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

No. F.DE.15(828)/PSB/2022/ 5339-5346 **Dated:** 01/07/22

Order

WHEREAS, **Happy Model School, B-2 Janakpuri, New Delhi-110058 (School ID: 1514094),** (hereinafter referred to as "**the School**"), run by the **Happy Montessori School Society** (hereinafter referred to as "**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 DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) 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 objectives 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 recognized 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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the 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 this Directorate **Happy Model School, B-2 Janakpuri, New Delhi-110058 (School ID: 1514094)** had submitted the proposal for fee increase for the academic session **2019-20**. Accordingly, this order is dispensed off 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 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 to be heard on 04.12.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and school submissions were 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 observations noted are as under:

A. Financial Observations

1. As per clause 2 of the Public Notice dated 04.05.1997 "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 30.10.1998 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."

Also, Rule 177 of DSER, 1973 states that "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 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.

Further, the aforesaid 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.

Accordingly, based on the above mentioned 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 utilized for the same. Moreover, school fee can only be utilized for meeting pay, allowances and other benefits admissible to the employees of the school and not for capital expenditure of building.

However, on review of audited financial statements of FY 2016-2017 and FY 2017-2018 it has been noted that school has incurred capital expenditure for building. The additions made to building was INR 78,08,133 and INR 37,77,047 in FY 2016-17 and 2017-18 respectively. Moreover, it has been noted that in FY 2016-17, 2017-18 and 2018-19 school has incurred Capital work in progress of INR 29,95,971, INR 1,19,64,714 and INR. 86,30,225 respectively for Building. These expenditures are capitalised into building of the school in the subsequent year. The aforesaid amount incurred by the school is not as per the provisions of clause 2 of public notice dated 04.05.1997, High Court judgement and Rule 177 of DSER, 1973.

In view of the above, addition made to building totalling to INR 3,51,76,090 from FY 2016-17 to 2018-19 has been included in the calculation of available fund of the school with the direction to the school to recover the aforesaid amount from the society within 30 days from the date of issue of this order and submit the compliance report for the same. Non-compliance with the above direction may be viewed seriously in accordance with the provision of Section 24(4) of the DSEA,1973 and while evaluation the fee increase proposal of the school for the subsequent academic session.

2. As per Para 49 of Accounting Standard 15 ' Employee Benefits' issued by the Institute of Chartered Accountants of India "Accounting for defined benefits plans is complex because actuarial assumptions are required to measure the obligation and the expenses and there is a possibility of actuarial gains and losses." Further, para 57 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 amount recognised in the financial statements do not differ materially from the amounts that would

be determined at the balance sheet date". Also, para 7 of the Accounting Standard defines Plan Assets (the form of investment s to be made against liability towards retirement benefits) as:

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

The school has, in personal hearing, submitted that it does not provide for gratuity and leave encashment on the basis of liability determined by actuary. It has also been submitted that it has not earmarked any investment with LIC or similar agency or even in any fixed deposits to safeguard the interest of the staff of the school. Accordingly, while deriving the fund position of the school the amounts provided as gratuity and leave encashment by the school have not been considered. Additionally, in budget for FY 2019-20 school has provided for gratuity and leave encashment amounting INR 50,00,000 and INR 9,00,000 respectively. However, school failed to provide any clarification regarding basis of determination of budgeted expenditure. Also, school failed to provide any future plan for depositing amount in plan assets in accordance with aforesaid AS-15. Accordingly, the budgeted provision for gratuity and leave encashment has not been considered in the calculation of fund availability.

3. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure....capital expenditure/investments have to come from savings.*"

During FY 2018-19, the school has incurred capital expenditure on purchase of car of INR. 26,54,990 out of school funds.

Accordingly, the total expenditure of INR 26,54,990 incurred by the school to purchase of car without justifying need of the same is hereby added to the fund position of the school and the school is directed to recover the same from the society within 30 days from the date of the order.

Further, the school has proposed capital expenditure of vehicle amounting to INR. 25,00,000 in FY 2019-20 which is also in contravention of above-mentioned provisions. Hence, the above amount has also not been considered while deriving the fund position of the school.

4. In respect of earmarked levies, the school is required to comply with:
   - Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 which specifies that Earmarked levies shall be charged from user students on 'no-profit no loss' basis;
   - Rule 176 of DSER, 1973, which provides that "Income derived from collections for specific purposes shall be spent only for such purpose."
   - Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note 21, 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).

  On review of audited financial statements submitted by the school for FY 2016-17 to 2018-19, it has been noted that the school collects earmarked levies namely Science fee, Laboratory fee, and Computer fee and has been earning surplus from each of these levies. It is also noted that the school has not followed fund-based accounting as prescribed by Guidance Note-21 issues by ICAI and thus, the surplus earned over the years from the aforesaid levies get merged in the General Fund of the school.

  Accordingly, the school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilized 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, 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 expenditure 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.

  Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the facilities and if the services are extended to other students of the school, a separate charge should not be levied by the school as it would get covered either under tuition fee or annual charges. However, it has been noted that the school collects Computer fee/ Computer aided learning fee from all the students. Accordingly, charging earmarked levies in the name of Computer fee/Computer aided learning fee from all the students loses its character of earmarked levy. Therefore, the school is directed to stop collecting separate charges in the name if Computer fee/Computer aided learning fee immediately.

  Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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

B. Other Observations

1. As per Clause 14 of this Directorate's 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, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."

