

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

No. F.DE.15 (576)/PSB/2022/ 3295 - 3299

Dated: 20/05/22

Order

WHEREAS, S.S. Mota Singh Model School, Guru Harkarishan Nagar, Paschim Vihar, New Delhi- 110063, School ID-1617186, (hereinafter referred to as "the School"), run by the S.S. Mota Singh (Nila) Charitable Trust (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 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 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 29.11.2019 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(58)/PSB/2019/959 - 963 dated 23.01.2019, 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 observations noted are as under:

A. Financial Observations

- I. As per the Directorate's Order No. DE /15/Act/Duggal.Com/203/99/23033/23980 dated 15.12.1999, the management is restrained from transferring any amount from the recognized unaided school fund to the Society or trusts or any other institution. The Hon'ble Supreme Court also through its judgement on review petition in 2009 restricted transfer of fund to the Society.

Further, the DoE in its Order No. F.DE-15(58)/PSB/2019/959 - 963 dated 23.01.2019, issued for academic session 2017-18, noted that INR 3,87,02,447 was payable to the society as on 31.03.2017. On further review of the transaction recorded by the School in Society's ledger in its books of accounts, it was noted the School had capitalized building of INR 4,70,08,415 and credited Society's ledger account with the same amount. In the aforesaid order the school was directed to reverse this entry together with the depreciation charged. Which the school has not done until now.

The Directorate in its Order no. F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for FY 2017-18, further directed to the school to recover INR 83,05,968 from the society against funds transferred to the society during FY 2014-15 to 2016-17 which the school is yet to recover.

However, on review of the audited financial statement of FY 2017-18 and 2018-19, it has been noted that the school has transferred of INR 1,39,46,206 leaving the society's balance to INR 2,47,56,242 as on 31.03.2019. Thus, this transfer of INR 2,22,52,174 (INR 1,39,46,206 plus 83,05,968) to the Society on account of building etc. is recoverable from the Society. Therefore, has been included in the calculation of fund available with the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. The Society is further directed either transfer the said building to the Society along with depreciation charge or treat the remaining amount payable to the society together with the amount recoverable as contribution received from the Society.

- II. As per clause 2 of 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 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized 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 recognized 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."

Further, Clause 7.24 of Duggal committee states that "Simultaneously, it is also to be ensured that the Schools, do not discharge any of the functions, which rightly in the domain of the Society out of the fees or other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the Society at concessional rates for carrying out a "philanthropic" activity. One only wonders what then the contribution of the Society that professes to run the School!"

Based on the aforesaid provisions, 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.

Review of the audited financial statements of FY 2017-18 revealed that the school has capitalized INR 17,83,965 under the head building in contravention of the above-mentioned provisions. The aforesaid addition was made without complying with the provision of Rule 177 of DSER, 1973. It has also been noted that the school incurred the above expenditure before investing any amount in plan assets for the statutory liability (i.e. retirement benefits) in accordance with the AS-15 and payment of salary arrears to its staff.

Therefore, this amount of INR 17,83,965 has been included while deriving the fund position with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

- III. 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.*" Further, as per Section 18(4) of DSEA, 1973, Income derived by unaided school by way of fees shall be utilized only for such educational purpose as may be prescribed.

The Directorate in its Order no.F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for FY 2017-18, noted that the school had purchased Skoda car of INR 30,20,000 during the FY 2015-16. In its reply the school explained that this car has been purchased to meet the need of the school. This capital expenditure was incurred by the school without complying with the requirement of the Rule 177 of DSER, 1973 and the above-mentioned provisions.

It has also been noted that the school purchased the expensive vehicle submitted the proposal for fee hike that translates to constituting capital expenditure as component of the fee structure of the school which is not permitted to the school.

Therefore, the amount of INR 30,20,000 has been added to the fund position of the school considering the same as funds available with the school, with the direction to the School to recover this amount from the Society within 30 days from the date of this order.

