the establishment cost including the retirement benefit payable to the staff and if there is any balance the same can be utilized for meeting the capital and contingent nature expenses of the school. From the documents submitted by the school, it has also been noted that the School has utilised school funds for purchase of bus & submitted the proposal for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of the School. Further, the school is yet to salary as per the recommendation of the 7th CPC to its employees/staff.

   Accordingly, the School is directed to recover INR 20,94,000 from the Society within 30 days from the date of issue of this order and this amount has been considered as fund available with School while calculating the fund position of the School.

2. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*"

   Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

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

(b) Qualifying insurance policies.

Para 57 of AS-15 states that *"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, Para 60 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

As per Order no. F.DE-15(285)/PSB/2019/1510-1514 dated 04.04.2019 issued to the school post evaluation of proposal for fee enhancement for the academic session 2017-18 wherein school was directed to obtain an actuarial valuation of its liability towards retirement benefits (gratuity and leave encashment) with corresponding earmarked investments to be made against provision for gratuity and leave encashment with LIC (or any other agency).

During personal hearing, school explained that school is transferred the amount for gratuity and leave encashment to Society who maintain the fund on behalf of the all the schools. The Society in turn has invested the amount in group gratuity scheme of LIC for all the schools under its management and use the funds for payment of gratuity and leave encashment liability as and when it arises. The society maintains all records relating to gratuity and leave encashment liability. During personal hearing the school was asked to provide the details of fund transferred by to the Society on account of retirement benefit and value of its share in the common pool of the group gratuity taken by the Society which the school could not provide.

Further, on review of audited financial statements of FY 2018-19, it has been noted that the school has created its liability towards retirement benefits. However, corresponding share of investment was reported in the audited financial statements.

In absence of the above details, provision of INR 60,00,000 created by the school towards gratuity and leave encashment has not been considered while deriving the fund position of the school. The School is hereby directed to get the actuarial valuation of its liability and report the same in the audited financial statement along with the value of investment of plan assets. So that at the end of the balance sheet date there should be any material difference between provision for liability and investment on the assets side.

3. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee

- Annual Charges
- Earmarked Levies
- Development Fee

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

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

From review of the fee structure submitted by the school it has been noted that the school's fee structure includes 'Pupil fund' as fee being collected from all students.

Based on the above-mentioned provisions, the School cannot collect a "Pupil Fund" fee. This fee has not been defined for recognised private unaided schools and the purpose for which this fee has been collected by the School is covered under "Annual Charges". This clearly indicates that the School has devised another way of its revenue augmentation which is not permissible. 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. Accordingly, the School is directed not collect this fee with immediate effect from the students.

B. Other Observations

1. 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.*"

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They 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*

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

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

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transport fee, Science fee, Computer fee, IT & Assignment fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school, or has been incurring losses (deficit), which has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

Particulars	Transportation Fees^	IT & Assignment Fee*	Computer Fee	Science Fee
For the year 2016-17				
Fee Collected during the year (A)	11,52,100	25,71,200	12,86,800	1,89,200
Expenses during the year (B)	6,98,136	-	33,800	52,061
Difference for the year (A-B)	**4,53,964**	**25,71,200**	**12,53,000**	**1,37,139**
For the year 2017-18				
Fee Collected during the year (A)	10,54,000	30,28,500	13,26,800	1,83,000
Expenses during the year (B)	8,06,062	-	16,51,335	85,282
Difference for the year (A-B)	**2,47,938**	**30,28,500**	**-3,24,535**	**97,718**
For the year 2018-19				
Fee Collected during the year (A)	13,55,900	29,80,900	12,48,600	1,49,500
Expenses during the year (B)	11,55,997	-	14,68,540	1,18,379
Difference for the year (A-B)	**1,99,903**	**29,80,900**	**-2,19,940**	**31,121**
Total	**9,01,805**	**85,80,600**	**7,08,525**	**2,65,978**

^ The school did 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.
* Bifurcation of expenses pertaining to IT & assignment fee has not been provided by the school.

From the above table, the 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). From the record submitted by the school, it was noted that the school has been collecting Smart class fee and Computer fee from all the students which loses the character of earmarked levies. Therefore, the school may be directed to stop the collection in the name of such fee with immediate effect.

