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

No. F.DE.15(457) / PSB / 2022 / 2310 - 2314 **Dated:** 27/04/22

ORDER

WHEREAS, **MHDC Saraswati Bal Mandir Secondary School,B-1, Janakpuri, New Delhi-110058 (School Id: 1618204)** (hereinafter referred to as **"The School"**), run by the **Samarth Shiksha Samiti** (hereinafter referred to as the **"Society")**, is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

"27....

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of this Directorate, **MHDC Saraswati Bal Mandir Secondary School,B-1, Janakpuri, New Delhi-110058 (School Id: 1618204)** 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 said school for the academic session 2019-20.

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

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 25.11.2019 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase together with subsequent documents/ clarifications submitted by the school were thoroughly evaluated by the team of Chartered Accountants. And after evaluation of fee proposal of the school the key findings and status of compliance against Order no. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019 issued for academic session 2017-18 are as under:

A. Financial Observations

1. 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, para 7.14 of the Accounting Standard-1 defined Plan Assets as:

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

   The Directorate's Order no. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019 issued to the school post evaluation of proposal for fee enhancement for the academic session 2017-18, directed the school to obtain an actuarial valuation of its liability towards retirement benefits (gratuity and leave encashment) and made corresponding investments against the liability for gratuity and leave encashment with LIC (or any other agency).

   Based on discussion with the school during the personal hearing, the school explained it provides for Gratuity and Leave encashment expense, which is transferred to Samarth Shiksha Samiti (Regd.) ("Society"). The Society in turn invests the amount in group gratuity scheme of LIC for all the schools under its management and uses the same for payment of gratuity and leave encashment liability is paid by the Society as and when the same arises in respect of school staff at the time of resignation/ retirement.

   Further, during the personal hearing, the school explained that the society maintains all records relating to gratuity and leave encashment liability. However, the school was not able to provide total value of the funds transferred towards retirement benefits by it to the Society and the share of the school in the fund value of the group gratuity policies taken by the Society.

   In absence of actuarial valuation, no adjustment towards gratuity and leave encashment has been made while deriving the fund position of the school. The school is directed to obtain an actuarial valuation of its liability towards staff retirement benefits from an actuary within 30 days from the date of this order and ensure that the liability and corresponding investments are disclosed appropriately in its financial statements. Further, the amount proposed by the school in the budget amount to INR 15,13,167 has not been considered while deriving the fund position of the school because the school did not comply with previous direction of the department. (enclosed in the later part of this order).

   The school is also directed to extract the value of funds transferred to the Society towards gratuity and leave encashment liability and reconcile with the value of group gratuity scheme. The school should also invest the amount of funds available with the Society towards leave encashment of the staff of the school in the investments that qualify as 'Plan Assets' within 30 days from the date of this order.

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:
   - Registration Fee
   - Admission Fee
   - Caution Money
   - Tuition Fee
   - Annual Charges
   - Earmarked Levies
   - Development Fee

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

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

   It was noted that the school's fee structure includes pupil fund, which is collected from all the students and based on details submitted by the school, this is utilised to meet various expenditures of the school example for co-curricular, repairs and maintenance and in-service education etc.

   As the fee head 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. The charging of unwarranted fee or charging of any other amount/fee thereof prima-facie is considered as collection of capitation fee in other manner and form. Also, the school is directed not to collect pupil fund form students with immediate effect. A similar observation was also noted while evaluating the fee increase proposal for financial year 2017-18.

   Further, during the FY 2018-19, the school has collected INR 2,52,400 in the name of assignment fee in contravention of the aforesaid order. Accordingly, the school is directed to stop collection under this head with immediate effect.

B. Other Observations

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal benefits as also the expenditure of revenue nature concerning the curricular activities.*"

   Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

   Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

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

2. 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-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('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).

The information/ documents provided by the school were taken on record, and it has been noted that the school charges earmarked levies in the form of Transport Fees, Computer/Smart Class Fees and Science Fees from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilized for meeting other expenses of the school as reiterated in Directorate's order No. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019. Details of the calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-17, FY 2017-18 and FY 2018-19 are given below:

Particulars	Smart Class	Transport Fee	Science Fee
For the year 2016-17			
Fee Collected during the year (A)	12,22,800	4,17,400	1,20,100
Expenses during the year (B)	2,11,010	2,91,359	83,728
1) Difference for the year (A-B)	**10,11,790**	**1,26,041**	**36,372**
For the year 2017-18			
Fee Collected during the year (A)	12,00,250	5,41,450	1,05,900
Expenses during the year (B)*	7,63,018	7,73,180	-
2) Difference for the year (A-B)	**4,37,232**	**-2,31,730**	**1,05,900**
For the year 2018-19			
Fee Collected during the year (A)	11,47,290	4,70,000	95,300
Expenses during the year (B)*	5,34,543	5,24,453	
3) Difference for the year (A-B)	**6,12,747**	**-54,453**	**95,300**
Total (Surplus)= 1+2+3	**20,61,769**	**-1,60,142**	**2,37,572**

*Expenditure against science fee for FY 2017-18 and FY 2018-19 are not identifiable from financial statements nor has school provided this detail separately.

