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

No. F.DE.15 (1211)/PSB/2023/ 1232-1236 **Dated:** 07/02/23

Order

WHEREAS, **Hans Raj Smarak School (School ID- 1106195), Dilshad Garden, Delhi-110095** (hereinafter referred to as **"the School"**), run by the **Hans Raj Smarak Society** (hereinafter referred to as the "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (**hereinafter referred to as "DoE"),** under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed'.*

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools……..

…..If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session **2022-23**. Accordingly, this order dispenses the proposal for increase of fee submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to 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 this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 08th December 2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE.15(645)/PSB/2022/3795-3799 dated 31.05.2022 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing, 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. Clause 2 of Public Notice *dated 04.05.1997 states "Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". Moreover, the Hon'ble High Court of Delhi in its Judgement dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society". Also clause (vii) 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 financial fee structure."*

Additionally, Rule 177 of DSER, 1973 states that *income derived by an unaided private 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.*

Based on the aforesaid Public Notice and Judgement of the Hon'ble High Court, the cost relating to construction of Building has to be met by the society, being the property of the society and not from the fund of the school. Further, Rule 177 states that the school is not allowed to make addition to the building if it does not have savings.

(a) The school incurred INR 5,49,88,801 for payment to society for construction of building and additions made to the building from FY 2016-17 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(645)/PSB/2022/3795-3799 dated 31.05.2022 for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The compliance report submitted by the school against order dated 01.07.2022 were taken on record. The school submitted that "After the initial stage of completion of building and commencement of operations, the expenditure on the school building is the responsibility of school managing committee. Further, the school has always done expenditure towards building once the directions of Rule 177 (1) (para 1) are fulfilled."

The contention of the school is incorrect. On review of the documents submitted by the school, the school is still showing 7th CPC salary arrears are still pending in the Budget 2022-23. Hence, Rule 177(1) (para 1) was never fulfilled by the school.

Further, the school was asked to provide documents related to ledgers of society and building account maintained in school books from FY 2013-14 to FY 2021-22 via e-mail dated 28.12.2022 and 03.01.2023. However, the school was not able to provide such documents from that it seems the school does not have proper explanation to justify their contention.

(b) The school incurred INR 40,55,000 for installation of solar plant in FY 2017-18 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(645)/PSB/2022/3795-3799 dated 31.05.2022 for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Therefore, the amount utilised by the school towards payment to society for construction of school building , additions made to the building and installation of solar plant totalling to INR 5,90,43,801 (INR 5,49,88,801 + INR 40,55,000) in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER,1973 is hereby again considered as fund available with the school to pay salary arrears outstanding on implementation of the recommendations of 7th CPC with the direction to the school to recover the same 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 any further opportunity to the school.

2. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*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 Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*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 recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

   On review of the audited financial statements for the FY 2021-22, it has been noted that the school has made equivalent provision for gratuity amounting to INR 3,07,85,975 and leave encashment amounting to INR 95,98,141 against the liability determined by the actuary. Further, it has been noted that the school has invested equivalent amount towards gratuity and leave encashment in plan assets. Therefore, the amount invested by the school amounting to INR 4,03,84,116 in plan assets has been considered while calculating the fund position of the school for the FY 2022-23.

   In view of the above, the amount of INR 15,00,000 proposed by the school towards gratuity and leave encashment in FY 2022-23 has also been considered while deriving the fund position of the school for FY 2022-23.

3. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   Further, Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, require that the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year after the expiry of the 30 days and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year.

   On review of the audited financial statements for the FY 2021-22, it has been noted that the school had not treated un-refunded caution money belonging to ex-students as income for the FY 2021-22.

   Therefore, the school is directed to determine caution money which is refundable to the students as on the balance sheet date and account for unclaimed caution money belonging to ex-students as income while projecting the fee increase proposal of the subsequent year. However, total liability of INR 12,75,244 against the caution money as per the audited financial statements for FY 2021-2 has been considered while calculating fund position of the school.

4. 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 income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

Para 99 of Guidance Note-21 Accounting by Schools 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."

Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

i. In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
ii. Assets, such as investments, and liabilities belonging to each fund separately;
iii. Restrictions, if any, on the utilization of each fund balance;
iv. Restrictions, if any, on the utilisation of specific assets."
v. Also, as per para 67(ii) of the Guidance Note-21 "The financial statements should disclose, inter alia, the historical cost of fixed assets."