- IV. Rule 175 of DSER, 1973 states *"the accounts with regard to the School Fund or the Recognized Unaided School Fund as the case may be shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fees, collections for specific purposes, endowments, gifts, donations, contributions to Pupils' Fund and other miscellaneous receipts, and also, in the case of aided schools, the aid received from the Administrator."*

Further, Section 2 (v) of *"Delhi School Education Act, 1973"* read as under; *"School Property" means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds' investments and bank balance."*

The DoE in its Order No. F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued for FY 2017-18, noted that the school had let out the part of the school premises to Punjab & Sindh Bank and rent which was received the Society. The school further submitted that bank has vacated the school premises during the FY 2015-16 and based on the details provided by the school, it was noted the Society had collected INR 1 Crore as rent. Therefore, the amount of INR 1 Crore collected by the Society from the bank has been included in the calculation of fund position of the school with the direction to the school to recover this amount from the Society within 30 days from the date of issue of this order.

- V. AS 15 on 'Employee Benefits' issued by the Institute of Chartered Accountants of India (ICAI) states that *"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 as:

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

Further, 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."*

Review of the audited financial statements of FY 2018-19 revealed that the School reported liability for gratuity INR 4,32,20,186 and liability for leave encashment INR 1,02,68,466 as on 31.03.2019 as per the actuarial valuation report (as mentioned in its notes to accounts) without having any investment in plan assets in terms of AS-15 issued by The Institute of Chartered Accountants of India.



During the personal hearing the school mentioned that it has specific investment in the form of FDR with banks which does not qualify as plan assets within the meaning of AS-15. Therefore, the same has not been considered while deriving the fund position of the school. As the school has not investment any amount in plan asset, the provision made by the school of INR 40,20,000 for gratuity and INR 60,000 for leave encashment has also not been considered. The school is hereby directed to invest an amount equivalent to the amount determined in the actuarial valuation report in plan assets as per the requirement of AS-15 within 30 days from the date of issue this Order.

- VI. The Directorate's Order No. DE 15/Act/Duggal.com/203/99/23033/23980 dated 15/12/1999 states that *"the management is restricted from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Hon'ble Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society."*

The 'Notes to accounts' of the audited financial statement of FY 2018-19 states that *"the payments to the following trustee for rendering professional services, which were made by S.S. Mota Singh (Nila) Charitable Trust, in the earlier years, have been made by S.S. Mota Singh Model School, (Guru Harkrishan Nagar), in the current financial year, due to non-availability of funds in the trust"*:

- a. Professional fee paid to Mrs. Harvinder Kaur Anand Rs.2,66,664.
- b. Professional fee paid to Mrs. Kiranjeet Kaur Bhasin Rs.31,15,200.

Thus, the school has paid INR 33,81,864 to the members of the society which is not in accordance with the above-mentioned provision and therefore, recoverable from the Society. As this amount has already been included in point no. II, above. Therefore, it has not been included again to avoid duplicity.

- VII. Section 2(m) defines that "Manager" in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school".

Further, Rule 59 of DSEAR, 1973 states, "Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee:(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided;(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties and responsibilities of the manager;(l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf;(m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school;(r) manager shall

not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager. Thus, the manager of the school cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973. The post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Hence, the Manager of the School cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

As per details provided by the school post personal hearing, it has been noted that the school has INR 2,66,664 to manager of the school during the FY 2018-19. Since the post of the manager is honorary post. Thus, the total remuneration of INR 2,66,664 paid by the school to the manger is recoverable from the manger/ society of the school within 30 days from the date of issue of this order. Accordingly, INR2,66,664 is hereby added while deriving the fund position of the school considering the same as funds available with the school.

B. Other Observations

- I. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 01.02.2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."

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

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."

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-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrance of expenditure, the same is charged to the Income and Expenditure Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.



On review of audited financial statements of the school, it has been noted that the school charges earmarked levies in the name of transport fee, examination fee, sports fee, science fee, computer fee and medical fee but 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. The details of calculation of surplus/deficit for the earmarked levies are provided below.

