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

No. F.DE.15 (123**)/PSB/2022/** 1393-1397 **Dated:** 10/02/23

Order

WHEREAS, **Salwan Public School (School ID- 1002268), Mayur Vihar, Delhi-110096** (hereinafter referred to as **"the School"**), run by the **Salwan Education Trust** (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/2019/4440-4412 dated 08.06.2022, 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 academic session 2022-23.

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session **2022-23**. Accordingly, this order dispenses the proposal for increase of fee submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to ensure 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 increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 12th December 2022 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. In the aforesaid personal hearing, compliance of Order No. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing, were evaluated by the team of chartered accountants and key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure.... capital expenditure/investments have to come from savings."

The school incurred INR 17,83,117 for purchased of school bus in FY 2017-18 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The compliance report submitted by the school against order dated 12.09.2022 were taken on record. The school submitted that "The purchase of buses being a capital cost, cannot be funded out of transport fund as transport fund is against transport fee, which is an earmarked levy and can only be charged for revenue expenditure of running and maintenance of transport. Therefore, capital expenditure which gets classified under the head equipment can be funded only out of the development fee fund in terms of department's order".

However, the contention of the school is not correct because development fee is charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Further, as per guidance note on accounting by the schools issued by the ICAI, purchase of buses come under the head of vehicles and equipment head covers office, science and sports equipment's only. Hence, the contention of the school buses come under the head of equipment is not tenable and justified.

Therefore, the amount incurred by the school for purchase of school bus amounting to INR 17,83,117 is hereby again considered as fund available with the direction to the school to recover the same from the society within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

2. As per Rule 177 of DSER,1973 states "*income derived by an unaided private 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 management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other 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. The abovementioned savings shall be arrived at after providing for the following, namely:*

   a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;*
   b) *The needed expansion of the school or any expenditure of a developmental nature;*
   c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;*
   d) *Co-curricular activities of the students;*
   e) *Reasonable reserve fund, not being less than ten percent, of such savings.*"

The school provided financial assistance of INR 55,43,501 to Salwan Public School, Tronica City from FY 2014-15 to FY 2016-17 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The compliance report submitted by the school against order dated 12.09.2022 were taken on record. The school submitted that "The savings referred under Rule 177, not only include the savings for any financial year but also include accumulated savings of past years resting in reserve funds. Thus, a school can assist not only from the savings of a particular financial year but also out of the past such reserve funds in case of deficit in any of the financial years".

The above contention of the school cannot be accepted considering the fact that the income of the school at first instance should be used for meeting the establishment cost including the retirement benefit payable to the staff and if there is any balance the same can be utilised for meeting the expenditure for expansion of the school. However, the school had not implemented the 7th CPC nor made investment in plan assets equivalent to the provisions in the period when recovery was directed.

Therefore, the amount provided for financial assistance to another branch of the school amounting to INR 55,43,501 is hereby again considered as fund available with the direction to the school to recover the same from the society within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

3. The "Director" is not a prescribed position for an unaided private school as per the Recruitment Rules. Thus, the "Director" is not entitled to any payment whatsoever from the school funds.

The school paid salary to "Director" amounted to INR 58,38,557 from FY 2014-15 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Further, on review of documents submitted by the school, it has been noted that the school is still paying salary to "Director" in FY 2019-20 to FY 2021-22. However, the school has stopped paying salary to "Director" from FY 2022-23 onwards.

Therefore, the amount totalling to INR 93,85,473 (INR 58,38,557 – Previous Order Recovery + FY 2019-20 – INR 15,03,420 + FY 2020-21 – INR 5,59,322 + FY 2021-22 – INR 14,84,174) paid as honorarium/salary to "Director" during FY 2014-15 to FY 2021-22 is hereby added to the fund position of the school with the direction to recover this amount from the director or society within 30 days from the date of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

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

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

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

   The school was directed to accurately disclose its liabilities on account of gratuity along with the corresponding investments in its audited financial statements vide Directorate's Order no. F.DE.15(762)/PSB/2022/4851-4855 dated 22.06.2022. However, the School has not complied with the above direction.

   On review of the documents submitted by the school, it has been noted that the school get estimation of retirement benefits from actuarial i.e. INR 4,60,94,629 for gratuity and INR 1,33,13,456 for leave encashment vide actuarial valuation report dated 02.06.2022. However, the school had made the provision towards gratuity amounting to INR 4,25,45,918 and towards leave encashment amounting to INR 1,33,13,456 in its audited financial statements for the FY 2021-22.

   Since, the school has invested INR 3,61,59,170 till FY 2021-22 and INR 63,86,748 in Nov 2022 in plan assets towards gratuity only. Therefore, amount invested by the school amounting to INR 4,25,45,918 (INR 3,61,59,170 + INR 63,86,748) has been considered while calculating fund position of the school.