Since, the school is not following fund base accounting in accordance with the provision cited above, the total fee (including earmarked fee) have been included in income and expenditure and have been considered in calculation of fund availability with the school and school is 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 has to be utilised 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 structure for earmarked levies during the subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

2. As per 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." Further, Para 102 of the abovementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

   a) *In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;)*
   b) *Assets, such as investments, and liabilities belonging to each fund separately*
   c) *Restrictions, if any, on the utilization of each fund balanced)*
   d) *Restrictions, if any, on the utilization of specific assets.*"

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

On review of audited financial statements for FY 2018-19, it has been noted that school has maintained Development fund account. However, on purchase of the assets the school has not maintained development fund utilization and has not credited an amount equivalent to the depreciation charged to income in income & expenditure account.

Since, the accounting treatment followed by the school is not in accordance with the accounting treatment specified by the GN-21 issued by the Institute of Chartered Accountant of India, the school is directed to make necessary rectification entries in its books of accounts relating to development fund utilisation account and ensure compliance with Guidance Note-21 issued by ICAI.

3. As per the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as condition specified in the land allotment letter, the school is required to provide 25% reservation for children belonging to EWS category. Therefore, the School is directed to ensure the admission to EWS/DG students in accordance with the aforesaid order. From the records provided by the School, the percentage of EWS/DG students has been calculated below:

Particulars	FY 2016-17	FY 2017-18	FY 2018-19
Total Students	1190	1217	1192
EWS Students	121	107	104
% of EWS Students	10%	9%	9%

4. As per clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of 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 11.02.2009 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.*"

However, on review of the audited financial statement for the FY 2017-18 and 2018-19, it has been observed that the School is refunding only the principal amount to the student at the time of leaving the School, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009. Thus, School is directed to comply with clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009. The balance of caution money as on 31.03.2019 is INR 17,02,650 as per audited financial statements for the FY 2018-19 has been considered while deriving the fund position of the school.

1. On review of submission of documents made by the school after personal hearing, it has been noted that no process in relation to calling of quotations from vendor, approval process, gate inward control and payment etc has been submitted by the school and no process related to procurements were submitted along with it. The school has not submitted any comparative statement for evaluation of the quotations received from vendors and approval documents of the purchase committee.
Accordingly, the school is directed to follow proper procurement process and maintain proper documentation in relation to procurements and purchases done by the school. Compliance of the above shall be verified at the time of evaluation of proposal for fee enhancement for subsequent year.

2. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements of 2018-19, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

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 Academic session 2018-19 amounting to INR **6,99,26,091** out of which cash outflow is estimated to be INR **7,45,06,396**. This results in net deficit of INR **45,80,305**. The details are as follows:

Particulars	**Amount**
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements	86,69,502
Investments in FDRs as on 31.03.19 as per Audited Financial Statements	14,92,633
Liquid funds as on 31.03.19	**1,01,62,135**
Add: Recovery from the society towards amount spent on purchase of buses out of school funds **(Refer Financial observations No. 1)**	20,94,000
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 1)**	5,87,15,007
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 1)**	10,15,463
Total Available funds for FY 2019-20	**7,19,86,605**
Less: Investment in joint name with Secretary, CBSE **(As per School's submission)**	1,62,005
Less: Investment in joint name with DDE **(As per School's submission)**	11,79,509
Less: Depreciation reserve fund Received for FY 2018-19 **(Refer note no.4)**	
Less: Caution money as on 31.03.2019 (as per audited financial statements for FY 2018-19) **(Refer Other observation no. 4)**	7,19,000
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial observation No. 2)**	
Estimated Available Funds for FY 2019-20	**6,99,26,091**
Less: Budgeted expenses for the session 2019-20 **(Refer Note 2 and 3)**	7,45,06,396
Estimated Deficit	**45,80,305**

Note 1: Income as per audited financial statements for FY 2018-19 has been considered assuming that fee received during FY 2018-19 will be the minimum amount accrue in FY 2019-20.