Particulars	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Transportation fees				
Fee accrued	10,362,700.00	8,957,945.00	7,880,570.00	7,873,932.00
Expense incurred	5,443,838.00	5,583,040.00	3,961,909.00	4,080,098.00
Surplus/Deficit	4,918,862.00	3,374,905.00	3,918,661.00	3,793,834.00
Sport fees				
Fee accrued	3,220,245.00	3,821,855.00	3,025,050.00	-
Expense incurred [^]	-	-	-	
Surplus/Deficit	3,220,245.00	3,821,855.00	3,025,050.00	
Science Fees				
Fee accrued	306,390.00	613,915.00	425,235.00	-
Expense incurred [^]	-	-	-	
Surplus/Deficit	306,390.00	613,915.00	425,235.00	
Computer Fees				
Fee accrued	9,072,675.00	10,788,687.00	8,735,865.00	-
Expense incurred [^]	-	-	-	
Surplus/Deficit	9,072,675.00	10,788,687.00	8,735,865.00	

[^]The School has clubbed these expenses with other heads of expense and has not provide the amount spend against each earmarked levy.

Based on the above-mentioned provisions, the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students of the school, a separate charge cannot be levied towards this service by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of examination fee, sports fee, computer fee and medical fee from all the students loses its character of earmarked levy. Thus, the school is directed not to charge examination fee, sports fee, computer fee and medical fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

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.

The School is hereby directed to maintain a separate fund account capturing 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 utilized or adjusted against earmarked fees collected from the users' students 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.

- II. Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state that "*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 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 Directorate in its Order no.F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for FY 2017-18, directed to treat development fee as capital receipt and make necessary entries relating to development fund to comply with clause 14 of order dated 11.02.2009. During the FY 2017-18, the school had treated the development fee capital receipts but in 2018-19 it as merged development fee with the tuition fee. This clearly indicates that the school in order escape itself from compliance with DSEAR, 1973 has merge its development fee with tuition fee, which is contravention of clause 14 of the order dated 11.02.2009. Accordingly, the school is directed not to collect development fee in any other form until it complies with the direction of aforesaid clause and accordingly, the development fund closing balance has not been considered while deriving the fund position of the school.

- III. The Directorate in its Order No. F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for academic session 2017-18, directed the school to prepare the FAR with relevant details such as asset description, quantity, supplier name, invoice number, purchase date, 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. However, the school has confirmed that it will prepare the FAR as per the recommendations of the Directorate in FY 2018-2019. But the school has not complied with the above directions. Accordingly, the School is once again directed to prepare the

FAR with relevant details mentioned above. Non-compliance with the above direction after issuance of this order shall be seriously viewed by the department while evaluating the fee increase proposal of the subsequent year.

- IV. The Directorate in its Order No. F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for academic session 2017-18, advised to the School to follow proper procurement process and maintain proper documentation. While applying for fee hike for FY 2018-19, the school has not submitted any documentation to ensure validation of procurement process which seems that the school is not maintaining adequate procurement process. Accordingly, the school is once again directed to follow and maintain proper procurement process.
- V. The School is not complying with 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 which require to provide 25% reservation for children belonging to EWS category. Therefore, the school is directed to ensure compliance with the above condition. From the records provided by the School, the percentage of EWS has been calculated below:

Particulars	FY 2018-19
Total Students	3,646
EWS Students	667
% of EWS students	18.29%

- VI. As per previous Order No.F.DE.15(58)/PSB/2019/959 – 963 dated 23/01/2019 states that based on information submitted by the School, it was noted the School was not following adequate procurement procedures which involved obtaining minimum no. of quotations, approving comparative summary, etc.

During personal hearing, it was mentioned by the School that it is following adequate procedure to ensure transparency in procurement, however, required documents are not properly maintained for validation. The School confirmed that it will initiate a proper process along with appropriate documentation from FY 2018-19 onwards.

However, no document is available on records to verify whether School complied with the observation or not. Therefore, in continuation of previous order, it is again directed to implement proper procurement process and maintain proper documentation to validate the process. Compliance with the observation will be verified at the time of evaluation of subsequent fee increase proposal.