   The school is once again directed to to accurately disclose its liabilities on account of gratuity along with the corresponding investments in its audited financial statements and also invest an amount equivalent to the amount determined in the actuarial valuation report in plan assets as per requirement of AS-15 towards gratuity and leave encashment from the date of issue this order.

   Further, the school has proposed expenditure towards gratuity and leave encashment amounting to INR 45,00,000 for FY 2022-23 has been considered while calculating the fund position of the school.

5. Clause 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.*"

While evaluating the fee increase proposal for the academic session 2022-23, it has been noted that the school had not refunded interest on caution money along with refund of caution money. Thus, the school is directed to ensure compliance with the above requirements especially ensuring that caution money is refunded along with interest to the students.

Therefore, the amount refundable amounting to INR 9,77,500 as on 31.03.2022 as per the audited financial statements has been considered while deriving the fund position of the school.

B. **Other Suggestions for Improvement**

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."*

   Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."*

   Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

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

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

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

   Also, earmarked levies collected from students are form of restricted funds, which, according to Guidance Note-21 'Accounting by Schools' issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

   Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure

Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of transport fees, smart class fees and science fees from the students. However, the school has not maintained separate fund accounts for these earmarked levies except for the transport fund. The school has been generating surplus from smart class fees and science fees that has been utilised for meeting other expenses of the school. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

Particulars	Smart Class Fees	Science Fees	Transport Fees
For the year 2019-20			
Fee Collected during the year (A)	31,91,442	11,77,573	89,37,722
Expenses during the year (B)*	31,85,250	11,53,760	90,55,837
Difference for the year (A-B)	**6,192**	**23,813**	**(1,18,115)**
For the year 2020-21			
Fee Collected during the year (A)	22,00,910	10,11,276	-
Expenses during the year (B)	2,60,500	1,93,280	12,22,499
Difference for the year (A-B)	**19,40,410**	**8,17,996**	**(12,22,499)**
For the year 2021-22			
Fee Collected during the year (A)	20,58,164	11,97,034	1,304
Expenses during the year (B)	-	4,61,034	31,13,705
Difference for the year (A-B)	**20,58,164**	**7,36,000**	**(31,12,401)**
Total (Surplus)	**40,04,766**	**15,77,809**	**(44,53,015)**

* Smart Class Fees (Collected from III class onwards) and Science Fees (Collected from XI and XII Class)

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

The school is also 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 in the subsequent proposal of fee increase by 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 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.

2. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to the students belonging to weaker section. However, as per the information provided by the school for the FY 2019-20 to FY 2021-22, it has been noted that the school has not complied with above requirement. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
EWS	290	308	328
Total Strength	1668	1694	1649
% Of EWS students to total strength	**17%**	**18%**	**20%**

3. As per Right to Education act, the pupil teacher ratio for primary classes and upper primary classes should be 30:1 and 35:1 respectively. Also, as per the affiliation bye-laws prescribed by Central Board of Secondary Education (CBSE), the student's teacher ratio should not exceed 30:1 excluding principal, physical education teacher and counsellor to teach various subjects. However, based on the information submitted by the school relating to total students and number of teachers following ratios have been derived:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Total Number of Students (A)	1668	1694	1649
Number of Teachers (B)	76	68	71
Students to teacher ratio(A/B)	**21.95**	**24.91**	**23.22**

In view of the above calculation, it has been observed that there is one teacher on every 23 students which is much higher than the standard prescribed by the CBSE and mentioned in the RTE Act. It seems that there is overstaffing of teaching staff in the school. Therefore, the school management is required to look into this aspect and try to establish an equilibrium, without compromising the standard of education, between the standard prescribed by the CBSE and the existing student teacher ratio.

4. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified 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 Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

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 audited financial statements for the FY 2019-20 to FY 2021-22, it has been noted that the school has charged depreciation on fixed assets as per written down value method at the rates prescribed in the Income Tax Rules, 1962.

Therefore, school is directed to provide depreciation on assets in accordance with the guidance note cited above.

After detailed examination of all the material on record and considering the clarification submitted by the school, it was finally evaluated/ concluded that:

