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

No. F.DE.15(758)/PSB/2022/4831-4835 **Dated: 22/06/22**

ORDER

WHEREAS, **Ambience Public School (School ID-1719113), A-1, Safdarjung Enclave, New Delhi -110029,** (hereinafter referred to as "**the School**"), run by the Ambience Education Society (hereinafter referred to as "**Society**"), is a private unaided School recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as **"DoE"**), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as **"DSEAR, 1973")**. The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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

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

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

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

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

AND WHEREAS, in pursuance to order dated 27.03.2019 of 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 24.02.2020 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/(124)/PSB/2019/1255-1259 dated 29.03.2019, 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. Unreliable Financial Statements

1. The school submitted its audited financial statements of FY 2016-2017 to FY 2018-2019 for the evaluation of its fee increase proposal. However, certain discrepancies were noted in the audited financial statements of the school as detailed below:

   - The Receipt and Payment Account enclosed along with audited financial statements for FY 2016-2017 submitted by the school along with its fee increase proposal for FY 2019-2020 differed from the one submitted by the school as part of its audited financial statements for FY 2016-2017 enclosed along with its fee increase proposal for FY 2017-2018. Also, it was noted that both the Receipt and Payment Accounts for FY 2016-2017 submitted by the school were stamped and signed by the representatives of the school and the Auditor. It could be not clarified how the authenticated Receipt and Payment Account for FY 2016-2017 got changed. The following differences were noted the Receipt and Payment Account for FY 2016-2017:

Particulars	Receipt side (INR)	Payment side (INR)
Total of Receipts and Payments as per financial statements of FY 2016-2017 enclosed with proposal for FY 2019-2020	44,68,22,650	44,68,22,650
Add/(Less): Additional items noted on comparison of both Receipt and Payment Accounts-		
Less: loan from Apex homes	(22,21,00,000)	
Less: loan from M&N commercial	(4,66,00,000)	
Less: Interest payable	(99,94,170)	
Less: Advance to suppliers	(9,61,552)	
Less: LIC payable	(32,515)	
Less: Bank interest		(87,81,744)
Less: SMS expenses		(3,000)
Less: Repair and maintenance of building		(2,61,016)
Less: Repair and maintenance others		(1,27,162)
Less: Inspection fee		(16,090)
Less: Bank interest		(4,92,61,339)
Less: Interest on unsecured loan		(1,17,71,300)
Less: Fixed assets acquired		(10,15,550)
Less: Expenses payable		(1,45,08,541)
Less: Closing balance of loan		(20,95,33,085)
Add: Closing balance of sundry creditors		1,52,06,607
Add: Others		3,83,983
Total of Receipts and Payments as per financial statements of FY 2016-2017 enclosed with proposal for FY 2017-2018	**16,71,34,413**	**16,71,34,413**

- The opening balances included in audited Balance Sheet as on 31 Mar 2019 and previous year's figures of income and expenses in the audited Income and Expenditure Account for FY 2018-2019 of several items did not reconcile with the closing balances and figures included in the financial statements for FY 2017-2018. It was also noted that the school had prefixed "Restated" to the financial statements of FY 2018-2019. However, the school did not mention any note in its Notes to Accounts annexed to its so called "Restated" financial statements of FY 2018-2019 to explain the restatement of balances. Also, the school did not provide any reconciliation to explain how the opening balances and previous year's figures were restated. During personal hearing, the school mentioned that it removed the entries relating to loan, building and transactions with society. However, no statement detailing how those figures were derived and adjusted was not explained.

  Following is the synopsis of differences noted in the opening balances reported in the Balance Sheet as on 31 Mar 2019 in comparison with closing balances reported in the Balance Sheet as on 31 Mar 2018:

Heads	**Closing Balance as at March 31, 2018 (per Balance Sheet as on March 31, 2018) {A}**	**Opening Balance as at March 31, 2018 (per Balance Sheet as on March 31, 2019) {B}**	**Difference {C} ={A-B}**
I. <u>Liability Side:</u>			
General fund	9,05,88,931	4,89,38,378	4,16,50,553
Secured loan from banks	39,42,47,859	43,10,166	38,99,37,693
Interest free loan	15,65,94,722	1,19,89,781	14,46,04,941
Unsecured loan	23,06,00,000	-	23,06,00,000
Creditors for goods and services	2,10,78,736	19,29,891	1,91,48,845
Expense payable	2,76,36,120	52,02,739	2,24,33,381
Total Difference			**84,83,75,413**
II. <u>Asset Side:</u>			
Fixed assets	57,26,76,595	8,24,74,225	49,02,02,370
Reserve & Surplus	39,02,70,883	3,20,97,840	35,81,73,043
Total Difference			**84,83,75,413**

Thus, on account of the above, the audited financial statements along with financial information contained therein could not be relied and thus, the fund position of the school for FY 2019-2020 could not be determined.