- VII. Part IV of Appendix III – ‘Instructions for preparing Income and Expenditure Account’ of Guidance Note – 21 issued by the Institute of Chartered Accountants of India specifies “Any item under which income or expense exceed 1% of the total fee receipts of the school or INR 5,000 whichever is higher should be shown as separate and distinct item against an appropriate account head in the Income and Expenditure account. These items therefore should not be shown under the head ‘miscellaneous income’ or ‘miscellaneous expense’.

On review of audited financial statements, it has been noted that the school has not segregated all items of income and expenses that exceeded 1% of the total fee receipts under the head 'Other Fee' and 'Other' respectively. Similar observation was also noted in Directorate's order No. F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for academic session 2017-18 which the school has not complied with. Accordingly, the school is strictly directed to prepare financial statements according to Guidance Note – 21 issued by the Institute of Chartered Accountants of India.

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

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

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

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

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

The financial statements for FY 2018-2019 submitted by the school along with Audit Report dated 22 Jul 2019 signed by the chartered accountant did not cite UDIN, as mandated by ICAI. Further, it was noticed that while the audit opinion issued on the financial statements of the school for FY 2018-2019 also covered the true and fair view on Balance sheet and Income and Expenditure account but doesn't included Receipt and Payment Account.

Therefore, authenticity of the audit and that of the financial statements for FY 2018-2019 submitted by the school could not be verified.

While the school has not complied with the statutory requirement of submission of audited final accounts and has submitted unauthentic final accounts, these financial statements for FY 2018-

2019 have been taken on record by the Directorate and the same have been considered for evaluation of the fee increase proposal of the school for the academic session 2019-2020 assuming the same as unaudited/provisional financial statements.

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

The school must also ensure that the Receipt and Payment Account includes cross reference to the Auditor's Report of even date. The school is further directed to ensure that the audit opinions on its future final accounts by practicing Chartered Accountant comply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India.

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 **16,69,04,116** out of which cash outflow for the FY 2019-20 is estimated to be INR **17,70,81,249**. This results in net deficit of INR **1,01,77,133** for FY 2019-20 after all payments. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.19 (as per audited Financial Statements of FY 2018-19)	-
Investments as on 31.03.19 as per audited Financial Statements (as per audited Financial Statements of FY 2018-19)	6,54,979
Total Liquid Funds Available with the School as on 31 Mar 2019	3,77,23,647
<u>Add: Fees and other incomes for FY 2018-19 as audited financial statements of FY 2018-19 based on the assumption that income/fee received by the school during the previous year will at least accrue to the school during FY 2019-20</u>	9,32,12,666
<u>Add: Recovery from the Society towards transfer of funds for building (Refer Financial Observation No. I)</u>	2,22,52,174
<u>Add: Recovery from Society of amount spent on Building in FY 2017-18 (Refer Financial Observations No. II)</u>	17,83,965
<u>Add: Recovery from the Society for Purchase of Car (Refer Financial Observations No. III)</u>	30,20,000
<u>Add: Recovery from the Society against rent received for letting out school premise to bank (Refer Financial Observation No. IV)</u>	1,00,00,000
<u>Add: Recovery against salary paid to Manager in FY 2018-19 (Refer Financial Observation No. VII)</u>	2,66,664
Gross Available Funds for FY 2019-20	16,82,59,116
<u>Less: Caution money as on 31.03.2019</u>	13,55,000
<u>Less: FDR with joint name of School Manager and CBSE as on 31.03.2018</u>	-

Particulars	Amount (INR)
Less: Development Fund (Refer Other Observation No. II)	-
Less: Staff Retirement Benefits (Refer Financial Observation No. V)	-
Less: Depreciation Reserve (Refer Note 1 below)	-
Net Available Funds for FY 2019-20	16,69,04,116
Less: Budgeted expenses for FY 2019-20 (Refer Note 2)	13,00,10,832
Less: Arrears of 7th CPC submitted by the school (Refer Note 3 below)	4,70,70,417
Less: Expenses of Feeder School for FY 2018-19 (Refer Note 4 below)	-
Estimated Deficit	1,01,77,133

Note 1: 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 incurrance 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 4,30,14,914 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.

