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

No. F.DE.15 (1203)/PSB/2023/ 1155-1160 **Dated:** 03/02/23

Order

WHEREAS, **Laxmi Public School (School ID - 1003211), X-20, Institutional Area, Karkardooma, Delhi - 110092** (hereinafter referred to as "**the School**"), run by the Laxmi Educational Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"**)**. The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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 Delhi School Education Act, 1973 (hereinafter read as ***'the Act'***) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as ***'the Rules'***).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) 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 hike 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, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing 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 enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by 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 DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 17.08.2022. The school was also provided an opportunity to be heard on 07.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/ (181)/PSB/2021/3348-3352 dated 09.09.2021 issued for FY 2018-19 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 the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. **Financial Suggestion for Improvements**

1. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15.12.1999, "*the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution*". The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   In this regard, it is also important to mention that society was allotted an institutional land at very low cost compared to the price of commercial and as well as residential land of that nearby locality. The reason for allotment of land as such low cost was the society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. In its offer the society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, the DoE had recommended to the land-owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such posh location.

   Accordingly, if the DoE finds any deviation or non-compliance in any condition of land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE. Society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the main source (i.e., land) which was required to establish and run the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause was included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

   The DoE, in its Order No. DE 15/181/PSB/2021/3348-3352 dated 09.09.2021 issued to the school post evaluation of a fee hike proposal for the academic session 2018-19, noted that the school had paid rent of INR 1,37,07,050 to the society for use of the school building until December 2017. However, based on the above-mentioned provision, the school cannot make any payment to the society by way of rent or otherwise. Therefore, the school was directed to recover INR 1,37,07,050 from society, which is still pending for recovery. Accordingly, this amount of INR 1,37,07,050 has been included in the calculation of available funds of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

   Non-compliance of this direction will be viewed seriously, and appropriate action against the school shall be taken under Section 24(4) of the DSEA, 1973 without providing further opportunity to be heard.

2. Clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"no amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution."*

A review of the audited financial statements for FY 2021–22, revealed that the school has reported INR 6,66,78,823 as recoverable from society. During the personal hearing, the school was asked to provide a ledger account along with the details of this payment. In response to its reply, the school submitted only ledger accounts in condensed form (not in detailed form) but did not submit the reason as to why this amount was transferred to the school. From the record submitted by the school, it was also noted that the school has yet to implement the recommendation of the 7th CPC and has to invest an amount in plan assets for the payment of retirement benefits admissible to the employees. Therefore, it appears that the school has deliberately exhausted school funds in the hope of getting the fee hike from the department.

Therefore, the amount recoverable from society of INR 6,66,78,823 has been included in the determination of the fund position of the school, with the direction to the school to recover this amount within 30 days from the date of issue of this order and restrain itself from transferring school funds to the trust in the future.

3. Rule 59 of DSEAR, 1973 'Scheme of management of recognized school' states *"Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and 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 authorized 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 manage.

The DoE, in its Order No. DE.. DE. 15/181/PSB/2021/3348-3352 dated 09.09.2021 issued to the school post evaluation of the fee hike proposal for the academic session 2018–19, noted that the school paid professional charges of INR 1,15,64,000 to Mrs. Kamla Rani Gupta from FY 2014–15 to FY 2018–19, who is a member of the society. The aforesaid payment was made without complying with the aforesaid provisions. As on 31.03.2019 the school reported INR 58,00,000 payable to Mrs. Kamla Rani Gupta. Therefore, the school was directed to recover INR 57,64,000 *(INR 1,15,64,000 minus INR 58,00,000)* from society, the amount actually paid to Mrs. Kamla Rani Gupta, which is still pending for recovery.

Further, on review of the audited financial statements from FY 2019–20 to FY 2021–22, it was noted that the school, instead of recovering the aforesaid amount, has incurred further expenses of INR 53,46,000 *(INR 1,48,500 per month)* as professional charges payable to Mrs. Kamla Rani Gupta, leaving an outstanding balance of INR 29,30,000 as on 31.03.2022.

Therefore, total payment made to Mrs. Kamla Rani Gupta member of the society amounting to INR 1,39,80,000 i.e. *(INR 57,64,000 plus INR 53,46,000 minus INR 29,30,000)* has been considered as fund available with the school and has been included in the calculation of fund position 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. 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 hike proposal for the subsequent academic session.

