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

No. F.DE.15 (1192)/PSB/2023/ 1061-1066 **Dated:** 02/02/23

Order

WHEREAS, **ST. Lawrence Public School (School ID - 1105215), Pocket-F, Dilshad Garden, Delhi - 110095** (hereinafter referred to as "**the School**"), run by the St. Lawrence 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 22.08.2022. The school was also provided an opportunity to be heard on 25.08.2022 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. FD.E 15/ (500)/PSB/2022/2890-2894 dated 12.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

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

A. **Financial Suggestion for Improvements**

1. Clause No. 2 of 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*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 titled Delhi Abibhavak Mahasangh concluded states "t*he tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society*." Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Also, Rule 177 of DSER, 1973 states *"Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. 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 institutional land at a very low cost compared to the price of commercial and residential land in that nearby locality. The low cost of land allotment was due to the society's offer to do noble work in the field of education and run the school in Delhi on a "no profit, 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 these noble grounds, the DoE recommended to the land-owning agencies the allotment of land to the society, which would otherwise not be possible for the society to have land in such a posh location at this cost.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of a 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 primary source, i.e., the land required to establish and run the school, was supported by the DoE by recommending to land-owning agencies that the land be allotted to the society, a clause was also included in the land allotment letter 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 and Rules, 1973, and other instructions issued by the department from time to time.

The DoE, in its Order No. FD.E15/ (500)/PSB/2022/2890-2894 dated 12.05.2022 issued to the school post-evaluation of the fee hike proposal for the academic session 2019–20, noted that the school incurred capital expenditure for renovation of the school building for INR 18,00,382 in FY 2015–16, INR 11,10,000 in FY 2016–17, and INR 22,41,462 in FY 2017–18. It was also noted that these expenditures were incurred without complying with the requirements of the above-mentioned provisions. Therefore, the school was directed to recover INR 51,51,844 *(i.e., INR 18,00,382 plus INR 11,10,000 plus INR 22,41,462)* from society, which is still pending for recovery.

The documents submitted by the school, post personal hearing were taken on record. The school submitted that *"INR 51,51,844 was not incurred for construction of the school building. The school building was completed before the full fledge operations of the school is underway. The expenditure was of nature of major Repairs and had been capitalized under the heads Finishing and furnishings, activity block, upgradation of computer labs. The said heads as per audited financial statements of the school clearly reflects no building was constructed by the school at all during the period under review. The said amount was used to improve the facilities and to made school infrastructure more suitable. As per rule 177 (2) of DSEAR, 1973, the school is allowed to provide for expenses required for expansion of school building or for the expansion or construction of building or establishment of hostel or expansion of hotel accommodation"*

The claim of the school is not correct because, from the reply submitted by the school, it can be seen that the above expenditure was incurred in relation to the construction and upgrade of the activity block and computer labs, which are part of the school building. Therefore, the submission by the school that it was incurred in compliance with Rule 177 cannot change the existing law regarding the collection and utilization of school funds. According to Rule 177 of the DSER, 1973, the income derived by the unaided recognised private school through fees should be used to meet the pay, allowances, and other benefits admissible to the employees, and any surplus may be used to meet the school's capital and contingent expenditures. Upon review of the documents submitted by the school, it was observed 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 gratuity and leave encashment.

In view of the above, the total expenditure incurred by the school amounting to INR 51,51,844 *(i.e., INR 18,00,382 plus INR 11,10,000 plus INR 22,41,462)* on the construction of the school building is still recoverable from the society. Accordingly, it has been included when determining 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 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 providing further opportunity to be heard to the school.

2. As 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.*"

Section 18(4) of DSEA,1973 states "*Income derived by unaided school by way of fees shall be utilized only for such educational purpose as may be prescribed*". And Rule 176 of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

The DoE in its Order No.DE 15/ (500)/PSB/2022/2890-2894 dated 12.05.2022 issued to the school post-evaluation of the fee hike proposal for the academic session 2019–20, noted that the school incurred capital expenditure of INR 15,96,000 in the FY 2018–19 for the purchase of buses without complying with the aforesaid provisions of Rule 177 of the DSER, 1973. Accordingly, the school was directed to recover INR 15,96,000 from society, which is still pending for recovery.