Note 2: All budgeted expenditure of the school has been considered except the following:

Head of Expenses	Amount in INR	Remarks
Previous year shortfall	1,71,41,791	To avoid duplicity as this figure has already been considered in establishment expenses and salary arrears.
Provision for gratuity	40,20,000	Refer financial observation
Provision for leave encashment	60,000	No. V
Total	2,12,21,291	

Note 3: 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 6th September 2018 for implementation of sixth pay commission recommendations.

However, as per the Financial Statements of the school, there was no need for any increase in the existing fee structure for extending the benefit of 7th CPC to its staff including payment of arrears along with managing other operational expenses of the school. The school has devised its fee structure in such a manner that it is able to absorb all the expenditures without increasing the fee. It is also important to mention here that vide F.DE-15/(58)/PSB/2019/959-963 dated 23.01.2019 issued post evaluation of fee increase proposal for FY 2017-18, wherein it was found that the school had sufficient funds after considering the impact of 7th CPC. Accordingly, the school was directed to implement the recommendations of 7th CPC. But the school has not complied or partially complied with the direction mentioned in the previous year's order. Therefore, the school management is hereby directed for payment of salary to its staff as per recommendations of 7th CPC and do not withhold the pay scales and benefit of 7th CPC in the garb of no fee increase was allowed to the school. Accordingly, salary arrears allowed to the school from January 2016 to March 2019 amounting to INR 4,70,70,417 (which is still pending for payment) has also been considered in the above calculation. Non-compliance with the above direction shall be dealt u/s 24(3) of DSEA, 1973. Further, the salary arrears for FY 2019-20 have already been included in the establishment expensed proposed by the school.

Note 4: During the process of evaluation of fee hike proposal, it was defined that SS Mota Singh Model was admitting most of the students directly from the preschool (SS Mota Singh Model School Nursery), which on that basis has been considered as feeder school of the main School. Further, it was confirmed by the school that feeder school is on the same land on which the main school is constructed but the books of accounts of both the schools are maintained separately. Accordingly, the conditions and requirements applicable to main school would apply in the same manner to the feeder school. However, SS Mota Singh Model School did not submit the financial information and fee for students enrolled in Nursery School along with its proposal for enhancement of fee for FY 2019-20 which were subsequently obtained from the school.

The school is thereby instructed to ensure that complete details of the feeder school should be enclosed with any subsequent fee hike proposal including the financial information, similar to the main school. Therefore, the expenses have not been considered while deriving the fund position of the school.

- ii. In view of the above it is evident that the school does not have sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fee 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 the 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 observations (appropriate financial impact has been taken on the fund position of the School) and certain other



observations (appropriate instructions have been given in this order), 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 incurred capital expense and towards transfer of funds for building of INR 2,40,36,139 which is contravention of clause 2 of Public Notice dated 04.05.1997 and Rule 177 of DSER, 1973. Further, School has incurred expenses on purchase of car for INR 30,00,000 which is in contravention of Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005. Further, school has let out the part of the school premises to Punjab & Sindh Bank and rent of INR 1,00,00,000 has been received by the Society. Therefore, the school may be directed to recover total amount of INR 3,70,56,139 from the Society. School may be further directed to submit evidence of recovery made against the above-mentioned order i.e. bank statements and recover the funds from the society.

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 (JASDSC) 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 12% 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 sections 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 funds are not available with the School for meeting its financial implication for the academic session 2019-20. Therefore, Director (Education) has accepted 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 increase of academic session 2019-20 of **S.S. Mota Singh Model Sr Sec School (School ID-1617186)** has been accepted by the Director of Education and the school is hereby allowed to increase the fee by 12% to be effective from 01 July 2022,

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

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA,



1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.

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

Non-compliance of this Order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of 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
S.S. Mota Singh Model Sr Sec School
(School ID-1617186)
Guru Harkrishan Nagar, Paschim Vihar,
New Delhi - 110063

No. F.DE.15 (576)/PSB/2022 / 3295-3299

Dated: 20/05/22

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