   As per Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India *"Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".*

   On review of audited financial statements for FY 2017-18 and 2018-19 of the school it has been noted that the school has utilised development fund for maintenance of Furniture and Fixture. The school has incurred maintenance expenditure of INR 9,66,161 and INR 34,618 in FY 2017-18 and 2018-19 respectively out of development fund which is contravention of aforesaid clause 14 of order dated 11.02.2009.

   Further, on review of Financial Statements for FY 2017-18 & 2018-19, it is noted that the school has incurred expenditure of INR. 1,06,010 & INR. 73,234 on library books and reflected the same as utilisation of development fund in the audited Financial Statements which is not in accordance with clause 14 of the mentioned order.

   Further, school has not been transferring amount equivalent to the depreciation charges on fixed assets purchased out of development fund from the deferred income account to the credit of income and expenditure account in compliance of para 99 of GN-21 of Accounting by School issued by the Institute of Chartered Accountants of India.

2. As per direction no. 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 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 thereon irrespective of whether or not he /she request for a refund"

   However, the school has not maintained separate bank account for deposit of caution money collected. Also, the school has not refunded interest on caution money along with the refund of caution money. During the personal hearing, the school mentioned that it has stopped collecting caution money from the students since FY 2016-17 and unclaimed caution money has been booked as income in FY 2016-17. Also, the school is refunding the caution money to the students who have left the school, however, interest is not refunded to the students. Thus, based on the explanation provided by the school, the school is directed to ensure that caution money is refunded to the students together with interest. Accordingly, the outstanding liability of INR 3,67,000 reflecting in the audited financial statements of 2018-19 has been considered while deriving the fund position of the school.

3. On review of Fixed Assets Register (FAR) submitted by the school it has been noted that FAR captures asset name, date, amount, supplier name, invoice number in respect of fixed assets purchased during FY 2018-19 only. For assets purchased prior to 01.04.2018, only balance as on that date have been presented. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. During the personal hearing, school mentioned that it is maintained a fixed assets register, but not in the prescribed format and also, there do not exist any system of physical verification of fixed assets in the school.

   Accordingly, the school is directed to update fixed assets register with relevant details mentioned above and is required to develop system of physical verification of fixed assets on yearly basis. The above being a procedural observation, no financial impact is warranted for deriving the fund position of the school and the compliance will be verified at the time of evaluation of fee proposal for next financial 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 FY 2019-20 amounting to INR **11,87,56,248** out of which cash outflow in the FY 2019-20 is estimated to be INR **10,14,27,745** This results in deficit of INR **1,73,28,503.** The details are as follows:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements	(87,92,916)
Investments as on 31.03.19 as per Audited Financial Statements	1,70,58,363
Liquid Funds as on 31.03.2019	**82,65,447**
Add: Amount recoverable from Society against building Construction **(Refer Financial Observation No. 1)**	3,51,76,090
Add: Amount recoverable from society for purchase of car **(Refer Financial Observation No. 3)**	26,54,990
Add: Fees for FY 2018-19 as per Audited Financial Statements (on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	8,60,93,663
Add: Other income for FY 2018-19 as per Audited Financial Statements (on the assumption that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	18,46,797
Available Funds for FY 2019-20	**13,40,36,987**
Less: Joint Investment with Chairman CBSE as on 31.0.2019	7,25,000
Less: Joint Investment with DOE	4,62,592
Less: Development Fund as on 31.03.2019 **(As per Audited Financial Statements for FY 2018-19)**	1,37,26,147
Less: Caution Money as on 31.03.2019 **(As per audited Financial Statements for FY 2018-19) (Refer Other Observation No. 2)**	3,67,000
Net Available Funds for FY 2019-20	**11,87,56,248**

Particulars	Amount (in INR)
Less: Budgeted expenses for the session 2019-20 (including impact of 7th CPC as per school submission) **(Refer Note 1 & 2 Below)**	10,14,27,745
Estimated Surplus	**1,73,28,503**

Note 1: In budget for FY 2019-20 school has provided for gratuity and leave encashment amounting INR 50,00,000 and INR 9,00,000 respectively. However, school failed to provide any clarification regarding basis of determination of budgeted expenditure. Also, school failed to provide any future plan for depositing amount in plan assets in accordance with AS-15 Employees benefits issued by the Institute of Chartered Accountants of India. Accordingly, the budgeted provision for gratuity and leave encashment has not been considered in the calculation of fund availability.

Note 2: The total salary arrears on account of implementation of 7th CPC from 01.01.2016 to 31.03.2019 amounting INR 2,11,48,140 (INR. 86,06,616 for the period 01.04.2018 to 31.03.2019 and INR 1,25,41,524 for the period 01.01.2016 to 31.03.2018) has been considered while calculating the fund position of the school.

ii. In view of the above examination, it is evident that the school has sufficient funds to carry on the operation of the school for the academic session 2019-20 at the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations, that the sufficient funds are 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 rejected.

AND WHEREAS, it is noticed that the school has utilised INR 3,78,31,080 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 3,78,31,080 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, 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 enhancement of fee for the academic session 2019-20 of **Happy Model School, B-2 Janakpuri, New Delhi-110058 (School ID: 1514094)** is rejected by the Director (Education).

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

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
Happy Model School (School ID- 1514094)
B-2 Janakpuri, New Delhi-110058

No. F.DE.15 (828)/PSB/2022 / 5342- 5346

Dated: 01/07/22

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