The school is directed to submit its justification and explanation regarding changes in the Receipt and Payment Account for FY 2016-2017 along with necessary documentary evidence to substantiate which version of the Receipt and Payment Account for FY 2016-2017 reconciles with the books of account.

Further, the school should provide detailed explanation for creating two different versions of Receipt and Payment Account for FY 2016-2017, which were also authenticated by the auditor.

Also, the school is directed to provide a detailed reconciliation of adjustment/restatement made by it together with analysis of any financial impact on bank/cash balances of the school. The said reconciliation must detail out all original transactions and subsequent movement in the same to derive at the final adjustment made by the school in the opening balances/previous year's figures in financial statements of FY 2018-2019.

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

   On review of the audited final accounts submitted by the school, it was noted that though the Receipt and Payment Accounts were duly signed by the auditor with reference thereon to the audit report of even date, but in its audit report, the auditor only gave his opinion on the true and fair view on:

   - The state of affairs in the case of the balance sheet as on 31 Mar
   - Surplus/deficit of the accounting year in the case of Income and expenditure for the accounting year

   Thus, the auditor did not give his opinion on the receipt and payment account. The school did not provide reasonable justification for auditor's non-inclusion of receipt and payment account in his audit opinion.

   Further, the auditor had signed the audit report and financial accounts for FY 2018-2019 on 31 Dec 2019. Thus, the school did not comply with the requirement of submission of audited final accounts in accordance with the timeline of 31 July prescribed in Rule 180(1).

   Accordingly, the school is directed to ensure that the financial statements as per the requirements of Rule 180(1) are appropriately prepared and submitted within the prescribed timeline to the Directorate. The school is also directed to ensure that the audit opinion is issued by the auditor on the entire set of financial statements i.e. Balance Sheet, Income & Expenditure Account and Receipt & Payment Account.

B. Financial observations

1. Directorate's order No. F.DE.15(124)/PSB/2019/1255-1259 dated 29 Mar 2019 issued to the school post evaluation of fee increase proposal for FY 2017-2018 noted that the school had utilised school funds for repayment of loans and interest taken towards capital expenditure for building the school and infrastructure. In the said order, the school was directed to recover an amount of INR 2,32,76,098 from the society.

   Based on the submissions made by the school, it did not recover this amount from the Society and during the personal hearing, the school mentioned that there was no cash outflow from the school funds towards payment of loan/interest. However, the school did not submit any calculations and reconciliations to substantiate its verbal representations.

While the school made certain adjustments in the opening balances of its financial statements for FY 2018-2019, in absence of any reconciliation or detailed calculations, it could not be verified if the adjustments were appropriately made by the school.

Accordingly, the school is directed to recover the amount of INR 2,32,76,098 from the society within 30 days from the date of this order and prepare a detailed reconciliation of the transaction relating to all loans and interest thereon with mapping of actual funds utilised from the school funds till date i.e. till FY 2019-2020 (i.e. with bank/loan statements and Receipt and Payment Account). The school is further directed not to utilise school fund for payment of loan or interest thereon.

2. As per direction no. 2 included in the Public Notice dated 4 May 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 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

   Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*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 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.*"

   Directorate's order no F.DE.15 (124)/PSB/2019/1255-1259 dated 29 Mar 2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that the school had utilised development fees for expansion/addition to the school building and payment of establishment expenditure during FY 2015-2016 and FY 2016-2017. Therefore, the school was directed to make necessary adjustment in reserve fund account and development fund account and also directed the school to recover the cost of INR 11,42,031 incurred on expansion/addition to the school building from the society.

