

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

No. F.DE.15 (1197) / PSB / 2023 / 1033-1038

Dated: 02/02/23

ORDER

WHEREAS, **Bal Bhavan Public School (School ID-1003215), Block-A, Swasthya Vihar, Delhi-110092**, (hereinafter referred to as “**the School**”), run by the Lagan Kala Upvan Regd. 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.

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 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, 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(614)/PSB/2019/3228-33 dated 14.12.2019, 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 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 hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 09.09.2022 to present its justifications/ clarifications on the fee increase proposal and full statement of fees filed under section 17(3) of the DSEA, 1973. Based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted during personal hearing with the school. During that hearing, the compliance of Order No. F.DE.-15(527)/PSB/2021/3063-3067 dated 17.05.2022 issued for academic session 2019-20 were also discussed 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 fee increase, and subsequent documents submitted by the school as a result of the personal hearing, were evaluated by the team of Chartered Accountants and key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestions for Improvement:

1. As per AS-15 on 'Employee Benefits' issued by the Institute of Chartered Accountants of India (ICAI) states that *"Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses."* Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:
 - a) Assets held by a long-term employee benefit fund; and
 - b) Qualifying insurance policies

Para 57 of AS-15 states that *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

The documents submitted by the school were taken on record. A review of the documents submitted by the school revealed that the school has reported liabilities of INR 88,29,360 towards gratuity and INR 42,71,957 towards leave encashment in the audited financial statements for FY 2021-22 based on the actuarial valuation report. However, the school has not invested any funds in plan assets in accordance with AS-15 issued by ICAI in response to the aforementioned liabilities. During the personal hearing, the school explained that due to a paucity of funds, it could not invest any amount in plan assets.

Gratuity and leave encashment are statutory liabilities that the school is required to pay to the eligible employees at the time of retirement or resignation, as the case may be. However, over the years, the department has noticed that most of the schools have been recording liabilities for retirement benefits in their financial statements without making investments in Plan Asset, either due to paucity of funds or otherwise. Therefore, many of the schools are keeping the retirement benefit unfunded, which is not in the true spirit of the law and also defeats the objectives of maintaining books of accounts as per generally accepted accounting principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgement titled *Modern School vs. Union of India and Ors.* Therefore, it has been felt that in order to protect the statutory dues of the employees, instead of disallowing the full liability on account of non-investment in Plan Asset, it would be rational to spread this liability over the period of 14 years on the



assumption that normally a student studies 14 years in the school. This will not only allow the schools a breather to make an investment in Plan Asset gradually but also lower down the sudden financial burden of fee on the parents/students on account of huge liability for retirement benefits.

Accordingly, an amount of INR 9,35,808 (i.e., 1/14 of (INR 88,29,360 plus INR 42,71,957) has been considered while deriving the fund position of the school, with the direction to the school to invest the aforesaid amount in plan assets in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order.

2. Clause 7.24 of Duggal Committee report states *“school should be prohibited from discharging any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a philanthropic activity. One only wonders what is then the contribution of the society that professes to run the school”*.

Further, Clause No. 2 of the Public Notice dated 04.05.1997 states *“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”*. Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states *“Capital expenditure cannot constitute a component of the financial fee structure.”*

Additionally, 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.

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. 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.

According to DoE Order No. F.DE.-15(527)/PSB/2021/3063-3067 dated 17.05.2022 issued for the academic session 2019-20 and Order No. F.DE.-15(21)/PSB/2019/922-926 dated 22.01.2019 issued for the academic session 2017-18, it was noted that the school had utilized school funds of INR 67,98,354 in FY 2016-17 for an addition to the school building. This expenditure was incurred by the school without complying with the above-mentioned provisions because the school has not yet implemented the recommendation of the 7th CPC completely and has not invested any amount in plan assets towards payment of the retirement benefit payable to the employees. Accordingly, the school was directed to recover INR 67,98,354 from the society, which is still pending for recovery.