i. The total funds available for the FY 2022-23 amounting to INR **21,83,69,704** out of which cash outflow for the FY 2022-23 is estimated to be INR **15,19,44,000.** This results in surplus of INR **6,64,25,704** for the FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	51,62,371
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	14,24,81,519
Liquid Funds as on 31.03.2022	**14,76,43,890**
Add: Amount recoverable from society on account of development funds utilised for purchased of vehicle **(Refer Financial Suggestion No. 1)**	17,83,177
Add: Amount recoverable from society for assistance provided to sister concern **(Refer Financial Suggestion No. 2)**	55,43,501
Add: Amount recoverable from society for salary paid to director **(Refer Financial Suggestion No. 3)**	93,85,473
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	10,21,67,408
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	1,59,40,125
Total Available Funds for FY 2022-23	**28,24,63,574**
Less: Gratuity and Leave Encashment Fund with LIC as on 31.03.2022 **(Refer Financial Suggestion No. 4)**	4,25,45,918
Less: Caution Money as on 31.03.2022 **(Refer Financial Suggestion No. 5)**	9,77,500
Less: FDR in the name of Manager & CBSE as on 31.03.2022 **(Refer Note 1 Below)**	32,01,316
Less: Development Fund as on 31.03.2022 **(Refer Note 4 Below)**	94,34,695
Less: FDR with JASDC **(Refer Note 1 Below)**	79,34,441
Less: Depreciation Reserve Fund **(Refer Note 5 Below)**	-
Net Available Funds for FY 2022-23 - (A)	**21,83,69,704**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 Below)**	15,19,44,000
Less: Salary arrears of 7th CPC **(Refer Note 7 Below)**	-
Total Estimated Expenditure for FY 2022-23 - (B)	15,19,44,000
Net Surplus (A-B)	**6,64,25,704**

Note 1: The detail of fixed deposits held by the school as per the audited financial statements for the FY 2021-22 is provided below:

Particulars	Amount (in INR)	Remarks
FDR - Depreciation Reserve Fund	63,96,617	Refer Note 5 Below
FDR - Development Fund	1,50,01,855	Refer Note 4 Below
FDR - Caution Money	11,75,832	Refer Financial Suggestion No. 5
FDR with CBSE & DoE	32,01,316	Considered while calculating the fund position of the school
FDR with JADSC	79,34,441	Considered while calculating the fund position of the school
FDR - Gratuity Fund	3,61,59,170	Investment against LIC. Also Refer Financial Suggestion No. 4
FDR - Leave Encashment Fund	1,39,05,011	Not invested in LIC, hence not considered while calculating the fund position of the school
Other's FDR	5,87,07,277	Considered as free funds with the school
Total	**14,24,81,519**	

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

(i) *"to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21".* And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

(iii) The above arrangement is also applicable for collection of fees for FY 2021-22.

From review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the tuition fees, annual charges and development fees in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fees, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per AFS of FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	5,19,05,621	6,10,65,436	Tuition fees, Annual Charges and Development Fees has been considered as per reconciliation submitted by the school for the FY 2021-22.
Annual Charges	2,53,57,312	2,10,10,397	
Development Fees	77,68,189	91,33,656	
Total	**8,50,31,122**	**9,12,09,489**	

Note 3: All other income as per audited financial statements of FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23 including transport fee amounting to INR 95,78,000 budgeted in FY 2022-23 except the following:

Particulars	Amount (in INR)	Remarks
Profit on sale of assets	2,19,688	Being non-recurring item.

Note 4: As per audited financial statements for the FY 2021-22, the development fund balance is at INR 3,37,68,815. However, the equivalent balance has not been maintained by the school. However, on review of FDR's and bank statements submitted by the school, development fund amounting to INR 94,34,695 [INR 89,75,215 (in the form of FDR) + INR 4,59,480 (in the form of bank balance)] has been considered while calculating the fund position of the school.

Note 5: 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 charges and caution money. The second category of fee comprises '*Tuition Fee'* which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of *'Annual Charges'* to cover all expenditure not included in the second category and the fourth category consist of all *'Earmarked Levies'* for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has already been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme Court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "*where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note-21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for the FY 2021-22 has not been considered while deriving the fund position of the school.

Note 6: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except following:

Heads	**Budgeted expenditure in FY 2022-23**	**Amount Disallowed**	**Remarks**
Depreciation	55,00,000	55,00,000	Expense being a non-cash item
Depreciation on Vehicle	2,20,000	2,20,000	Expense being a non-cash item
Building	4,50,00,000	4,50,00,000	Expense proposed by the school is not allowed as per Rule 177 of

Heads	Budgeted expenditure in FY 2022-23	Amount Disallowed	Remarks
			DSER, 1973 and other relevant high court judgements.
Total	**5,07,20,000**	**5,07,20,000**	

Note 7: The school has implemented the recommendations of 7th CPC w.e.f October 2018. Further, the school has already paid 7th CPC salary arrears for the period Jan 2016 to September, 2018. Hence, no 7th CPC salary arrears has been considered as its already paid by the school.

ii. The school has sufficient funds to carry on its operation for the academic session 2022-23 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 irregularities, that the sufficient funds are available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that the school has sufficient funds for meeting financial implication for the academic session 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Salwan Public School (School ID- 1002268), Mayur Vihar, Delhi-110096,** is rejected by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To:
The Manager/ HoS
Salwan Public School
School ID- 1002268
Mayur Vihar, Delhi-110096

No. F.DE.15 (123)/PSB/2022/ 1393-1397 Dated: 10/02/23

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 (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.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi