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

No. F.DE.15(323)/PSB/2021/2097-2101 **Dated:** 21/04/22

ORDER

WHEREAS, **Saraswati Bal Mandir, Amar colony Delhi – 110018 (School ID – 1925428)** (hereinafter referred to as "**the School**"), run by the **Samarth Shiksha Samiti Society** (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 para's 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 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 that the proposals submitted by the schools for fee increase are justified or not, this Directorate 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 DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate 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 27.11.2019 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 noted.

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

A. Financial Observations:

1. Clause 14 of the Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the deprecation 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."*

   From review of financial statement for FY 2017-18 and FY 2018-19, it was noted that school has not maintained separate bank account for collection and investments of Development Fund/ Fee.

   Also, the school has not reported development fees as a separate head in its Receipt and Payment Account as well as in the schedule forming part of the balance sheet due to which amount collected as development fee is not identifiable.

   Therefore, the school is hereby directed to ensure compliance with clause 14 of the order dated 11.02.2009 regarding proper accounting and presentation of Development Fund in the school's financial statements and opening of separate bank account/investments for deposit and utilisation of development fund.

   In absence of adequate details regarding development fee receipt and utilisation of the same and non-maintenance of depreciation reserve account (specially against the assets purchased from the development fee/fund). Thus, development fund balance reported in the financial statements of FY 2018-19 has not been considered while deriving the fund position of the school (enclosed in the later part of this order).

2. 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 society or trust or any other institution.* The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The audited financial statements of the school for FY 2018-19 reflected an expenditure of INR 8,00,000 under the head of "Samarpan Rashi". Based on discussion with the school during personal hearing, the school explained this amount has been transferred to Samarth Shiksha Samiti (Regd.) ("Society") as a donation which is not in accordance with the abovementioned order.

   Therefore, the amount of INR 8,00,000 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

3. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.200 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.*"

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

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

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transport Fees, Computer fee, IT & assignment fee, Housekeeping fee, magazine fee, home science fee and Medical fee from students. However, the school has not maintained separate fund accounts for these earmarked levies.

Details of income and expenditure of earmarked levies for FY 2016-17, FY 2017-18 and FY 2018-19 are as follows:

(Amount in INR)

Particulars	Computer Fee	IT & Assignment Fee	Medical Fee
For the year 2016-17			
Fee Collected during the year (A)	12,16,943	5,99,595	86,800
Expenses during the year (B)	27,975	80,727	8,665
Difference for the year (A-B)	**11,88,968**	**5,18,868**	**78,135**
Fee Collected during the year (A)	13,34,420	6,55,055	99,700
Expenses during the year (B)	2,98,271	1,36,103	87,090
Difference for the year (A-B)	**10,36,149**	**5,18,952**	**12,610**
For the year 2018-19			
Fee Collected during the year (A)	16,16,725	8,15,275	1,13,100
Expenses during the year (B)	83,386	65,920	3,806
Difference for the year (A-B)	**15,33,339**	**7,49,355**	**1,09,294**

The above table indicates that the school is not following fund-based accounting for these earmarked levies. Earmarked levies are to be collected only from the user students availing the services and if these services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. 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 collection of capitation fee in other manner and form.

Further, the school is hereby 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, if any, generated from earmarked levies has to be utilized 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 to follow fund-based accounting for earmarked levies, in accordance with abovementioned provisions and make necessary adjustments in the General Reserve balance.

4. Para 49 of 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 57 states "An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date". Also, para 7 of the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

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

During the process of evaluation of proposal for enhancement of fee for FY 2019-20, the school was asked to submit actuarial valuation of its liabilities towards retirement benefits (i.e. gratuity and leave encashment) and details of amount invested in the plan assets in accordance with the provision of AS-15.

Based on discussion with the school during personal hearing, the school explained it provides for Gratuity and Leave encashment expense @ 8% of Basic Pay and Dearness Allowance, 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 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 (enclosed in the later part of this order). 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 for FY 2019-20.

The school is also directed to extract 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.