Therefore, the above amount of INR 67,98,354 which is still pending for recovery has been included while deriving the fund position 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 with the above direction shall be viewed seriously in accordance with the provision of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

3. As per Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Additionally, 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”.*

The DoE, in its Order No. F.DE.-15(527)/PSB/2021/3063-3067 dated 17.05.2022 issued for academic session 2019–20, and Order No. F.DE.-15(21)/PSB/2019/922-926 dated 22.01.2019 issued for academic session 2017–18, noted that the school had purchased a luxury car for INR 50,65,492 during FY 2014–15 without complying with the above-mentioned provisions. Later on, the school submitted that it had realized INR 20,00,000 from the sale of cars and deposited the same in the school’s bank account in the month of May 2016. Therefore, the school was directed to recover the remaining amount of INR 30,65,492 from society.

As per rule 177(2) of the DSER, 1973, the school funds can be utilized for meeting capital and contingent expenditures of the school only from the savings calculated in the manner specified under Rule 177 of the DSER, 1973. However, from the record submitted by the school, it has been noted that the school has not yet implemented the recommendation of the 7th CPC and has not invested any amount in plan assets for the payment of retirement benefits to the employees. Therefore, incurring capital expenditure before salary payment amounts to the commercialization of education, which the school cannot be allowed.

Accordingly, the above amount of INR 30,65,492 has once again been included while deriving the fund position 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 with the above direction shall be viewed seriously in accordance with the provision of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

4. Section 13 (1) of the Right to Education Act, 2009 states *"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"*. Further Section 13 (2) states *"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.*

Additionally, 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*, 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 capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the recommendation of the DoE. Therefore, the school is bound to follow all the instruction/direction issued by the DoE under the obligation of land allotment letter.

Additionally, Rule 50 of DSER, 1973 states "*the school is not run for profit to any individual, group or association of individual or any other person' and 'the managing committee observes the provisions of the Act and Rules made there under'*".

Based on the provisions mentioned above and the pronouncement of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission only but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of new head of fee in the fee structure whether at the time of the admission of the students or otherwise.

In this regard the Directorate vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents otherwise than the specified head of fees.

Therefore, any demand of capitation fee or introduction of the new head of fee in the fee structure other than the notified head of fees shall be considered as *commercialization of education*, which cannot be permitted at any cost.

The DoE in its Order No. F.DE.-15(527)/PSB/2021/3063-3067 dated 17.05.2022 issued for academic session 2019-20, noted that the school was collecting of INR 15,000 in the name of '*one time miscellaneous charges*' at the time of admission from the students and '*student fund*' which was latterly merged with annual charges. This reflects the intention of school of profiteering and commercialization of education, which is in contravention of above-mentioned provisions. Accordingly, the school was directed not to collect this charge from the students with immediate effect.

The school submitted in its reply that "*collecting annual charges from students cannot be interpreted as profiteering and commercialization especially in light of the expenses incurred by the school on the general administration and administration of school, which are more than the collection against annual charges*"

The plea taken by the school in this regard is incorrect because the above direction was given to the school with respect to the collection of one-time charges from the students at the time of admission not for the



collection of annual charges. It is important to mention here that initially, the school introduced illegal fee in its fee structure and when it was pointed out by the department the school had merged this with the annual charges which is not only illegal but also involvement of the school in profiteering and commercialization of the education. Therefore, the school is hereby directed to immediately stop collection of 'one-time charges' and 'student fund' merged the with annual charges from the students.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for smooth operations of the school and ensuring compliance with the provisions of DSEAR, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by the DoE from time to time. As the manager and principal have been bestowed with the power to ensure the proper functioning of the school including admission process is transparently. They are jointly and severely responsible in their personal capacity for the levy and collection of the capitation fee and any other unauthorized fee. Therefore, non-compliance by the school with this direction within the stipulated time frame shall be viewed seriously and necessary action against the school shall be initiated without providing any further opportunity to be heard.