   Based on the aforementioned order, development fund can be utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others. Based on the presentation made in the financial statements of the school for FY 2017-2018 and FY 2018-2019, it was noted that the school has continued to utilize development fund for repayment of loan and purchased of car and bus. The details of development fee collected and utilized from FY 2014-2015 to FY 2018-2019 are as follows:

Particulars	FY2014-15	FY2015-16	FT2016-17	FY2017-18	FY2018-19
Development Fund - Opening Balance	63,114	86,210	13,45,666	74,83,399	19,78,977
Add: Development fees received during the year	62,42,305	80,76,274	85,25,742	93,02,465	99,12,171
Total Development fund Available	**63,05,419**	**81,62,484**	**98,71,408**	**1,67,85,864**	**1,18,91,148**
Less: Utilization of development funds					
- Purchase of fixed assets (FFE)	62,14,109	6,16,818	12,45,978	4,60,737	59,16,596
- Purchase of Library Books	5,100	-	-	-	-
- Repayment of Secured Loan (Punjab & Sind Bank) utilised for school building, plant & machinery and furniture & equipment's)	-	-	-	1,43,46,150	
- Amount transferred to Income and Expenditure Account	-	62,00,000	-	-	-
- Addition to the School building	-	-	11,42,031	-	
- Purchase of Car	-	-	-	-	10,68,059*
- Purchase of Bus	-	-	-	-	12,96,000
Total Utilization of development funds	**62,19,209**	**68,16,818**	**23,88,009**	**1,48,06,887**	**82,80,655**
Development Fund - Closing balance	**86,210**	**13,45,666**	**74,83,399**	**19,78,977**	**36,10,493**

* The school purchased a Car for INR 10,68,059 during FY 2018-2019. The school utilised development fund to the extent of INR 1,43,059 for down payment and remaining balance of INR 9,25,000 was paid through a secured loan taken from bank (refer Financial Discrepancy No. 2). However, the school reflected total cost of car as utilisation of development fund instead of actual funds utilised from development funds i.e. INR 1,43,059. Therefore, this has resulted in understatement of development fund balance as on 31 Mar 2019 and misrepresentation in utilisation of development fund.

The expenditure on expansion/addition to the school building, being an expense of developmental nature is covered under Rule 177 of DSER, 1973. However, the school incurred the same without ensuring compliance with the requirements of Rule 177. Based on the fact that the school did not implement the recommendations of 7th CPC till date and did not make any investment in plan-assets for securing staff gratuity and leave encashment till date, the school did not comply with the requirements of Rule 177 (1) i.e. "*Income derived by an unaided utilized 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*".

Since the school has not recovered any amount from the Society till date, therefore, the school is directed to recover an amount of INR 11,42,031 from the society within 30 days from the date of this order. Further, the school is directed to follow DOE instruction regarding development fund and ensure that development fund is utilised only towards purchase, upgradation and replacement of furniture, fixture and equipment. Also, the school must ensure that it correctly reflects the utilisation of development fund (based on actual source of funds to procure furniture, fixture and equipment).

3. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings.*"

Rule 177 of DSER, 1973 *states "(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

- *award of the scholarships to students,*
- *establishment of any other recognised school, or*
- *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

(2) The savings referred to in sub-rule (1) 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 development nature,

(c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or 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."

The Hon'ble Supreme Court of India in the matter of Modern School Vs Union of India and Others mentioned "*Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management. Therefore, rule 177 deals with application of income and not with accrual of income. Therefore, rule 177 shows that salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. Therefore, capital expenditure cannot constitute a component of the financial fees structure as is submitted on behalf of the schools. It also shows that salaries and allowances are revenue expenses incurred during the current year and, therefore, they have to come out of the fees for the current year whereas capital expenditure/capital investments have to come from the savings, if any, calculated in the manner indicated above.*"

During review of the audited financial statements of the school for FY 2018-2019, it was noted that school purchased a Car for INR 10,68,059 during FY 2018-2019. It was further noticed that the school utilised development fund to the extent of INR 1,43,059 for purchase of car (down payment) and remaining balance of INR 9,25,000 was paid through a secured loan taken from bank, though reflected the entire amount of cost of car as utilisation of development fund [Refer Financial Discrepancy No. 1]. The school explained that the vehicle was purchased to meet the needs of the school.