The documents submitted by the school post-personal hearing were taken on record. According to a review of the documents, it was noted that the school had purchased the above bus without determining savings under Rule 177 of the DSER, 1973. This fact can also be established: the school is yet to implement the recommendations of the 7th CPC and has yet to invest an amount in a plan for the payment of retirement benefits.

Therefore, the total expenditure incurred by the school, amounting to INR 15,96,000, is still recoverable from the society and has been included in the fund position of the school with the direction to recover this amount from the society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving the school further opportunity to be heard.

3. Rule 177 of DSER, 1973 states (1) "*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*".

(2) 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/(500)/PSB/2022/2890–2894 dated 12.05.2022 issued to the school post-evaluation of a fee hike proposal for the academic session 2019–20, noted that the school had paid scholarship of INR 8,73,172 in FY 2018–19. The aforesaid expenditure was incurred without complying with the aforesaid provisions. Therefore, the school was directed to recover INR 8,73,172 from society, which is still pending for recovery.

The documents submitted by the school, post personal hearing were taken on record. The school submitted that *"the school has given concessions to students based on the request received from the parents as they were not capable to pay fees."*. The school submitted that it has used wrong nomenclature which will be rectified in subsequent financial year.

In view of the above, the aforesaid recovery has been dropped with the direction to the school to change the nomenclature of the above expenditure in its books of accounts.

4. As per Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 stated "*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 income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

   The DoE in its Order No. F.DE.15/ (500)/PSB/2022/2890-2894 dated 12.05.2022 issued to the school post evaluation of the fee hike proposal for the academic session 2019–20, noted that the school incurred capital expenditure of INR 35,97,670 in FY 2017–18 out of the depreciation reserve funds, whereas the total cost of fixed assets was capitalized at INR 14,15,088 in the books of accounts. Accordingly, the school was directed to recover the differential amount of INR 21,82,582 *(INR 35,97,670 minus INR 14,15,088)* from society, which is still pending for recovery.

   Post personal hearing, the school submitted that, "*necessary and requisite adjustments with respect to the above-mentioned recovery have been carried in the books and accounts, and the same have been reported in the audited financial statements of FY 2020–21.*" However, from the review of the documents submitted by the school, the appropriate adjustment with respect to the above observation cannot be identified from the audited financial statements of FY 2021–22.

   Accordingly, the above recovery of INR 21,82,582 *(INR 35,97,670 minus INR 14,15,088)* has again been included in the calculation of 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 the 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 providing the school with further opportunity to be heard.

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 recorded a liability for retirement benefits of INR 71,95,120 *(INR 59,09,606 towards gratuity and INR 12,85,514 towards leave encashment)* based on the management estimates. Despite recording the liability on management estimates, the school has not invested any amount in plan assets within the meaning of AS-15 for the discharge of these liabilities as and when they arise for payment.

Therefore, the school is hereby directed to get the actuarial valuation report for the actual liability of retirement benefits, report the same in its audited financial statements, and invest in plan assets an amount equivalent to the liability determined by the actuary for future payment.

B. Other Suggestion for Improvements

1. 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*".

   From the review of the presentation of the audited financial statements of FY 2021–22, it has been noted that upon purchase of assets out of the development funds, the school transfers an amount equivalent to the cost of the assets to 'Development Fund Utilized Account." But the same is not being written off in the proportion of depreciation charged to the revenue account. As a result, the depreciation reserve fund and development fund utilised account closing balances do not correspond to the cost of assets purchased with the development fund. Therefore, the school is hereby directed to rectify its accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal for the next academic session.

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. *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.

Based on the aforesaid provisions, 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. The documents submitted by the school for evaluation of the fee hike proposal were taken on record. Review of the audited financial statements and Independent Auditors Report for FY 2021-22 the following was noted:

a. The Independent Audit Report was not issued in the format prescribed by Standard on Auditing 700 (SA-700), as defined by the Institute of Chartered Accountants of India (ICAI). Because the majority of the content of the Independent Auditors' Report was missing, such as the auditors' and management's responsibilities.

b. In the audit report, the auditor has mentioned 'profit and loss account' whereas the school is required to prepare 'income and expenditure account'.

c. In the audit report, no reference with respect to 'Receipt & Payment Account' is mentioned, raising the doubt as to whether this has been audited or not. Although the same was duly signed by the auditor and management of the school

In light of the foregoing, the school is hereby directed to strengthen its process for preparation and presentation of financial statements in accordance with the above-mentioned provisions. However, the audited financial statements submitted by the school have been considered for the evaluation of the fee hike proposal of the school.