5. The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:

- a) It is reiterated that annual fee-hike is not mandatory.
- b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
- c) If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

The DoE in its Order No.F.DE-15(527)/PSB/2021/3063-3067 dated 17.05.2022 issued for academic session 2019-20, noted that during FY 2016-17 to FY 2019-20, the school had collected increased fee from students of class KG in FY 2016-17, Class KG & 1st in FY 2017-18, Class KG to 2nd in FY 2018-19 and class KG to 3rd in FY 2019-20 without obtaining prior approval from the Director of Education.

The fee hike order of the school was rejected by the DoE for the above-mentioned academic sessions. The school was also directed in the aforesaid orders to calculate the amount of excess fees collected by it on account of the increased fees from FY 2016-17 to FY 2019-20 and refund or adjust the same against the future dues from the students.

During the personal hearing, the amount of the increased fee collected by it on account of the increased fee was asked, which the school did not provide. Therefore, the school is hereby directed to calculate the amount of excess fee collected by it on account of increased fee and refund or adjust the same against the future dues due from the students and submit the compliance of the same.



B. Other Suggestions for Improvement:

1. 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.

2. Clause 24 of DoE Order dated 11.02.2009 states "*Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, Income & Expenditure Account and Receipt & Payment account every year.*"

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

- a. *"the financial statement of the Schools should be prepared on accrual basis.*
- b. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School's Balance sheet.....*
- c. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed...."*

Review of the audited financial statements of the school revealed that the school has been recording income on cash basis while expenses are being recoded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.



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

- i. The total funds available with the school for FY 2022-23 amounting to **INR 4,12,97,348** out of which estimated expenditures for the FY 2022-23 is to be **INR 4,36,65,997**. This results in net deficit amounting to **INR 23,68,649** for the FY 2022-23 after making all payments. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	50,48,936
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	-
Liquid Fund as on 31.03.2022	50,48,936
Add: Amount recoverable from society for construction of school building (Refer Financial Suggestion No. 2)	67,98,354
Add: Amount recoverable from society for purchase luxury car (Refer Financial Suggestion No. 3)	30,65,492
Add: Fee as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	2,52,13,952
Add: Other income as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 below)	23,68,773
Less: Deferred income (non-cash items)	2,62,351
Total Available Funds for FY 2022-23	4,22,33,156
Less: FDR in the joint name of school manager and DoE/CBSE as per Audited Financial Statements of FY 2021-22	-
Less: Retirement benefits (Refer Financial Suggestion No. 1)	9,35,808
Less: Depreciation reserve fund (Refer Note No. 2 Below)	-
Less: Development Fund as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	-
Net Available Funds for FY 2022-23	4,12,97,348
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 3 Below)	3,14,31,411
Less: Salary Arrears (Refer Note No. 4 Below)	1,22,34,586
Net Deficit	23,68,649

Note 1: Fee and income as per audited financial statements of FY 2021-22 has been considered assuming that income accrued in FY 2021-22 will be at least accrue in FY 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 charges and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges

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are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

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

Note 3: 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 4: The Salary arrears from January 2020 to March 2022 of INR 1,22,34,586 as submitted by the school has been considered while deriving the fund position.

- ii. In view of the above examination, it is evident that the school does not 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 April 2010 states:

"All schools must, first of all, explore and exhaust the possibility of utilizing 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 utilized 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 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, it is noticed that the school has incurred expenditure of INR 98,63,846 towards addition to the building, purchase of car, other assets without complying with Rule 177 of DSER'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, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. The school is hereby further directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of this order.

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past 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 10%



to be effective from 01 October 2022.

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 not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the School.

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 **Bal Bhavan Public School (School ID-1003215), Block-A, Swasthya Vihar, 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 accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 10% to be effective from 1 October, 2022.

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

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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

Nandini

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

To

The Manager/ HoS

Bal Bhavan Public School (School ID-1003215),
Block-A, Swasthya Vihar, Delhi-110092

No. F.DE.15 (1197)/PSB/2023 / 1033-1038

Dated: 02/02/23

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) to 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