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

No. F.DE.15(606)/PSB/2022/3671-3675 Dated: 26/05/22

ORDER

WHEREAS, **Sant Nirankari Public School, Avtar Enclave, New Delhi-110063, (School ID-1617183)** (hereinafter referred to as "School"), run by the Sant Nirankari Charitable Foundation (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools........

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

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

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

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the School was also provided an opportunity of being heard on 27.11.2019 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 were noted.

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

A. Financial Observations

1. Clause 14 of this DoE's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

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

   Further, Para 102 of the aforementioned Guidance Note states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

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

   The review of the audited financial statements of FY 2015-16 to 2018-19 revealed that the school was treating development fee as revenue receipts till FY 2017-18. The school has started treating of development fee as capital receipts from FY 2018-19. Also, the school has not opened separate bank account for its collection and utilisation of development fund/fee.

   The school upon utilization of development fund (i.e. purchase of assets), the school has not treated the same as deferred revenue income. This deferred revenue expenditure should be written off in the proportionate of depreciation charged in in the income and expenditure account.

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

   Therefore, the school is directed to follow correct accounting treatment with respect to the collection and utilization of development fee in accordance with Para 99 of the GN 21 cited above and open one separate bank account for collection and utilisation of development fund and create depreciation reserve account in accordance with the clause 14 of the order dated 11.02.2009.

2. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

   a. Assets held by a long-term employee benefit fund; and
   b. Qualifying insurance policies

   Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."

   The documents submitted by the school were taken on record. Review of the documents submitted by the school post personal hearing; it has been noted that the school has got the actuarial valuation reports from actuary. As per the actuarial valuation report, total liability towards gratuity & leave encashment was amounting to INR 81,52,680 & INR 22,66,364 as on 31.03.2019 and the school has created equivalent provision and reported the same in its financial statements. Accordingly, the school has done the investment in the form of Fixed Deposit Receipts (FDR) of INR 81,52,680 for gratuity and INR 22,66,364 for leave encashment. The investment in the form of FDR cannot considered as investment in plan asset within the meaning of AS-15. Since, the school has not invested any amount in the plan asses as required by AS-15, the provision created for the year of INR 25,00,000 for gratuity has not been considered while deriving the fund position of the school.

   The school is hereby directed to invest the equivalent amount as determined by actuary that quality as plan assets within the meaning of AS-15 and submit the compliance status within 30 days from the date of issue of this order.

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 was noted that the school charges earmarked levies in the form of Transport fee from the students. However, the school has not maintained separate fund accounts for these earmarked levies. Based on the information provided the school it has been noted that has generated surplus of INR 9,46,186 over the last three financial years but how much cash and balance is available against this levy cannot be ascertained from the audited financial statements. The summary of which has been provided below.

Transport Fees	Income (A)	Expenses (B)	Surplus/ (Deficit) (A-B)
2016-2017	23,76,800	18,13,310	5,63,490
2017-2018	24,15,400	17,59,535	6,56,045
2018-2019	29,30,901	32,04,250	(2,73,349)

Based on the above, 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).

Unintentional surplus, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

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

   During the personal hearing, the school confirmed that it will update the FAR as per the recommendations of the Directorate in FY 2018-2019. The school is directed to update the FAR with details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

3. As per 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."*

   From the audited financial statements of the school for FY 2017-2018, it was noted that while the school was creating depreciation reserve by transferring the amount of depreciation charged on the assets to the depreciation reserve account, the school prepared fixed asset schedule on the basis of historical value basis. Further, the school had not disclosed complete details of assets in accordance of heads specified in the Guidance Note instead it had used heads such as 'Assets Out of Dev Fund', 'Assets out of Dep Fund', 'Other Assets' for reporting assets in the fixed assets schedule annexed to the financial statements.