On the basis of the aforementioned orders, earmarked levies are to be collected only from the user students availing of 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). The charging of unwarranted fee or charging of any other amount/fee under different heads other than prescribed and accumulation of surplus fund thereof prima-facie is considered as a collection of capitation fee in other manner and form. The school is charging smart class fee from students of all classes. Thus, the fee charged from all students loses its character of the earmarked levy, being a non-user-based fee. Thus, based on the nature of smart class fee and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee or annual charges (as applicable) collected from the students. The school explained that tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure on account of which the fund balance of earmarked levies could not be separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) have been considered while deriving the fund position of the school (enclosed in the later part of this order).

The school is hereby directed to maintain a separate fund account depicting clearly the amount collected, amount utilized and balance amount for all earmarked levies collected from the students. Unintentional surplus/deficit, if any, generated from earmarked levies has to 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 proposals for enhancement of fee ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

3. Clause 14 of 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."*

And as per para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure upon incurrence of the expenditure the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter the concerned restricted fund account is treated as deferred income to the extent of the cost of the asset and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*" Further, Para 102 of the abovementioned Guidance Note states "*In respect of funds, schools should disclose the following in the schedules/notes to accounts:*

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

The details submitted by the school were taken on record and from the details submitted by the school, it was noted that the school had incurred expenditure on purchase of fixed asset of INR 4,15,374 for FY 2017-18 and INR 4,83,425 for FY 2018-19 whereas the financial statements of FY 2017-18 reflect the purchase of fixed assets of INR 22,098 and for FY 2018-19 INR 5,211. Thus, the details submitted by the school do not reconcile with the financial statements. Also, the school is not following the accounting treatment prescribed in the guidance note-21 issued by The Institute of Chartered Accountants of India with the utilization of development funds.

Hence, the school is directed to follow generally accepted accounting policies by complying with the requirement of guidance note mentioned above and provide a detailed explanation for deviation in value of fixed assets provided by them to ensure that the development fund is to be utilized only for purchase, upgradation and replacement of furniture, fixture, and equipment within 30 days from the date of issue of this order

4. The School vide order no. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019 issued for evaluation of fee hike proposal for FY 2017-18 was directed to prepare a Fixed asset register which not only captures date, asset name, bill no., quantity and amount but also include details such as manufacturer's serial number, location, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and complete details of assets at one place.

During personal hearing the school has verbally explained that compliance with the aforesaid direction would be ensured completely by end of the FY 2019-20 and it is in the process of updating the fixed asset register in accordance with the aforesaid direction. Therefore, the school is hereby directed to update the information as mentioned in this order and submit compliance report within 30 days from the date of issue of this order.

5. 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, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

Order no. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019 issued to the school post evaluation of proposal for fee enhancement for the academic session 2017-18 stated that the school had not refunded caution money to the students at the time of leaving the school and had charged INR1,000 as caution money instead of INR 500 allowed as per orders of Directorate of Education. Further, the school has not maintained separate bank account for deposit of caution money collected from students. The school submitted that it has reduced caution money collections for students admitted to school to INR 500 from FY 2016-17. The school was directed to refund caution money to the students who have already left the school and adjust the caution money collected in excess of INR 500 from the students against fee due.

On review of financial statements for FY 2018-19, it was noted that school has started complying with the above-mentioned directions by giving refund/adjustment for the excess caution money collected from the students.

The school is directed to refund any balance of un-refunded caution money (if any) and should treat it as income after 30 days of sending letters to the last known addresses of the students who had already left from the school to collect their caution money.

Accordingly, in view of the above directions, the amount to be refunded to students towards caution money as on 31.03.2019 has been considered while deriving the fund position of the school (enclosed in the later part of this order).

6. Order no. F.DE.15(210)/PSB/2019/1150-1154 dated 29.03.2019 issued to the school post evaluation of proposal for fee enhancement for the academic session 2017-18 stated that the school in FY 2014-15 capitalised building amounting to INR 25.03 lakhs by crediting society's ledger in its books of account creating a fixed asset and a corresponding liability in the name of the Society (Samarth Sikhsha Samiti (Regd.). Directorate, through the aforementioned order, directed the school that the responsibility of construction of building lies with the society only and cannot be transferred to the school and accordingly, school was directed not to charge depreciation on addition to the building created through crediting society's ledger.