Therefore, it has been observed that the school purchased vehicle without ensuring compliance to the requirements of Rule 177 and has submitted proposal for increase of fee from students after mis-utilising school funds towards unnecessary capital expenditure, which translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance.

Against the car loan taken by the school from Bank, the school repaid principal loan amount of INR 2,48,485 and interest cost on loan of INR 69,678 to the bank from school funds during FY 2018-2019.

Accordingly, the amount spent by the school on purchase of vehicle along with repayment of principal and interest to the bank from school funds during FY 2018-2019 amounting to INR 4,61,222 (INR 1,43,059 plus INR 2,48,485 plus INR 69,678) is liable to be recovered. Hence, the school is directed to recover this amount from the Society within 30 days from the date of this order. Also, the school is directed to recover the amount of principal and interest payment to bank subsequent to FY 2018-2019 from the Society within 30 days from the date of this order and not to make any further payment of principal and interest against vehicle loan.

The school is further directed to ensure that capital assets (other than eligible assets against development fund) are not procured from school funds unless savings are derived in accordance with Rule 177.

4. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, according to para 7.14 of the Accounting Standard 15, "*Plan assets comprise:*
   - *assets held by a long-term employee benefit fund; and*
   - *qualifying insurance policies.*"

   Directorate's order No. F.DE.15(124)/PSB/2019/1255-1259 dated 29 Mar 2019 issued to the school post evaluation of fee increase proposal for FY 2017-2018 noted that the school provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation and has not made any investments with LIC (or similar agency).

   The school submitted copy of actuarial valuation report of its liability towards gratuity and leave encashment for FY 2018-2019, it was noted that the school has obtained actuarial valuation of its liability towards gratuity of INR 2,44,13,451 and towards leave encashment of INR 84,83,187 as on 31 Mar 2019. However, the school only updated the provision for gratuity in the books of the account as on 31 Mar 2019 to match it equivalent to the liability determined by the actuary and did not create any provision for leave encashment. Further, the school has not made any investment in 'plan-assets' such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers till date to secure the statutory liability towards staff retirement benefits.

Also, it was noticed that the number of staff mentioned in the actuarial valuation report for FY 2018-2019 were only 45, based on which the actuary determined the liability towards gratuity and leave encashment, whereas the school provided a detail of 72 staff in its staff salary register of March 2019. Thus, it indicates that the school underreported the number of staff to the actuary with a corresponding impact on the actuarial valuation derived by the actuary for gratuity and leave encashment. Thus, resulting in probable lower determination of liability towards gratuity and leave encashment by the actuary.

Since the school has not implemented the recommendations of 7th CPC till date and the school has not yet created investments equivalent to its liability towards staff retirement benefits in previous years, 25% of the amounts determined by the actuary as on 31 Mar 2019 towards gratuity and leave encashment of INR 61,03,363 (25% of INR 2,44,13,451) and INR 21,20,797 (25% of INR 84,83,187) respectively have been considered with the direction to the school to deposit these amounts in investments such as group gratuity scheme and group leave encashment scheme of LIC/ other insurers within 30 days from the date of this order to protect statutory liabilities towards staff. Further, the school should keep on depositing amounts in plan-assets in subsequent years to ensure that the value of the investments matches with the liability towards retirement benefits determined by the actuary.

Accordingly, since 25% of the liability determined by the actuary towards staff gratuity and leave encashment has been adjusted, the additional amounts budgeted by the school towards gratuity and leave encashment are not to be considered as part of the Budgeted Expenses for FY 2019-2020.

5. Incomes (fee collected from students) reported in the audited Income and Expenditure Account/ Receipt and Payment Account for FY 2018-2019 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2018-2019 in its audited Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school.

Following differences were derived based on the computation of FY 2018-2019:

Particulars	**Income reported in Income & Expenditure Account (A)**	**Fee computed on the based-on details no. of students provided by the school (B)**	**Derived Difference (C) = (A-B)**	**Derived % Difference (D)=(C/B* 100)**
Tuition fee	6,41,14,394	7,92,06,600	1,50,92,206	19.05%
Development fee	99,12,171	1,18,74,444	19,62,273	16.50%
Annual fee	3,27,30,000	2,73,18,250	54,11,750	16.50%
Activity fee	2,37,12,000	2,09,48,000	27,64,000	13.20%

The school should perform a detailed reconciliation of the amount collected from students and income to be recognised based on the fee structure and number of students enrolled by the school. Compliance of the same would be checked at the time of evaluation of subsequent fee increase proposal.