Note 2: All the budgeted expenditure proposed by the school has been considered while calculating the fund position of the school except the following:

Particulars	**Disallowed amount**	**Remarks**
Housekeeping and watch and ward expenses	5,35,341	

Expense on vehicle owned by School	4,08,403	Proposed expenditure has been increased excessively therefore, these expenses has been restricted to 110% of previous year expense.
Science expense	69,783	
Activity expense	2,34,284	
Legal and professional expense	45,118	
Printing and Stationery	21,604	
Telephone and postage	9,036	
Bank Charges	6,787	
Entertainment and refreshment	2,00,000	New head of expense
Festival expense	4,00,000	
Gardening expense	1,00,000	
Games and Sports expense	8,00,000	
Meeting, Seminar, Camp expense	2,00,000	
Teaching material	50,000	
Provision for gratuity and leave encashment	60,00,000	Refer financial observation no.2
Salary of non-teaching staff	60,18,497	Refer note no.3

Note 3: The Directorate vide Order No. DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the Managing Committee of all the private unaided recognized schools were directed to implement the Central Civil Revised Pay Rules 2016 in respect of the regular employees of the corresponding status in their schools with effect from 01.01.2016 as adopted by the Government of NCT of Delhi vide its circulars No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/110006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII Pay Comm./Coord./2016/12659-12689 dated 14.10.2016. Further, vide order No. F.DE.15/ (318)/PSB/2019/11925-30 dated 09.10.2019, the managing committee of all Private Unaided Schools once again directed to implement the recommendation of 7th CPC with effect 01.01.2016 within 15 days from the date of issue of aforesaid order.

Further, section 10 of DSEA states "*the scales of pay and allowances, medical facilities, mention, gratuity, provident fund and other prescribed benefits of the employees of recognized private school shall not be less than those of the employees of the corresponding status in school run by the appropriate authority*". Therefore, employees of all the private unaided recognized schools are entitled to get the revised pay commission. This legal position has been settled by the Hon'ble High Court long back at the in the matter of WPC 160/2017; titled as Lata Rana Versus DAV Public School & Ors vide order dated 06.09.2018 for implementation of sixth pay commission recommendations.

It has been noted that School Management has not yet implemented the recommendations of 7th CPC with effect from 01.01.2016 on the ground of insufficient funds with the school.

While as per Directorate's Order no. F.DE-15(285)/PSB/2019/1510-1514 dated 04.04.2019 issued post evaluation of fee increase proposal of the school for the FY 2017-18, wherein school was directed to implement the recommendations of 7th CPC but the school has not complied with the direction mentioned in the previous year's order. Also, impact of arrears payable as per recommendations of 7th CPC has not been provided by the school. Therefore, salary (including 7th CPC arrear) proposed for teaching staff has been considered in full except salary of non-teaching staff which has been restricted to salary expense of the previous year and INR 60,18,497 has been disallowed. The school is hereby directed to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order.

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "*Registration fee and all one Time Charges*' levied at the time of admissions such as admission and caution money. The second category of fee comprises '*Tuition Fee*' which is to be fixed to cover the standard cost of the establishment and to cover the 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 expenditure not included in the second category and the fourth category consist of all '*Earmarked Levies*' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture 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*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21

'Accounting by School' 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."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund of INR 1,47,03,467 as reported by the School in the audited financial statements for the FY 2018-19 has not been considered while deriving the fund position of the School.

ii. In view of the above examination, it is evident that the school does not have 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 16.04.2010 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, it has been noted that the School has paid INR 20,94,000 towards purchase of bus which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the school is directed to recover INR 20,94,000 from the society. The receipt of the above amount along with the copy of the bank statement showing the 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 widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (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 08% to be effective from 01 July 2022.

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, 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 enhancement of fee for session 2019-20 of **Mahashai Chunilal Saraswati Bal Mandir, L-Block, Hari Nagar, New Delhi-110064 (School ID: 1514091)** has been accepted by the Director of Education and the School is hereby allowed to increase the fee by 08% with effect 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
Mahashai Chunilal Saraswati Bal Mandir
(School ID: 1514091)
L-Block, Hari Nagar,
New Delhi-110064

No. F.DE.15(640)/PSB/2022/3820-3824 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) 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