From the audited financial statements for FY 2018-19, it was noted that the school had not charged any depreciation on building during the year, but the school has not removed building and corresponding liability towards society from its books of account.

Therefore, the school is hereby directed to provide proof of rectification entries made and provide compliance report within 30 days from the date of issue of this order. The above being a presentation issue in the financial statements, no adjustment is warranted in the fund position of the school.

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 **1,26,99,427** out of which cash outflow in the year 2019-20 is estimated to be INR **1,40,87,084**. This results in estimated deficit of INR **13,87,657**. The details are as follows:

Particulars	Amount in INR
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement	19,02,892
Investments as on 31.03.19 as per Audited Financial Statements	8,31,811
Liquid funds as on 31.03.2019	**27,34,703**
Less: Development Fund **(Refer Note 1 below)**	19,04,391
Less: Retirement benefits **(Refer Financial Observation No.1)**	-
Less: Depreciation Reserve fund **(Refer Note 2 below)**	-
Less: Caution money as on 31.03.2019 **(Refer observation no 5 of other findings)**	2,04,350
Add: Fees for FY 2018-19 as per Audited Financial Statements **(Refer Note 3 below)**	1,06,52,350
Add: Other income for FY 2018-19 as per audited Financial Statements **(Refer Note 3 below)**	5,18,881
Impact of Fee increase as per DOE order for FY 2017-18	9,02,234
Net Available funds for FY 2019-20	**1,26,99,427**
Less: Budgeted expenses for the session 2019-20 after making adjustment **(Refer Note 4 below)**	1,28,02,227
Less: Salary Arrears from January 2016 to March 2017 as per 7th CPC **(Refer Note 5 below)**	12,84,857
Net Deficit	**13,87,657**

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 states "*All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.*" Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 28,33,906 in its audited financial statements of FY 2018-19. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of salary. However, development fund equivalent to amount collected in one year (FY 2018-19 i.e., INR 19,04,391) from students has been considered for deriving the fund position of the school, which is considered sufficient on basis of the spending pattern of the school in past.

Note 2: 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 also 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, it is not required to deduct from the calculation of the fund position of the school.

From the above, it is clear that the depreciation reserve fund is a notional account of a notional fund for which there is no requirement to have equivalent fund neither in a bank account nor in the form of a fixed deposit. Moreover, charging of depreciation from the Income and Expenditure account implies charging of capital expenditure on the fee structure of the school which would be in contravention of the judgment of Hon'ble SC in the matter of Modern School Vs Union of India and Others (2004). In the said judgement the Hon'ble Supreme Court has clearly stated "capital expenditure cannot form part of financial fee structure of the school". Accordingly, charging of depreciation from Income and Expenditure account implies that the school is including a capital component in its fee structure which is not permissible.

Note 3: Fee and other income as per the audited has been taken as per the audited financial statements of FY 2018-19 on the assumption that income received during FY 2018-19 will at least accrue in FY 2019-20.

Note 4: All budgeted expenditure of the school has been considered while deriving the fund position of the school for the FY 2019-20 the following for which the school did not provide the justification.

Particulars	Budgeted Exp.	Allowed	Disallowed
Teaching Staff	1,16,97,936	90,95,668	26,02,268
Non-teaching staff	18,26,652	12,13,717	6,12,935
Earned Leave & Gratuity for teaching and non- teaching staff	15,13,167	-	15,13,167
EPF for Non-teaching staff	1,35,000	1,16,669	18,331
Total	**1,51,72,755**	**1,04,26,054**	**47,46,701**

Notes 5: The salary arrears as per 7th CPC as provided by the school till March 2017 has been considered in the evaluation of the fund position. The school confirmed during personal hearing that it has implemented the recommendation of 7th CPC recommendation with effect from April 2019 however, the arrears is pending till date. Further, the school has not provided details of arrears for period belonging to April 2018 to March 2019. Accordingly, the arrears as per order no. F.D.E. 15(210)/ PSB/2019/1150-1154 has been considered in the calculation of fund position of the school.

ii. The School do not have sufficient funds to carry on its operation for the academic session 2019-20 on the existing fee's 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 irregularities, 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, 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.

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 funds are not available with the school for meeting financial implication for the academic session 2019-20. Further, it is relevant to mention that Covid-19 pandemic had a wide spread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee 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, 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 academic session 2019-20 of **MHDC Saraswati Bal Mandir Secondary School (School ID-1618204), Janakpuri, Delhi - 110058** is accepted by the Director (Education) and the school is allowed to increase the fee by 12% with effect from 01 July 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.

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

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

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority

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

To:
The Manager/ HoS
MHDC Saraswati Bal Mandir Secondary School
School ID 1618204
Janakpuri, Delhi-110058

No. F.DE.15(457) / PSB / 2022 / 2310 – 2314 Dated: 27/04/22

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 -B) 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