Since the reconciliation is to be prepared and provided by the school, no adjustment has been made in the fund position of the school (enclosed is the later part of the order).

C. Other observations

1. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

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

   The school was directed by directorate's order no. F.DE.15(124)/PSB/2019/1255-1255 dated 29 Mar 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 to follow the para 99 of the Guidance Note-21 - "Accounting by School".

   Based on the presentation made in the audited financial statements of the school for FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that while the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from development fund to "Development Fund Utilised against Fixed Assets" account. However, the school did not transfer an amount equivalent to the depreciation on fixed assets from the "Development Fund Utilised against Fixed Assets" to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Thus, the school has not done the accounting and reporting of development fund utilized against fixed assets in accordance with the requirements of Para 99 of Guidance Note 21.

   Further, from the financial statements submitted by the school, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. Thus, the school did not comply with the condition cited above i.e. "... *income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account*".

   From the fixed assets schedule relating to assets procured from development fund annexed to the financial statements for FY 2018-2019 indicated fixed assets such as school building, vehicle and library books. Since development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixtures and equipment, such assets should not comprise part of the assets purchased from development fund. Thus, the school has reported non-qualifying assets under development fund and cumulative depreciation thereon under depreciation reserve for development fund assets, which is incorrect presentation.

Accordingly, the school is directed to transfer an amount equivalent to the depreciation from "Development Fund Utilised against Fixed Assets" account to Income and Expenditure Account as income to comply with the accounting and disclosure requirements of the guidance note and ensure that the "Development Fund Utilised against Fixed Assets" is equal to the written down value of fixed assets. The school is also directed to ensure compliance with Clause 14 of Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by recording income earned on investments made out of development fund to the development fund account.

Also, the school must make necessary rectifications to its fixed assets schedule to ensure that only those fixed assets, which are in the nature of furniture, fixture and equipment are reported as purchased from development fund.

2. As per Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16 April 2016 "*The Director hereby specify that the format of return and documents to be submitted by schools under rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute.*"

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

Further, para 58(i) of the Guidance Note states "*A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note.*"

On review of the financial statements for FY 2016-2017 to FY 2018-2019 submitted by the school, it was noted that the school did not mention previous year's figures in Receipt & Payment account and schedules annexed to the financial statements. Further, on review of audited financial statements for FY 2018-2019, it was noted that school failed to cross refer schedules in the financial statements and did not mention the schedule numbers in the Balance Sheet.

Further, based on the presentation made in the audited financial statements for FY 2018-2019 submitted by the school, it was noted that though the fixed assets schedules annexed to the financial statements (for both assets purchased from development fund and general fund) included opening gross block of fixed assets, additions, deletions, closing gross block of fixed assets, opening depreciation reserve, depreciation during the year, adjustment (if any), closing balance of depreciation reserve and net (WDV) closing block of fixed assets, on the face of the Balance Sheet, the school reported fixed assets purchased from general reserve at written down value, which is not in accordance with the disclosure requirements included in the guidance note citied above.

From the financial statements of the school, it was also noted that the school was charging depreciation on straight line method and at rates of depreciation different than those specified in Appendix I to the Guidance Note, which is a contravention of the directions issued by this Directorate.

Accordingly, the school is directed to disclose all fixed assets at gross (historic) value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. The school is further directed to follow written-down/diminishing-value method of depreciation at the rates of depreciation specified in the Guidance Note, provide previous year's figures against all items in the financial statements and ensure that the financial statements are prepared as per the requirements of aforementioned order of the Directorate.

Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school.

3. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 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 Feb 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 as administered.*"

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognised unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilised only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.

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

Directorate Order No. F.DE.15(124)/PSB/2019/1255-1259 dated 29 Mar 2019 issued to the school post evaluation of the fee increase proposal for FY 2017-2018 directed the school to follow fund based accounting in respect of earmarked levies and not to charge activity charges as earmarked levy.

