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

No. F.DE.15 (1418)/PSB/2023/ 5178-5182 **Dated:** 06/06/23

Order

WHEREAS, **Mother Mary's School, Site No.1, Sahkarita Marg, Mayur Vihar, Phase – I, Delhi - 110091 (School Id: 1002353)** (hereinafter referred to as **"the School"**), run by the **Dr. Walia Charitable Trust 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, the manager of every recognized 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.'*

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA,1973 and returns and documents submitted under section 18(5) of DSEA,1973 read with rule 180(1) of DSER,1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools for some of the schools which have been allotted from Director (Education) before any increase in fee.

AND WHEREAS, 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 examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE 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.

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 02nd May 2023 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. 15/ (488)/ PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No. 15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement

1. As per clause 2 of Public Notice dated 04.05.1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Also, Rule 177 of DSER, 1973 states "Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

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

Accordingly, based on the aforementioned public notice, High Court Judgement and provisions of Rules 177 of DSER, 1973, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilized for the same.

The Directorate in its order no. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued for FY 2017-18, directed the school to recover INR 3,24,24,857 from the society as the school has incurred this amount on the construction of building out of school funds in FY 2015-16 and 2016-17. Further, the Directorate in its order no. Order No.15/(488)/PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No. 15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20, directed the school to recover INR 3,64,30,098 (INR 3,24,24,857 plus INR 40,05,241) from the society in respect of amount spent by the school on construction of building and capitalized in its financial statements during FY 2015-16 to FY 2018-19. However, the recoveries are still pending.

On review of audited financial statements for FY 2021-22, the school has incurred INR 3,89,948 on statue and capitalized the same as building without complying with the above-mentioned provisions.

Based on above-mentioned provisions, the amount totaling to INR 3,68,20,046 (INR 3,24,24,857 plus INR 40,05,241 plus INR 3,89,948) incurred on additions to the school building is recoverable from the society as the building is the property of the society. Therefore, the aforesaid recovery has been included in the calculation of available fund of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

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

Further, Rule 59 of DSEAR, 1973 states, "Regarding appointment and qualification of Manager 59(2)(i),the educational and other qualifications of the manager and his duties an d responsibilities; the position of the manager viz-a-viz the managing committee:(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided;(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties and responsibilities of the manager;(l) bills (including bills relating to the salaries and allowances of the teachers and non- teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf;(m)that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school;(r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager. Thus, the manager of the school cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973. The post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Hence, the Manager of the School cannot be treated as employee of the school as he functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

The Directorate in its Order no. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued for FY 2017-18, directed to recover INR 23,40,000 (INR 65,000*12 months*3 years) from the manager/ society being honorarium paid to manager during FY 2014-15, 2015-16 and 2016-17.

Further, the Directorate in its Order No.15/(488)/PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No. 15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20, directed the school to recover INR 23,40,000 (as is directed in order dated 22.02.2019) plus INR 16,28,250 (INR 8,09,250 of FY 2017-18 and INR 8,19,000 of FY 2018-19) being honorarium paid to manager during FY 2017-18 and 2018-19. However, the above recoveries are still pending.

On review of records submitted by the school, the school is still paying honorarium to the manager in FY 2019-20 to 2021-22. Total salary paid was INR 24,78,000 (i.e., @ INR 68,250 per month during FY 2019-20 to 2020-21 and @ INR 70,000 per month during FY 2021-22). Accordingly, the total salary paid by the school of INR 64,46,250 is recoverable from the manager/ society of the school within 30 days from the date of issue of this order. Accordingly, INR 64,46,250 is hereby added while deriving the fund position of the school considering the same as funds available with the school.

3. Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state that *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the*

revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."

The Directorate in its order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued for FY 2017-18, Order No.15/(488)/PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No. 15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20, directed the school to ensure proper utilization of development fund, as the development fund can only be utilized for purchase, upgrade and replacement of the furniture, fixtures and equipment.

As per the order dated 22.02.2019, and 10.05.2022, in FY 2016-17, the school reflected utilization of development fund of INR 18,47,880 whereas as per fixed assets schedule, total fixed assets purchased were excluding building amounting to INR 9,10,108 which indicates that the school utilized INR 9,37,772 (INR 18,47,880 minus INR 9,10,108) for purchase of assets out of development fund other than those directed in clause 14 of order dated 11.02.2009. Similar observation was also noted in FY 2021-22, the school utilized development fund of INR 27,71,934 whereas as per fixed assets schedule, fixed assets purchased were INR 11,40,904.