   The school is hereby directed to segregated for assets purchased out of general reserve and those purchased against development fund annexed to the financial statements. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. 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 year 2019-20 amounting to INR **4,35,14,577** out of which cash outflow in the year 2019-20 is estimated to be INR **2,99,70,462**. This results in net surplus of INR **1,35,44,115**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statements of FY 2018-19	4,21,636
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19	1,63,44,114
Total Liquid Funds Available with the School as on 31 Mar 2019	**1,67,65,750**
Fees for 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	2,41,05,653
Other income for 2018-19 as per audited Financial Statements **(Refer Note 1 below)**	46,87,894
Gross Estimated availability of funds for 2019-20	**4,55,59,297**
Less: FDR HDFC Bank in joint name of DDE & Manager	9,40,423
Less: FDR Indian Overseas Bank in joint name of Secretary CBSE & Manager	2,00,000
Less: Development Fund as on 31.03.2018 **(Refer Note 2 below)**	9,04,297
Less: Investment made with FDR against provision made for retirement benefits **(Refer Financial observation No. 2)**	-
Less: Depreciation reserve fund **(Refer Note 3 below)**	-
Less: Provision for refund of Development fees- JADSC (**Refer Note 4 below)**	-
Net Estimated availability of funds for 2019-20	**4,35,14,577**
Less: Budgeted expenses for the session 2019-20 **(Refer Note 5 below)**	2,99,70,462
Less: Arrears of salary as per 7th CPC **(Refer Note 6 below)**	-
Cash Surplus/(Deficit)	**1,35,44,115**

Note 1: Fee and income as per audited financial statements FY 2018-19.

Note 2: Development fund balance as on 31.03.2018 was Nil as the school was treating development fee as revenue receipts but FY 2018-19 onwards the school has made fund-based disclosure and started treating it as capital receipts. Therefore, the same has been considered.

Note 3: 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 1,01,86,751 as reported by the school in the audited financial statements for the FY 2017-18 has not been considered while deriving the fund position of the school.

Note 4: As per JADSC's report, the school is required to refund the excess amount of fee charged along with interest @ 9% p.a. Further, the Hon'ble High Court of Delhi has directed to deposit or lien the FDR equivalent to the 75% of the principal amount refundable to the student with the court if any school wish to challenge the direction/findings of the committee. From review of the audited financial statements it has been noted that the school has created the provision of INR 6,02,550 during FY 2017-18 and continued the same in FY 2018-19 for refund of development fees. As the school has not refunded any amount against this provision therefore, mere creation of provision is not a sufficient ground to include the same in the fund position of the school.

Note 5: All expenditure of the school for FY 2019-20 has been considered while deriving the fund position of the school except the following

Particulars	Amount Disallowed	Remarks
Gratuity	25,00,000	Reasonable explanation or supporting documents not provided by the school for such unusual increase under these heads. Thus, these expenditure has been restricted to 110% of the actual expenditure incurred in FY 2018-19 considering the rise in inflation.
Communication expenses	1,832	
Electricity & water charges	25,861	
Housekeeping expenses	21,00,000	
Promotional Expenses	15,065	
Legal & Professional Charges	40,000	
Others	38,227	
Examination Expenses	6,267	
Newspaper Expenses	10,000	
Smart Class Expenses	20,000	
Student welfare and Activities Expenses	1,64,286	
Total	**49,21,538**	

Note 6: Review of audited financial statements of the school and as per explanation provided by the school, it has been noted in the point no. 2 of Minutes of Meeting held on 31.01.2019 that school is paying salary as per VII pay commission hence there is no arrears pending to be paid.

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 on 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 findings that 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, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

AND WHEREAS, the School is directed, henceforth to take necessary corrective steps on the financial and other observations noted during the above evaluation process and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal of fee increases for the academic session 2019-20 of **Sant Nirankari Public School (School ID-1617183), Avtar Enclave, New Delhi-110063** has been rejected by the Director (Education).

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

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

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

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

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

This is issued with the prior approval of the Competent Authority.

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

To:
The Manager/ HoS
Sant Nirankari Public School (School ID-1617183)
Avtar Enclave,
New Delhi-110063

No. F.DE.15 (606)/PSB/2022 / 3671- 3675 Dated: 26/05/22

Copy to:

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

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