4. As per sub rule (ii) of Rule 110 of DSE(A)R, 1973 *"Notwithstanding anything contained in sub-rule (1), every teacher, laboratory assistant, librarian. Principal or Vice-Principal employed in such school shall continue to hold office until he attains the age of 60 years."*

   The DoE, in its Order No.DE.DE.15/181)/PSB/2021/3348-3352 dated 09.09.2021, issued to the school post evaluation of the fee hike proposal for academic session 2018-19, noted that the school had paid salaries amounting to INR 3,46,122 to Mrs. Neelam on 30.06.2018 and INR 9,91,632 to Mr. Anil Kumar on 28.02.2017 28, 2017 after her/his retirement by giving extensions of service. The aforesaid payment was not made in accordance with the above-mentioned provisions. Therefore, the school was directed to recover INR 13,37,754 *(INR 3,46,122 plus INR 9,91,632)* from society, which is still pending for recovery. On review of the documents submitted, it was noted that the school, instead of recovering the aforesaid amount, has further paid INR 9,75,384 to Mrs. Neelam Kalra and INR 13,53,925 to Mr. Anil Kumar during FY 2019–20, FY 2020–21, and FY 2021–22.

   Therefore, the total amount paid by the school amounting to INR 36,67,063 *(INR 3,46,122 plus INR 9,91,632 plus INR 9,75,384 plus INR 13,53,925)* to Mrs. Neelam and Mr. Anil Kumar without complying with the above-mentioned provisions is recoverable from society or school management. Accordingly, it has been included in the calculation of the fund position of the school with the directive to recover this amount from society or school management 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 the school any further opportunity.

5. 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 assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date*."

A review of the audited financial statements of FY 2021–22 revealed that the school has neither recognized the liability for retirement benefits nor invested any amount in plan assets. Therefore, no amount has been considered while deriving the fund position of the school. The school is further directed to get its retirement benefit determined by the actuary and report the same in the audited financial statements along with investment in the plan assets.

6. Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated 11.02.2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, 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 from this fund, will be kept in a separately maintained Development fund Account.*"

From a review of the presentation of the audited financial statements of FY 2021–22, it has been noted the school has reported a development fund balance of INR 2,85,07,310 as on 31.03.2022 while the cash/bank balance against this fund is nil. During the personal hearing, the school was asked to provide details about how it has utilized the development fund balance, which it has not provided for verification.

The closing balance of the development fund was not considered when determining the school's fund position due to a lack of detailed information, and the school was directed to rectify its books and accounts by making the necessary accounting entries. The school is further directed to ensure that the collection and utilization of development fees and funds should be in accordance with Clause 14 of the order dated February 11, 2009.

B. Other Suggestion for Improvements

1. Section 13 (1) of the Right to Education Act, 2009 states that "*no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure*".

Section 13 (2) of the Right to Education Act, 2009 states that "*Any school or person, if in contravention of the provisions of sub-section (1):*

a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern '*Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]*' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that "*though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,*"

Further, the Hon'ble High Court in LPA 196/2004 in the matter of '*Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009*' states "*no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged".*

Further, The Directorate of Education, vide Order No. DE15/ 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, indicated the following types of fees that a recognised private unaided school can collect from the students/ parents:

a. Registration Fee
b. Admission Fee:
c. Caution Money
d. Tuition Fee
e. Annual Charges
f. Earmarked Levies
g. Development Fee

Based on the provisions mentioned above, charging of '*smart class fees, pupil fund, activity fees, games fees,*' from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form. Accordingly, the collection of smart class fees, pupil fund, activity fees, games fees indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

2. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:

    - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
    - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
    - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

    Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

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

    On review of audited financial statements for the FY 2019-20, FY 2020-21 and FY 2021-22, it is noted that the school has presented its fixed assets purchased out of school funds at Written Down Value (WDV) which is not consistent with the Guidance Note. Thus, the school is hereby directed to comply with the requirements of Guidance Note issued by ICAI

4. *Section 18(5) of the DSEA, 1973 states "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 returns shall be audited by such authority as may be prescribed".*

    Further, Rule 180 (1) of DSER, 1973 states *"every recognized private school shall submit returns and documents in accordance with Appendix-II".*

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, DoE specified vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, the format of returns and other documents required to be submitted by the private unaided recognized schools. The aforesaid order also specified format for the financial statements to be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

In view of the above, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. However, the school didn't submit the independent auditor reports for FY 2019-20 and FY 2021-22.

Therefore, the school is hereby directed to provide complete set of audited financial statements as financial statement without audit report has not been considered as complete set of audited financial statement. However, the compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year and the financial statements submitted by the school for FY 2019-20, FY 2020-21 and FY 2021-22 has been considered in the evaluation of fee increase proposal.

5. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

   From review of the audited financial statements of 2022, it has been noted that the School has not made any disclosure relating to related party transactions in its audited financial statements. In the absence of such details, the purpose and genuineness of transactions entered into between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

6. Para 99 of Guidance Note-21 '*Accounting by school*' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, *"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*".

   Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an accounting head and school do not require creation of equivalent investments against the depreciation reserve.

However, the audited financial statements of the school revealed that the school has not been following para 99 of the GN 21. Because upon incurrence of the capital expenditure out of the development fund, the school has created development fund utilisation account but has not transferred any amount from deferred income to the credit of income and expenditure account.

Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account

7. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	1,216
EWS Students *	200
% of EWS students	16.45%

**Included EWS and other non-fee paying students*

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 13,26,69,785** out of which cash outflow for the FY 2022-23 is estimated to be **INR 4,75,77,349.** This results in surplus of **INR 8,50,92,436** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	12,08,134
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	3,76,963
Liquid fund as on 31.03.2022	**15,85,097**
Add: Recovery from society for rent payments made to society **(Refer Financial Suggestion No. 1)**	1,37,07,050
Add: Recovery from society for loans to society **(Refer Financial Suggestion No. 2)**	6,66,78,823
Add: Recoverable from society or Mrs. Kamla Gupta for payment of professional charges **(Refer Financial Suggestion No. 3)**	1,39,80,000
Add: Recovery from the society for payment of Salary to retired staff **(Refer Financial Suggestion No. 4)**	36,67,063
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note No. 1 Below)**	3,39,92,919

Particulars	Amount (INR)
Add: Other income for FY 2021-22 as per audited Financial Statements **(Refer Note No. 1 Below)**	1,23,349
Add: Additional income of annual charges and development fund **(Refer Note No. 1 Below)**	2,58,740
Less: Arrears of fee recorded in FY 2021-22 related to FY 2020-21. **(Refer Note No. 1 Below)**	9,76,293
Total available funds for FY 2022-23	**13,30,16,748**
Less: FDR in joint name of DDE and Manager	3,46,963
Less: Student Security Deposit	-
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Suggestion No. 5)**	-
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 **(Refer Financial Suggestion No. 6)**	-
Less Depreciation reserve fund as on 31.03.2022 **(Refer Note No. 2 Below)**	-
Estimated Available Funds for FY 2022-23	**13,26,69,785**
Less: Budgeted Expenditure for FY 2022-23 **(Refer Note No. 3 and 4 Below)**	4,75,77,349
Less: Arrears of 7th CPC **(Refer Note No. 5 Below)**	-
Estimated Surplus	**8,50,92,436**

Note 1: 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 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 government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, 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 commercialisation, directed to the management of all the petitioners private unaided recognised 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 will also be applicable with respect to collection of fees for academic session 2021-22.

From review of the audited financial statements for 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 annual charges and development charges its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order after deducting the income of FY 2020-21 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 in the Above Table	Remarks
Tuition Fee	3,00,14,545	3,00,14,545	
Annual Charges	7,92,508	9,32,362	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	6,73,688	7,92,574	

Similarly, arrears of annual charges and development fund amounting to INR 9,76,293 for FY 2020-21 received in FY 2021-22 has been excluded while evaluating the fund position of the academic session 2022-23.

Note 2: 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 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 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 has not been considered while deriving the fund position of the School.

Note 3: All budgeted expenditure of the school has been considered while deriving the fund position of the school.

Note 4: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

Note 5: During the personal hearing, the school mentioned that it is not even in a position to pay salaries as per the recommendation of the 6th CPC. The school further explained that the management of the school has not yet decided about the implementation of the 7th CPC, and accordingly, the school has not proposed any amount towards salary arrears on account of the implementation of the 7th CPC. Therefore, no amount has been considered for salary arrears while calculating the fund position of the school.

ii. In view of the above examination, it is evident that the school does has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states 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 along with certain financial suggestions that were 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), 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, it is noticed that the school has incurred INR 9,80,32,936 incurred on payment of salary to retired staff, committee members and the society incurred in contravention to the 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 DSEAR, 1973 without providing any further opportunity of being heard.

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 funds are available with the school for meeting financial implication for the academic session 2022-23.

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, it is hereby conveyed that the proposal for fee hike of **Laxmi Public School (School ID - 1003211), X-20, Institutional Area, Karkardooma, Delhi - 110092** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, 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 DSEAR 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
Laxmi Public School
(School ID - 1003211),
X-20, Institutional Area, Karkardooma,
Delhi - 110092

No. F.DE.15 (1203 **)/PSB/2023** / 1155-1160

Dated: 03/02/23

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. DE's nominee concerned
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

Nandini

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