The details of development fund utilized by the school other than the purposes for which it is collected are tabulated below:

Particulars	FY 2017-18	FY 2018-19	FY 2021-22
Building	1,30,590	30,22,741	3,89,948
Basketball court	9,82,500	-	-
Scooter	50,326	-	-
Library Books	50,598	10,000	-

In view the above, the school is directed to ensure proper utilization of development fund, as the development fund can only be utilized for purchase, upgrade and replacement of the furniture, fixtures and equipment. And if the school is willing to purchase any other assets other than furniture and fixtures, the same can be procured only out of the saving calculated in accordance with Rule 177 of the DSER, 1973.

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

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

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."
Sub-rule 3 of Rule 177 of DSER, 1973 states "Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."

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

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon 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 review of audited financial statements for FY 2019-20 to 2021-22, it has been noted that the school charge earmarked levies in the name of 'Fee for Activities'. The school is not following fund-based accounting in respect of earmarked levies and has generated surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has incurred losses (deficit) and that has been met from other fees/income. Details of calculation of surplus/deficit for FY 2019-20, 2020-21 and 2021-22 are given below:

Particulars	**Fee for Activities (in INR)***
For the year 2019-20	
Fee Collected during the year (A)	13,73,955
Expenses during the year (B)	11,46,776
Difference for the year (A-B)	**2,27,179**
For the year 2020-21	
Fee Collected during the year (A)	5,15,560
Expenses during the year (B)	6,99,184
Difference for the year (A-B)	**-1,83,624**
For the year 2021-22	
Fee Collected during the year (A)	14,94,564
Expenses during the year (B)	12,66,982
Difference for the year (A-B)	**2,27,582**
Total Surplus/ (Deficit)	**2,71,137**

*The figures have been taken on review of financial statements.

Therefore, the school is 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 has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

Further, the Directorate in its order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued for FY 2017-18, Order No.15/(488)/PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No.15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20, directed the school to clearly show receipts and payments in respect of all earmarked levies namely IT Account Fee, Magazine Fee, Examination & worksheet Fee, Mid-day Meal Fee, Transport Fee, and Science charges through income and expenditure account.

Also, the school presented Computer Fees as income for the period FY 2016-17 to 2018-19 while E-Care and ID Card are shown as income only in FY 2016-17. The school neither submitted the fee structure for FY 2017-18 and 2018-19 nor submitted the fee receipts, the fee collected in the name of E-care and ID Card were determined for FY 2017-18 and 2018-19.

The school had not maintained separate fund accounts for these earmarked levies and the surplus generated from earmarked levies was utilised for meeting other expenses of the school or losses incurred were met from other fees/income, which was also mentioned in DOE's order No. F.DE-15/ACT-I/WPC-4109 /PART/13/ 291-295 dated 27.12.2016 and F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019.

Also, in the order dated 27.12.2016, it was noted that the transport fee was not routed through Income and Expenditure Account instead the school opened a separate management fund account for receiving transport fee. The audited financial statements for FY 2016-17 did not reflect income and expenses related to transport operations. It was further noted from the financial statements for FY 2016-17 that the school reported a liability in the name of "management fund" having balance of INR 1,02,51,160 as on 31.03.2017. However, the school did not provide any details and ledger account of management fund to understand the nature of transactions routed through this account and the school was directed to submit the ledger account of "Management Fund" along with necessary supporting documents to substantiate the transactions made in the same.

In view of the above, it has been noted that directions issued to the school in the Directorate's order dated 27.12.2016, 22.02.2019 and 10.05.2022 with respect to earmarked levies have not been complied by the school and no compliance report or justification in respect of previous orders were ever submitted by the school. In the absence of necessary details and ignorance by the school in submitting the requisite documents indicates that the school is indulged in charging of unwarranted fee and thus, involve in profiteering and commercializing the education. Therefore, the school is hereby directed to submit necessary details within 30 days from the date of issue of this order. Non-compliance with this direction shall be dealt in accordance with the provision of DSEAR, 1973 without giving further notice in this regard.

5. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement 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 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*Plan assets comprise:*

a) assets held by a long-term employee benefit fund; and

b) qualifying insurance policies."

The review of the audited financial statements of FY 2021-22 revealed that the school has reported the provision for leave encashment of INR 91,06,318 but the school has not obtained actuarial valuation for the same.

It has also been noted that school has not invested any amount in the fund which qualify as plan assets as per the requirements of AS-15. During the personal hearing the school explained that it has maintained investment in the form of fixed deposit with the banks which can be utilized for payment of the retirement benefits as and when any expenditure arise in this regard. As the investment in the form of FDR does not quality as plan assets within the meaning of AS-15, therefore, the school is directed to get actuarial valuation and report its liability for leave encashment as per the actuarial valuation report and to make an investment that qualify as 'Plan Assets', equivalent to total liability determined by the actuary, within 30 days from the date of issue of this order.

B. Other Suggestions for Improvement

1. As per 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 Directorate in its Order No.15/(488)/PSB/2022/2704-2708 dated 10.05.2022 issued for FY 2018-19 and Order No. 15/(479)/PSB/2022/2658-2662 dated 10.05.2022 issued for FY 2019-20, directed the school to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the subsequent year.

However, on review of audited financial statement for FY 2015-16 to 2021-22, it has been observed that only principal amount of caution money is being refunded to the leaving students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009/778 dated 11.02.2009.

Further, as per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of Audited Financial Statements of FY 2018-19 to 2021-22, it has been noted that the school has not considered the un-refunded caution money as income. In the absence of available information, the amount of un-refundable caution money belonging to ex-students which could have been treated as income and the correct balance of caution money cannot be determined.

Accordingly, the school is directed to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the subsequent year.

2. Directorate's order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued to the school post evaluation of the proposal for enhancement of fee for FY 2016-17 noted few instances of late payment of PF and ESI. Further, from the ESIC deposit challans submitted by school for FY 2016-17, it was noted that the payment of ESIC dues were delayed in 4 months.

   As per Directorate's order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to ensure compliance with the statutory provisions and ensure that employees' statutory dues are paid within the prescribed timelines which the school has yet to comply. However, the school did not provide any explanation noted above even after the issuance of orders for FY 2018-19 and 2019-20.

   Accordingly, the school is once again directed to comply with the statutory provisions and submit compliance report within 30 days from the date of issue of this order.

3. Directorate's Order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued post evaluation of fee increase proposal for FY 2016-17 noted that the income shown in the financial statements was in excess of INR 3,75,895 as per the reconciliation prepared on the basis of number of students and the class wise fees to be collected from students and actual income recorded by the schools in its financial statements.

- On the basis of computation, difference was noted in the development fee collection reported by the school during FY 2016-17 in its audited Receipt & Payment Account and amount of fee arrived/computed as per details provided by the school as under:

Particulars	Amount (in INR)
Development Fee receipt as per Audited Receipt and Payment Account for FY 2016-2017 (A)	68,84,683
Development Fee for FY 2016-2017 receivable as per Audited Balance Sheet as on 31 Mar 2017 (B)	23,160
Development Fee received in advance for FY 2016-2017 as per Audited Balance Sheet as on 31 Mar 2016 (C)	7,08,025
Total Development Fee for FY 2016-2017 (D) = (A+B+C)	**7,615,868**
Development fee computed based on fee structure and number of students provided by the school for FY 2016-2017 (E)	**9,009,480**
Difference – Income reported in Financial Statements less than the fee computed (F) = (E-D)	**13,93,612**

As per Directorate's Order no. No. F. DE-15/ACT-I/WPC-4109/PART/13/291- 295 dated 27.12.2016 issued post evaluation of fee increase proposal for FY 2016-17 and order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to prepare and submit reconciliation of the fee collected from students and income to be recognized based on the fee structure and number of fee paying students enrolled by the school for FY 2015-16 to 2018-19. However, the school did not provide any reconciliation/ explanation noted above even after the issuance of orders for FY 2018-19 and 2019-20.

Accordingly, the school is once again directed to prepare and submit reconciliation of the fee collected from students and income to be recognized based on the fee structure and number of fee-paying students enrolled by the school for FY 2015-16 to 2018-19 within 30 days from the date of issue of this order. Non-compliance with this direction shall be strictly viewed at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

4. As per Rule 166 of the Delhi School Education Rules, 1973, "school shall charge fine for late payment of fees or contributions at the rate of 5 paisa per day after 10th day of the month for which the fee is due." However, Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/291-295 dated 27.12.2016 issued to the school post evaluation of the proposal for enhancement of fee for FY 2016-17 noted that the school is charging late fees of INR 50 per month (after due date) for delay, which is not in compliance with rule 166.

   As per Directorate's order No. F.DE-15/(146)/PSB/2019/1862-1866 dated 22.02.2019 issued post evaluation of fee increase proposal for FY 2017-18, the school was directed to ensure compliance with the provisions of DSEA & R, 1973, and submit the compliance status within 30 days from the date of issue of this order. However, the school has not submitted any compliance report even after the issuance of orders for FY 2018-19 and 2019-20 in which similar directions were issued again. Therefore, the school is again directed to comply with the provisions of DSEA & R, 1973.

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 **26,99,06,274** out of which cash outflow in the FY 2022-23 is estimated to be INR **11,96,26,610.** This results in surplus of INR **15,02,79,664** for FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in Rs.)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	6,72,54,710
Investments as on 31.03.22 as per Audited Financial Statements	12,02,77,050
Liquid Funds as on 31.03.2022	18,75,31,760
Add: Recovery from Society of amount spent on Building **(Refer Financial Observation 1)**	3,68,20,046
Add: Recovery from Society for salary paid to manager **(Refer Financial Observation 2)**	64,46,250
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	10,86,74,214
Add: Other Income for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	72,19,536
Add: Additional Income of Annual Charges and Development Fund **(Refer Note 3 Below)**	80,33,417
Total Available Funds for FY 2022-23	**35,47,25,223**
Less: FDR in the name of Manager & DOE as on 31.03.2022 **(Refer Note 1 Below)**	12,45,403
Less: FDR in the name of Manager & CBSE as on 31.03.2022 **(Refer Note 1 Below)**	5,45,913
Less: Investment with LIC in respect of Gratuity Liability	3,30,00,354
Less: Caution Money as on 31.03.2022	22,24,360
Less: Salary Reserve Fund as on 31.03.2022 **(Refer Note 4 Below)**	1,61,48,190
Less: Development Fund as on 31.03.2022	3,16,54,729
Net Available Funds for FY 2022-23 (A)	**26,99,06,274**
Less: Budgeted expenses for the session 2022-23	**11,96,26,610**
Total Estimated Expenditure for FY 2022-23 (B)	**11,96,26,610**
Net Surplus (A-B)	**15,02,79,664**

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

Particulars	Amount (in INR)	Remarks
FDR in the joint name of CBSE & School	5,45,913	Deducted while calculating available funds of the school.
FDR in the name of Manager and DoE	12,45,403	Deducted while calculating available funds of the school.
Total	**17,91,316**	

Note 2: All the fee and other income as per audited financial statements for the 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.

Note 3: 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.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported 100% of the tuition fees and annual charges and development fees at 85% 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 fee, 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:

Table A

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	6,16,31,954	6,16,31,954	As per the information provided by the school, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% in compliance of the Directorate's order dated 01.07.2021 and thus, difference amount of INR 80,33,417 has been considered.
Annual Charges	3,09,40,241	3,64,00,284	
Development Charges	1,45,82,455	1,71,55,829	
Total	**10,71,54,650**	**11,51,88,067**	

Note 4: Though the school has made provision for salary reserve of INR 1,61,48,190 in the audited financial statements of FY 2021-22 and but has not submitted the details of investments/FDR made in the joint name of Dy. Director (Education) and the Manager, School. Thus, the school is directed to earmark fixed deposit in the joint names of Deputy Director of Education and the Manager of the School and submit the compliance within 30 days from the date of issue of this order and the salary reserve fund has been considered while deriving fund position of the school.

In view of the above examination, it is evident that the school has adequate 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 the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate the proposal of the school for session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order).

AND WHEREAS, it is noticed that the school has incurred INR 4,32,66,296 in contravention of Rule 177 and other provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

AND WHEREAS, the fee proposal of the school 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 sufficient funds are available with the school for meeting financial implication for the academic session 2022-23.

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, the school is directed, henceforth to take necessary corrective steps on the financial and other suggestion noted during the above evaluation process and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

Accordingly, we may send the file along with relevant documents and record to the Director (Education) with the proposal that fee increase proposal for the academic session 2022-23 of **Mother Mary's School, Site No.1, Sahkarita Marg, Mayur Vihar, Phase – I, Delhi - 110091 (School Id: 1002353)** filed by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the School has already charged increased fee during FY 2022-23, 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 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
Mother Mary's School,
Site No.1, Sahkarita Marg,
Mayur Vihar, Phase – I,
Delhi - 110091 (School Id: 1002353)

No. F.DE.15 (1418)/PSB/2023 / 5178-5182 Dated: 06/06/23

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