B. Other Observations:

1. 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 that "*Any item under which income or expense exceeds 1 per cent of the total fee receipts of the School or INR 5,000, whichever is higher, should be shown as a 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 expenses'.*"

   From the Income and Expenditure Account for the FY 2017-18 and FY 2018-19, it was noted that Housekeeping fee, magazine fee and home science fee was reported under the head 'other' and school had not segregated all the incomes which exceeded 1% of the total fee receipts as a separate and distinct item.

The school is directed to ensure that all subsequent financial statements are prepared in accordance with Guidance Note 21.

2. During the personal hearing, the school was asked to submit the class wise fee reconciliation for FY 2017-18 and FY 2018-19. However, the school did not submit the same. The school is directed to submit the fee reconciliation during the subsequent fee hike proposal. Compliance will be verified at the time of evaluation of subsequent fee hike proposal of the school.

3. On review of financial statement for FY 2017-18, it was noted that school has given an advance of INR 9,20,000 to GLT Saraswat Bal Mandir. During the personal hearing, the school was asked to submit the details for which the advance was given and proof for its subsequent recovery. However, the school has not submitted the same. In absence of adequate details regarding no impact has been given while deriving the fund position of the school. The school is directed to provide the complete details like purpose of advance and proof for its subsequent recovery within 30 days from the date of issue of this order. The compliance will be verified at the time of evaluation of subsequent fee hike proposal of the school.

4. The school has not prepared Fixed Asset register (FAR) in proper format. The school has only captured the asset name, date of purchase and the amount in the FAR. The school has not included complete details in the FAR such as serial number, location, invoice number, supplier, identification number, cost of asset, other cost , etc. to facilitate identification of asset and complete details of assets at one place.

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 available funds for the year 2019-20 amounting to INR **2,01,61,817** out of which cash outflow in the year 2019-20 is estimated to be INR **2,14,58,208**. This results in estimated deficit amounting to INR **12,96,391**. The details are as follows:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.19 as per Audited Financial Statement of FY 2018-19	36,28,701
Investments as on 31.03.19 as per Audited Financial Statements of FY 2018-19	21,23,919
Liquid funds as on 31.03.2019	**57,52,620**
Add: Fees for FY 2018-19 as per Audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	1,54,10,626
Add: Other income for FY 2018-19 as per audited Financial Statements (we have assumed that the amount received in FY 2018-19 will at least accrue in FY 2019-20)	4,84,844
Add: Amount given by School to society **(Refer Financial Observations no. 2 given above)**	8,00,000
Less: Investment for Specific Purpose as provided by the school	20,23,873
Less: Student Security	2,62,400

Particulars	Amount (in INR)
Less: Staff Retirement benefits- Gratuity and leave encashment **(Refer Financial Observations no. 4 given above)**	-
Net Available funds for FY 2019-20	**2,01,61,817**
Less: Budgeted expenses for the Financial Year 2019-20 (Revenue Expenditure + Capital Expenditure - Depreciation) **(Refer Note 1 below)**	2,14,58,208
Estimated Deficit	**12,96,391**

Note 1: All budgeted expenditure of the school has been considered except INR 42,86,148 has been disallowed with respect to provision for gratuity and leave encashment and INR 9,41,294 related to salary for teaching & non – teaching staff.

Note 2: During the personal hearing the school has submitted that the school has implemented 7th CPC w.e.f April, 2019.

ii. The School do not have sufficient funds to carry on its operation for the academic session 2019-20 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 above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that along with certain financial and other observations, that the sufficient funds are 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 the school do not have sufficient funds for meeting financial implication for the academic session 2019-20. Further, 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 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 10% to be effective from 01st 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 **Saraswati Bal Mandir, Amar colony Delhi – 110018 (School ID – 1925428)** is accepted by the Director (Education) and the school is allowed to increase the fee by 10% (Ten percent) with effect from 1st July 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEAR 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
Saraswati Bal Mandir, Amar colony Delhi – 110018
(School ID – 1925428)

No. F.DE.15(323)/PSB/2021/2097-2101

Dated: 21/04/22

P.T.O.

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 (South East) 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