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 income and expenditure account. If the school follows the accounting treatment specified by para 99 of the guidance note, the depreciation reserve fund would be mere an accounting head and school is not required to invest equivalent for that. However, on review of the audited financial statements of the FY 2021-22 revealed that the school has not followed guidance of para 99 of the GN 21 cited above as the school has created the deferred income account upon purchase of assets out of the development fund but has not transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets.

Further, on review of the audited financial statements for the FY 2019-20, it has been noted that the school has purchased Maruti Baleno car which is not in accordance with clause 14 of order dated 11-02-2009. As per clause 14 of the order dated 11.02.2009, the development funds can only be utilized for purchase upgrade and replacement of furniture, fixture, and equipment only and not for other purpose. Therefore, the school is hereby directed to ensure that the development fee should be collected and used in accordance with clause 14 of the order dated 11.02.2009.

Moreover, on review of the audited financial statements for the FY 2021-22, it has been noted that the school has maintained separate bank account for development fee collection, but it is not equivalent to the development fund balance amounting to INR 1,22,10,951 which is reported in the audited financial statements at the year-end which is also in contravention of aforesaid clause 14 of order dated 11.02.2009.

Hence, bank balance of development fund amounting to INR 1,30,002 as on 31.03.2022 has been considered while calculating the fund position of the school along with the directions to the school to comply with the aforesaid requirements.

B. **Other Suggestions for Improvement**

1. Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states *"The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."*

Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states *"No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."*

Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

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

Rule 176 states *"Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."*

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

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

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of transport fees, activity/computer fees, Edu smart fees and laboratory fees from the students. However, the school has not maintained separate fund accounts for these earmarked levies. The school has been generating surplus from activity/computer fees that has been utilised for meeting other expenses of the school. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

Particulars	Activity/ Computer Fees*	Edu smart Fees*	Laboratory Fees*	Transport Fees
For the year 2019-20				
Fee Collected during the year (A)	99,44,430	49,73,300	27,15,452	36,75,650

Expenses during the year (B)*	42,90,639	30,17,718	13,72,953	49,67,634
Difference for the year (A-B)	**56,53,791**	**19,55,582**	**13,42,499**	**(12,91,984)**
For the year 2020-21				
Fee Collected during the year (A)	1,39,980	95,070	2,64,085	-
Expenses during the year (B)	37,42,555	15,63,884	9,50,745	28,10,772
Difference for the year (A-B)	**(36,02,575)**	**(14,68,814)**	**(6,86,660)**	**(28,10,772)**
For the year 2021-22				
Fee Collected during the year (A)	50,66,750	1,02,200	2,10,660	-
Expenses during the year (B)	35,49,680	18,52,499	9,56,095	29,44,783
Difference for the year (A-B)	**15,17,070**	**(17,50,299)**	**(7,45,435)**	**(29,44,783)**
Total (Surplus)	**35,68,286**	**(12,63,531)**	**(89,596)**	**(70,47,539)**

* Edu Smart Fees & Activity Fees (Collected from all classes), Laboratory Fees (Collected from XI and XII Class)

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Edu Smart fees and Activity fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge Edu Smart fees and activity fees as earmarked levy with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

2. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to the students belonging to weaker section. However, as per the information provided by the school for the FY 2019-20 to FY 2021-22, it has been noted that the school has not complied with above requirement. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
EWS	468	479	532
Total Strength	2562	2648	2656
% Of EWS students to total strength	**18%**	**18%**	**20%**

3. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

   Further, Para 58(i) of the Guidance Note states "A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note."

   On review of audited financial statements of the FY 2021-22, it has been noted that the school has charged depreciation on fixed assets at the rates prescribed in the Income Tax Rules, 1962.

   Therefore, school is directed to provide depreciation on assets in accordance with the guidance note cited above.

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 **18,27,99,540** out of which cash outflow for the FY 2022-23 is estimated to be INR **11,00,99,464.** This results in surplus of INR **7,27,00,076** for the FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	74,93,688
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	8,97,72,880
Liquid Funds as on 31.03.2022	**9,72,66,568**
Add: Amount recoverable from society against transfer of building from society and addition to the school building **(Refer Financial Suggestion No. 1)**	5,49,88,801
Add: Amount recoverable from society for installation of solar plant **(Refer Financial Suggestion No. 1)**	40,55,000
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 Below)**	6,70,50,658
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	27,00,519
Total Available Funds for FY 2022-23	**22,60,61,546**
Less: Gratuity and Leave Encashment Fund with LIC as on 31.03.2022 **(Refer Financial Suggestion No. 2)**	4,03,84,116
Less: Caution Money as on 31.03.2022 **(Refer Financial Suggestion No. 3)**	12,75,244
Less: FDR in the name of Manager & CBSE as on 31.03.2022 **(Refer Note 4 Below)**	-
Less: Development Fund as on 31.03.2022 **(Refer Financial Suggestion No. 4)**	1,30,002

Particulars	Amount (in INR)
Less: Depreciation Reserve Fund **(Refer Note 5 Below)**	-
Less: FDR in the name of MCD & School as on 31.03.2022 **(Refer Note 1 Below)**	75,847
Less: FDR in the name of DoE and School as on 31.03.2022 **(Refer Note 1 Below)**	13,96,797
Net Available Funds for FY 2022-23 - (A)	**18,27,99,540**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 6 Below)**	8,10,52,000
Less: Salary arrears of 7th CPC **(Refer Note 7 Below)**	2,90,47,464
Total Estimated Expenditure for FY 2022-23 - (B)	**11,00,99,464**
Net Surplus (A-B)	**7,27,00,076**

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

Particulars	Amount (in INR)	Remarks
FDR - Contingency Reserve Fund	1,95,04,637	Refer Note 4 Below
FDR - Other FDR	1,00,45,605	FDR is in the name of school hence considered as free funds
FDR - MCD & School	75,847	Considered while calculating the fund position of the school
FDR - DoE & School	13,96,797	Considered while calculating the fund position of the school
FDR - Development Fund	56,97,068	FDR is in the name of school, hence not deducted while calculating the fund position of the school
FDR - Depreciation Reserve Fund	1,26,68,811	Refer Note 5 Below
FDR - Gratuity Fund	3,07,85,974	Refer Financial Suggestion No. 2
FDR - Leave Encashment Fund	95,98,141	
Total	**8,97,72,880**	

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

(i) *"to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21".* And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
(ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.
(iii) The above arrangement is also applicable for collection of fees for FY 2021-22.

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 100% of the tuition fees, annual charges and development fees in its audited financial statements for the FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fees, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per AFS of FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	4,69,87,985	4,71,02,880	Tuition fees, Annual Charges and Development Fees collected in FY 2021-22 includes arrears of FY 2020-21 hence, Tuition fees, Annual Charges and Development Fees has been considered as per reconciliation submitted by the school for the FY 2021-22.
Annual Charges	2,61,32,820	1,38,65,962	
Development Fees	1,38,72,398	59,98,627	
Total	**8,69,93,203**	**6,69,67,469**	

Note 3: All other income as per audited financial statements of the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23

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

As per audited financial statements for the FY 2021-22, the balance of Salary Reserve was INR 1,95,04,637. However, the school has not earmarked any investment in the joint name of the Dy. Director and Manager of the school. Hence, the same has not been considered while calculating the fund position of the school.

Note 5: 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 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 6: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except following:

Heads	Budgeted Expenditure in FY 2022-23	Amount Disallowed	Remarks
Transport Expenses	32,23,000	32,23,000	Neither income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis.
Total	**32,23,000**	**32,23,000**	

Note 7: As per the submission made by the school, it has been noted that the school has implemented 7th CPC partially. The school has submitted 7th CPC arrears for the period April 2018 to November 2022. However, on review of the calculation of 7th CPC salary arrears, there were some instances where school calculated arrears while taking DA as part of current salary (i.e July 2019 to June 2020) and in some instances school calculated arrears while not taking DA as part of current salary (i.e July 2020 to March 2022) which creates ambiguity on the calculation of 7th CPC salary arrears.

However, by taking a liberal stand for the school, arrears calculated in the month of April 2020 has been considered as recurring arrears till March 2022. Therefore, total arrears amounting to INR 2,90,47,464 (INR 12,10,311 * 24 Months) has been considered while calculating the fund position of the school.

ii. The school has sufficient funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

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

AND WHEREAS, in the light of 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 that along with certain financial and other irregularities, 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, 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 the school has sufficient funds for meeting financial implication for the academic session 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23

Accordingly, it is hereby conveyed that the proposal of fee increase of **Hans Raj Smarak School (School ID- 1106195), Dilshad Garden, Delhi-110095,** is rejected by the Director of Education. 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 in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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
Hans Raj Smarak School
School ID- 1106195,
Dilshad Garden, Delhi-110095

No. F.DE.15 (121)/PSB/2023/ 1232 - 1236

Dated: 07/02/23

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) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

Nandini

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