4. 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. 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	1,326
EWS Students	237
% of EWS students	17.87%

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 61,842,533** out of which cash outflow for the FY 2022-23 is estimated to be **INR 67,952,679.** This results in deficit of **INR 6,110,146** 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	(4,48,327)
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	2,08,718
Liquid fund as on 31.03.2022	**(2,39,609)**
Add: Recovery from society for construction of school building **(Refer Financial Suggestion No. 1)**	51,51,844
Add: Recovery from society towards purchase of bus **(Refer Financial Suggestion No. 2)**	15,96,000
Add: Recovery from society for payment of scholarship **(Refer Financial Suggestion No. 3)**	-
Add: Recovery from society for diversion of assets **(Refer Financial Suggestion No. 4)**	21,82,582
Add: Fees as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	6,16,37,146
Add: Other income as per audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	38,21,932
Add: Additional income towards annual and development fee **(Refer Note No. 1 Below)**	26,47,167
Less: Fee related to FY 2020-21 recorded in FY 2021-22 **(Refer Note No. 1 Below)**	(1,49,06,644)
Total available funds for FY 2022-23	**6,18,90,418**
Less: FDR in joint name with DOE	-
Less: FDR in joint name with CBSE	-

Particulars	Amount (INR)
Less: Student Security Deposit **(Refer Financial Suggestion No. 4)**	-
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	47,885
Less Depreciation reserve fund as on 31.03.2022 **(Refer Note No. 2 Below)**	-
Estimated Available Funds for FY 2022-23	**6,18,42,533**
Less: Budgeted Expenditure for FY 2022-23 **(Refer Note No. 3 and 4 Below)**	6,79,52,679
Less: Arrears of 7th CPC **(Refer Note 5 Below)**	-
Estimated Deficit	**61,10,146**

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	3,12,92,187	3,12,92,187	
Annual Charges	1,14,07,768	1,34,20,904	Based on the information provided by the school, it was noted that the school has recorded 85% of the income under these heads as per DoE order dated 01.07.2021. Therefore, in order to determine normal income of the school these heads have been grossed up.
Development fund	35,92,847	42,26,879	

Similarly, income amounting to INR 1,49,06,644 recoded by the school related to previous FY 2020-21, actually recorded in the FY 2021-22 has been excluded while deriving the fund position of the school.

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 except the following:

Particulars	Expenditure Budgeted for FY 2022-23	Disallowed	Remarks
Teacher Reserve Fund	55,00,000	55,00,000	The budgeted expenditure towards reserve without investing the same in joint name of deputy director education and manager of the school has not been considered.
Salaries	4,19,22,700	45,27,621	Normal increase in the salary expenditure for the FY 2022-23 has been considered while deriving the fund position of the school. Therefore, the excess expenditure of INR 45,27,621 proposed by the school towards salary expenditure has not been considered.
Depreciation	10,00,000	10,00,000	Not considered being non-cash items.
Transportation expenses – Hire charges	8,84,600	8,84,600	Income and expenditure related to transport facility has not been considered in the above calculation.

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: The school was asked to provide salary arrears figures which is payable to the employees. Several reminders were also sent to the school on 22.08.2022, 21.12.2022, 27.12.2022, 04.01.2023, 09.01.2023 and 11.01.2023 however, the school failed to submit correct details. In the absence of necessary information, no figures towards salary arrears have been considered while deriving the fund position of the school.

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 16.04.2010 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 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 INR 89,30,426 towards building renovation, purchase of bus and misutilization of development fund in contravention of 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 12% 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 **ST. Lawrence Public School (School ID - 1105215), Pocket-F, Dilshad Garden, Delhi - 110095** 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 12% 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
ST. Lawrence Public School
(School ID - 1105215),
Pocket-F, Dilshad Garden,
Delhi - 110095

No. F.DE.15 (1192)/PSB/2023/ 1061-1066 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 (North East II) 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