From the information provided by the school and taken on record, it is noted that the school charges earmarked levies in the form of transport fee and activity charges from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) that has been met from other fees/income. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2018-2019 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**Surplus/(Deficit) (INR)**
	A	**B**	**C=A-B**
Transport fee*	89,36,800	1,03,85,268	(14,48,468)
Activity Charges	2,37,12,000	1,99,85,217	37,26,783

* The expense figure in table also includes depreciation on vehicles used for transportation of students and interest on vehicle loan

The school has been operating its transport facility at huge deficit as expenses incurred by the school are more than the fee collected from students. The school must re-evaluate transport expenses incurred by it and optimise the same for matching it with income generated from transport facility. The school is strictly directly not to transfer the financial impact (i.e. deficit from transport facility) from the inefficient operation of transport facility to students not availing transport facility i.e. it must not adjust the deficit from school funds. Thus, the school is instructed to operate transport facility on strict no-profit no-loss basis.

Based on aforementioned, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The fee charged from all students loses its character of earmarked levy, being a non-user-based fees. Thus, based on the nature of the activity charges and details provided by the school in relation to expenses incurred against the same, the school should not charge activity fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable.

The school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

4. Direction no. 3 of the public notice dated 4 May 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 Feb 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.*"

   The following were noted under Directorate's order no. F.DE.15(124)/PSB/2019/1255-1259 dated 29 Mar 2019:

   - School had not maintained separate bank account for deposit of caution money.
   - School had not refunded interest on caution money along with refund of caution money.
   - School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days.

   From the submissions of the school, it was noted that the school is not refunding interest along with caution money to students. During the personal hearing, the school mentioned that it has opened a separate bank account for keeping caution money and the unclaimed caution money has been booked as income in FY 2017-2018. Also, it was mentioned that the school is refunding the caution money to the students who have left the school; however, interest is not being refunded to the students.

   Accordingly, the school is directed to ensure compliance with the aforementioned directions relating to refund of caution money along with interest to exiting students.

5. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them.

From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2016-2017	FY 2017-2018	FY 2018-2019
Total No. of Students	1,099	1,151	1,227
No. of EWS Students	169	199	225
% of EWS students to total students	15.38%	17.29%	18.34%

The school has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

And whereas, after going through the representations made by the school during hearing held on 24 Feb 2020 at 1:30 PM as well as financial statements/budget and other information of the school available with the Directorate, it emerges that:

i. The financial statements submitted by the school are not reliable since the school changed its already audited Receipt and Payment Account for FY 2016-2017, which was submitted by the school along with the fee increase proposal for FY 2017-2018. Reason for making changes in the receipts and payments of the school could not be determined and in absence of detailed explanation by the school regarding the same, it reflects substantial modification of audited records indicating towards inaccurate and misleading reporting of financial information in the financial statements of the school.

ii. School made certain adjustments to the opening its balances in the financial statements for FY 2018-2019 and labelled the financial statements as "Restated". The school did not provide any details regarding restatement and reconciliation of the same with the original accounting transactions and bank transfers. Thus, the accuracy of the figures reported by the school in the financial statements of FY 2018-2019 could not be relied upon.

iii. The school made adjustments in the balances of the loans but did not provide any reconciliation to validate those adjustments and corresponding impact on the school funds. Also, the school did not submit details of school fund utilisation towards repayment of loans and interest. Basis above, i.e. inaccurate and incomplete information submitted by the school, the fund position of the school for the financial year 2019-2020 could not be accurately determined.

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, though certain financial irregularities that were identified and certain procedural findings were also noted, the incomplete financial statements of the school cannot be relied upon and the correct fund position of the school for FY 2019-2020 cannot be determined accurately. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, the relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the financial statements of the school are not reliable and it is therefore not possible to determine the correct fund position of the school for the FY 2019-

2020. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2019-2020.

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 for enhancement of fee for session 2019-2020 of **Ambience Public School (School ID-1719113), A-1, Safdarjung Enclave, New Delhi-110029** has been rejected by the Director of Education.

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

1. Not to increase any fee/charges during FY 2019-20. In case, the School has already charged increased fee during FY 2019-20, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10(1) of the DSEA, 1973. Therefore, the Society running the School must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time..

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

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

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

To:
The Manager/ HoS
Ambience Public School
School ID-1719113
A-1, Safdarjung Enclave
New Delhi - 110029

No. F.DE.15(758)/PSB/2022/ 4831-4835 Dated: 22/06/22

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 (South) 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)
Dy. Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi