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

No. F.DE.15 (1195)/PSB/2022/ 1044-1048 **Dated:** 02/02/23

Order

WHEREAS, **Bharti Public School, Mayur Vihar Phase III, New Delhi-110096 (School ID-1002357)** (hereinafter referred to as " **the School**"), run by the Bharti Educational Trust (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the 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 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 recognized 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 recognized 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 authorized by the Director in this behalf and also by officers authorized 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 which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval 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 fees 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 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

"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/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at 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 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 deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of the fee increase proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email and the school was also provided an opportunity of being heard on 21.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during personal hearing, the 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(279)/PSB/2021/4751-4756 dated 24.11.2021 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 on 18.08.2022, were evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements

1. Direction no. 2 included in the 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.*"

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

   The school incurred INR 1,21,50,411 for construction of building 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(279)/PSB/2021/4751-4756 dated 24.11.2021. 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 19.11.2022 were taken on record. The school submitted that "*Capital expenditure incurred by the school upon its own development in the form of addition to building from FY 2014-15 to FY 2018-19 is permissible under Rule 177 as also under the judgement in the cases of Modern School and Action Committee(15.03.2019). Further, there is no hierarchy provided under Rule 177(2), as to which expenditure is to be incurred before the other one.*

   The contention of the school is incorrect because based on the above-mentioned provisions and pronouncements of the Courts, the cost relating to land and construction of school building should be borne by the society, being the property of the society and the school funds i.e., fee collected from students should not be utilized for the same. Further, Rule 177 of DSER, 1973, the school fee at the first instance should be utilized for meeting establishment cost and other benefits admissible to the employees and capital expenditure should be met out the saving if any. Furthermore, the school did not implement the recommendation of the 7th CPC. Therefore, the contention of the school is not tenable and justified.

   Further, on review of audited financial statements of FY 2019-20, it was noted that the school has continued to incur capital expenditure on building which was capitalised as Infrastructure Development amounting to INR 26,22,977. Moreover, it was also noted that this capital expenditure was incurred out of development fund which is not in accordance with clause 14 of the order dated 11.02.2009.

   Therefore, the amount utilised by the school towards construction of building of INR 1,47,73,388 (INR 1,21,50,411 till FY 2018-19 and INR 26,22,977 for FY 2019-20) is hereby again considered as fund available with the school to meet expenditure towards 7th CPC salary arrears.

Hence, the school is directed to recover the above-mentioned amount from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee increase proposal for the subsequent academic session.

2. As per Rule 172 of DSER, 1973, *"(1) No fee, contribution or other charge shall be collected from any student by the trust or society running any recognised school whether aided or not.*

(2) Every fee, contribution or other charge collected from any student by recognised school shall be collected in its own name and a proper receipt shall be granted by the school for every such collection made by it."

The school donated INR 8,21,132 to smile foundation 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(279)/PSB/2021/4751-4756 dated 24.11.2021. 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 19.11.2022 were taken on record. The school submitted that "the amount of INR 8,21,132 paid and voluntarily given by the students was only used for the specific purpose of donation only.,

The contention of the school is incorrect because based on the above-mentioned provisions, any amount collected by the school should be utlised for imparting better education to the students and not for any other purpose or donation. Therefore, the contention of the school is not tenable and justified.

Since the school has not recovered any amount from society till date with respect to the payments made to smile foundation in non-compliance of DSER, 1973, hence the above-mentioned donation amounting to INR 8,21,132 once again added to the fund position of the school with the direction to recover the amount from society within 30 days from the date of issue of this order.

3. The school incurred INR 1,04,60,320 for manpower services in FY 2017-18 and FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(279)/PSB/2021/4751-4756 dated 24.11.2021. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Post personal hearing, the school submitted contracts and ledgers of Sharp Protective Services Private Limited and Bera House Keeping for the FY 2019-20, FY 2020-21 and FY 2021-22. On review of above-mentioned documents, expenditure incurred from FY 2019-20 to FY 2021-22 are considered to be genuine. However, it does not cover the ambit of expenditure incurred during FY 2017-18 and FY 2018-19 hence, INR 1,04,60,320 once again added to the fund position of the school with the direction to recover the amount from society within 30 days from the date of issue of this order.

4. 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.*"

On review of audited financial statements for FY 2019-20, it has been noted that school incurred capital expenditure on purchase of Car (Venue) amounting to INR 13,44,205 in contravention of the provisions mentioned above. Moreover, the above capital expenditure was incurred without complying with the requirements prescribed in Rule 177 of DSER, 1973.

Accordingly, the payment made against purchase of Car for INR 13,44,205 is hereby added to the fund position of the school 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 issue of this order.

5. 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, fixtures and equipment.*" Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

On review of the audited financial statements of the FY 2021-22, it has been noted that the school has transferred development fund balance of INR 1,09,17,665 to general funds leaving the closing balance of development funds INR 60,628 as on 31.03.2022. During the personal hearing, the school explained that due to paucity of funds, the school was left with no other option except to utilize the development funds for payment of salary and salary related cost. The development funds/ fee which has been used by the school in last two years towards payment of salary and other expenditure has been carried out based on the available documents on record. From the below table, it can be seen that the school had sufficient fund to meet establishment expenditure even without using the development funds/fee.

Particulars	**FY 2020-21**	**FY 2021-22**	**Total Amount (INR)**
Salary & Allowance as per I&E account	4,15,00,495	3,68,31,076	7,83,31,571
Payment towards Gratuity and Leave encashment as per the details provided by the school	7,80,103	18,59,782	26,39,885
Establishment Expenditures	**4,22,80,598**	**3,86,90,858**	**8,09,71,456**
Less: Amount already available with the school in the form of investment for payment of retirement benefits	-	-	26,39,885
Less: Amount pending for payment as per audited financial statements	-	-	34,96,418
Net payment of salary in last two years including retirement benefits (A)	-	-	**7,48,35,153**
Available of Funds with the School			
Fee received by the school other annual charges and development fund	6,19,09,234	4,60,79,760	10,79,88,994

Development fee treated as revenue receipts in FY 2021-22	-	-	-
Less: Fee receivable as per audited financial of FY 2021-22			-
Total Funds available with the school for payment of salary (B)			**10,79,88,994**
Surplus funds (B-A)			**3,31,53,841**

*Income and salary expenditure as per Audited Financial Statements for the FY 2020-21 and 2021-22 has been considered in the above calculation.

In view of the above calculation, it is evident that the school had enough fund to meet salary cost without utilising development funds/fee. Accordingly, the development fee transferred to general reserve in FY 2021-22 by the school is recoverable from the society/ school management due to misutilization. Therefore, amount of INR 1,09,17,665 has been included while deriving the fund position of the school with the direction to the school to recover this amount from society/ school management within 30 days from the date of issue of this order. The compliance with directions shall be evaluated while evaluating the fee increase proposal of subsequent year.

6. Para 7.14 of AS-15 "*Employee Benefit*" issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:
   a. assets held by a long-term employee benefit fund; and
   b. qualifying insurance policies."

   Further, the para 57 of the AS-15 states "*an enterprise should determine the present value of defined benefit obligations and the fair value any plan assts 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 review of the audited financial statements of FY 2021-22 revealed that the school has provided provision for gratuity amounting to INR 2,68,49,897 and leave encashment amounting to INR 27,06,327 which was equivalent to the actuarial liability determined by the actuary.

   Based on the information provided by the school, it has been noted that INR 50,00,000 was invested by the school in plan assets before 31.03.2022 and INR 2,19,54,980 was invested by the school after 31.03.2022 but before finalization of audited financial statements. However, the school has reported total investment of INR 2,69,54,980 in its audited financial statements. Therefore, the position of investment reported by the school in audited financial statements is not correct.

   In view of the above, it appears that the school has not correctly reported cash and bank account and investment in the audited financial statements for FY 2021-22. Therefore, the school is hereby directed to report correct balance of investment and cash and back account in the audited financial statements henceforth.

   Since, the school has already invested of INR 2,69,54,980 in plans assets withing the meaning of AS-15. Therefore, amount invested by the school has been considered while deriving the fund position of the school.

B. Other Suggestion for Improvements

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, Digital Learning Fees and Practical Fees from the students.

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 Digital Learning fees and Practical fees from all the students loses its character of earmarked levy. Thus, the school is directed based on the nature of the Digital Learning fees and Practical fees not to charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

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

On account of number of complaints received by the Institute of Chartered Accountants of India (ICAI) regarding signatures of Chartered Accountants (CAs) are being forged by non-CAs and corresponding findings by ICAI that financial documents/certificates attested by third person misrepresenting themselves as Chartered Accountants (CA) are misleading the Authorities and Stakeholders, ICAI, at its 379th Council Meeting, made generation of Unique Document Identification Number (UDIN) mandatory for every signature of Full time Practicing Chartered Accountants in phased manner for the following services:

- All Certificates with effect from 1 Feb 2019
- GST and Income Tax Audit with effect from 1 Apr 2019
- All Audit and Assurance Functions with effect from 1 Jul 2019

Therefore, generation of UDIN has been made mandatory for all audit and assurance functions like documents and reports certified/ issued by practicing Chartered Accountants from 1 July 2019. The UDIN System has been developed by ICAI to facilitate its members for verification and certification of the documents and for securing documents and authenticity thereof by Regulators.

Further, ICAI issued an announcement on 4 June 2019 for the attention of its members with the requirement of mentioning UDIN while signing the Audit Reports effective from 1 Jul 2019, which stated "*With a view to bring uniformity in the manner of signing audit reports by the members of ICAI, it has been decided to require the members of ICAI to also mention the UDIN immediately after the ICAI's membership number while signing audit reports. This requirement will be in addition to other requirements relating to the auditor's signature prescribed in the relevant law or regulation and the Standards on Auditing.*"

However, on review of the audited financial statements for FY 2021-22 submitted by the school, it was observed that the financial statements of the school were certified by the Chartered Accountant without mentioning the UDIN as required by the council. This being the procedural observation therefore, the school management are directed to ensure this compliance from the Auditor of the school.

3. 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 the 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) which inter-alia provides for preparation of Receipt and Payment accounts by the school giving details of all the receipts and payments made during the financial year.

As per the documents submitted by the school, it has been noted that the school is not preparing Receipt and Payment account as a part of the financial statements during FY 2019-20 to FY 2021-22. Therefore, school is directed to prepare the Receipt and Payment Accounts in accordance with format specified in Appendix-II of the Directorate of Education order dated 16.04.2016. Non-compliance of the above direction shall be reviewed seriously at the time of evaluation of proposal for enhancement of fee for subsequent year.

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 is INR **9,95,81,190** out of which the expected expenditures of the school would be INR **10,37,91,109** resulting in net deficit of INR **42,09,919** for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount**
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	43,11,739
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	3,71,23,096
Liquid Funds as on 31.03.2022	**4,14,34,835**
Add: Recovery from society for additions to building **(Refer Financial Suggestion No. 1)**	1,47,73,388
Add: Recovery from society towards donation given to smile foundation **(Refer Financial Suggestion No. 2)**	8,21,132
Add: Recovery from society on account of genuineness of expenses **(Refer Financial Suggestion No. 3)**	1,04,60,320
Add: Recovery from society towards amount spent on purchase of car **(Refer Financial Suggestion No. 4)**	13,44,205
Add: Utilization of development fee in contravention of Clause 14 of Order dated 11.02.2009 **(Refer Financial Suggestion No. 5)**	1,09,17,665
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	5,41,42,260
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	25,51,698
Total Available Funds for FY 2022-23	**13,64,45,503**
Less: FDR in the name of DoE & Manager for salary reserve as on 31.03.2022 **(Refer Note 4 Below)**	98,48,705
Less: Gratuity and Leave Encashment Fund with LIC as on 31.03.2022 **(Refer Financial Suggestion No. 6)**	2,69,54,980
Less: Development Fund as on 31.03.2022 **(Refer Note 5 Below)**	60,628
Less: FDR jointly with DoE **(Refer Note 1 Below)**	-
Net Available Funds for FY 2022-23 - (A)	**9,95,81,190**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 Below)**	7,89,37,639

Less: Salary arrears on account of implementation of 7th CPC **(Refer Note 7 Below)**	2,48,53,470
Total Expected Expenditure for FY 2022-23 - **(B)**	**10,37,91,109**
Net Deficit (A-B)	**42,09,919**

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

Particulars	Amount (in INR)	Remarks
Gratuity Fund	2,41,93,847	Refer Financial Suggestion No. 6
Leave Encashment Fund	27,61,133	
3 Months' Salary Reserve	98,48,705	Refer Note 4 Below
FDR jointly with DoE	3,19,411	FDR in the name of school, hence it has not been considered.
Total	**3,71,23,096**	

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 tuition fees, annual charges and development charges at 100% and has also been noted that the school is recording its income on receipts basis. Thus, the school is not maintaining its books and accounts in accordance with GAAP (Generally Accepted Accounting Principles).

The detailed calculation has been provided below:

Particulars	Income as per AFS for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	3,79,60,668	4,65,65,160	Tuition Fees, Annual Charges and Development Fees has been considered as per reconciliation of FY 2021-22 provided by the school
Annual Charges	99,83,266	26,78,000	
Development Fees	1,17,18,716	31,60,745	
Total	**5,96,62,650**	**5,24,03,905**	

Note 3: All the 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 except Depreciation on DF Assets amounting to INR 38,29,039 being a non-cash item.

Note 4: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank.

The balance of Salary Reserve as on 31.03.2022 is INR 1,21,23,577 as per audited financial statements of the school for FY 2021-22. However, the school has earmarked investment in the joint name of the Dy. Director and Manager of the school of amounting INR 98,48,705. Hence, the same has been considered while calculating the fund position of the school.

Further, the school has proposed provision of 3 month's salary reserve for the FY 2022-23 amounting to INR 3,46,86,071. However, the school has not earmarked equivalent investment of reserve already outstanding in the books on 31st March, 2022. Hence, Provision amounting to INR 3,46,86,071 has not been considered while calculating the fund position of the school.

Note 5: The development fund balance on 31.03.2022 is 60,628 in its audited financial statements and the same has been maintained in a separate bank account by the school. Hence, amounting to INR 60,628 has been considered while calculating 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:

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Salary to Teaching Staff	3,26,33,938	4,98,34,530	74,10,411	The school has provided 7th CPC separately therefore, it has been restricted to 130% of previous year expenditure.

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Salary Arrears	-	8,48,41,175	8,48,41,175	Salary Arrears has been considered separately. **Refer Note 7 Below**
3 Months Salary Reserve	-	3,46,86,071	3,46,86,071	**Refer Note 4 Above**
Transport Expenses	-	41,41,887	41,41,887	Neither income nor expenditure has been considered while calculating the fund position of the school for FY 2022-23 on the assumption that earmarked levies are collected on no profit/no loss basis.
Watch and Ward Expenses	30,63,222	44,59,200	10,89,656	It has been restricted to 110% of previous year expenditure.
Repair and Maintenance – Building	5,84,943	46,86,400	40,42,963	It has been restricted to 110% of previous year expenditure.

Note 7: During the personal hearing, the school explained that they have not implemented 7th CPC yet. In the previous order no. F.DE.15(279)/PSB/2021/4751-4756 dated 24.11.2021, the school was allowed Salary to Staff as per 7th CPC and 7th CPC arrears for the period January 2016 to March,2020.

Further, post personal hearing the school submitted calculation of 7th CPC arrears for the period January 2016 to March,2022 out of which arrears for the period January 2016 to March 2020 had already considered in the previous order. Hence, arrears for the period of April 2020 to March 2022 has been considered in the fund position of the school amounting to INR 2,48,53,470.

ii. In view of the above examination, it is evident that the school does not have surplus fund to meet its budgeted expenditure for the academic session 2022-23 at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

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 along with certain financial and other suggestions that the sufficient funds are not 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 accepted.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2022-23.

AND WHEREAS, 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 (JADSC) 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 8% to be effective from 01 Oct 2022.

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

Accordingly, it is hereby conveyed that the proposal for fee increase for the academic session 2022-23 of **Bharti Public School, Mayur Vihar Phase III, New Delhi-110096 (School ID-1002357)** is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 8% to be effective from 01 Oct 2022.

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

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

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

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

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

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

Nandini

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

To:
The Manager/ HoS
Bharti Public School,
Mayur Vihar Phase III,
New Delhi-110096
School ID- 1002357

No. F.DE.15 (195)/PSB/2022/ 1044 - 1048

Dated: 02/02/23

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