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

No. F.DE.15 (/004)/PSB/2022/ 8576-8580 **Dated:** 25/10/22

Order

WHEREAS, **Darbari Lal DAV Model School, BN Block Shalimar Bagh, Delhi-110088 (School ID- 1309175)** (hereinafter referred to as " **the School**"), run by the DAV Collage Trust and Management 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(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 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 dated 5.08.2022. The school was also provided an opportunity of being heard on 10.08.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during personal hearing, the school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE-15(336)/PSB/2020/9595 dated 21.12.2020 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing on 12.09.2022 and 19.09.2022, were evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the School are hereunder:

A. Financial Suggestion for Improvements

1. 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.*"

   Based on the aforementioned provisions, cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds should not be utilized for this purpose.

   The Directorate through Order No. F.DE-15(336)/PSB/2020/9595 dated 21.12.2020 issued for academic session 2019-20, directed the school to recover INR 8,68,972 from society on account of capital expenditure incurred by the school for construction of the school building which is still pending for recovery. The department noted that the school had incurred the above expenditure without complying with the provisions of Rule 177 of DSER, 1973. Given the fact that the school did not implement the recommendation of the 7th CPC fully and invest an amount in plan asset to protect the statutory dues of the employee towards gratuity and leave encashment.

   Further, the school in its representation letter mentioned that although it was capitalized under the head building, it was not related to additional to the school building. However, from a review of the records submitted by the school, it has been noted that INR 7,56,566 was incurred for construction of the staff room and INR 1,02,956 was incurred for construction of ATM room. As the financial statements of the school have already been audited by an independent auditor, who must have vouched the nature of these transactions before expressing an opinion on the financial statements of the school. Therefore, the claim of the school cannot be accepted. Accordingly, this has been included in the calculation of funds available to the school with directions to the school to recover this amount from society within 30 days from the date of issue of this order.

2. Clause 14 of the Order No. F.DE/15 (56)/ Act/2009/778 dated 11.02.2009 "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment.*" Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

   From a review of the audited financial statements of FY 2021-22, it has been noted that the school has transferred development fund balance of INR 7,09,68,062 to general funds (O/b INR 7,09,33,399 plus INR 34,663 receipts of advance for FY 2021-22) leaving the closing balance of development funds Nil as on 31.03.2022. During the personal hearing, the school explained that due to paucity of funds, the school was left with no option except to utilize the development funds for payment of salary and salary related cost. The school also mentioned that the financial conditions of the school in last two were so sever due to which it had to take loan from other school and society. In this regard the school was asked to provide the complete details of development funds utilized towards the payment of salary and other expenditure, but the school has not provided these details for verification. In the absence of necessary information, the development funds/ fee which has been used by the school in last two years towards payment of salary and other expenditure has been carried out based on the available documents on record. From the below table it can be seen that the school had sufficient fund to meet establishment expenditure even without using the development funds/fee.

Particulars	FY 2020-21	FY 2021-22	Total Amount (INR)
Salary & Allowance as per I&E account	22,45,03,649	22,42,69,288	44,87,72,937
Payment towards Gratuity and Leave encashment as per the details provided by the school	2,35,50,833	2,37,91,388	4,73,42,221
Establishment Expenditures	**24,80,54,482**	**24,80,60,676**	**49,61,15,158**
Less: Amount already available with the school in the form of investment for payment of retirement benefits	-	-	4,73,42,221
Less: Amount pending for payment as per audited financial statements	-	-	9,52,52,342
Net payment of salary in last two years including retirement benefits (A)	-	-	**35,35,20,595**
Available of Funds with the School			
Fee received by the school other annual charges and development fund	17,08,80,055	15,94,73,945	33,03,54,000
Balance of development funds utilized by the school for payment of salary	-	-	7,09,33,399
Development fee treated as revenue receipts in FY 2021-22	-	-	3,59,29,021
Less: Fee receivable as per audited financial of FY 2021-22			1,28,88,701
Total Funds available with the school for payment of salary (B)			**42,43,27,719**
Surplus funds (B-A)			**7,08,07,124**

*As the school is not preparing receipts and payment account correctly, therefore, amount actually collected by the school cannot be determined. Hence, income and salary expenditure as per income and expenditure has been considered in the above calculation.

In view of the above calculation, it can be seen that the school had enough fund to meet salary cost without utilising development funds/fee. Therefore, the amount of development fee collected in last three financial years was not actually utilized by the school for payment of salary only rather it has been used to meet the other expenditures of the school. Accordingly, the development fee collected by the school in last three financial years minus capital expenditure incurred by the school is recoverable from the society/ school management due to misutilization. Therefore, net amount of INR 5,89,48,051 as provided in the below table has been included while deriving the fund position of the school with the direction to the school to recover this amount from society/ school management within 30 days from the date of issue of this order.

Particulars	Amount (INR)
Development fee collected from FY 2019-20 to 2021-22	5,95,96,793

Particulars	Amount (INR)
Less: Capital expenditure incurred from FY 2019-20 to 2021-22	648742
Development fee utilized school for revenue expenditure	**5,89,48,051**

Further, based on the past records of the school and as pointed out by the DoE in its hike order issued to the school for FY 20217-18, it was found that the school had incurred INR 37,77,400 for the purchase of two CNG buses during FY 2016-17 and reported the same as utilisation of development fund in the audited financial statements. The expenditure incurred by the school was neither in accordance with Clause 14 of the order dated 11.02.2009 nor Rule 177 of DSER, 1973. Given the fact that the school does not maintain a transport fund account and creates any reserve for the saving from transportation services which can be utilized for the purchase of buses in future. Accordingly, the amount of INR 37,77,400 utilized by the school out of the school funds to provide facilities for the specific students only was not correct.

In view of the above, the amount of development fund utilized by the school for purchase of bus without complying with the above-mentioned provisions is recoverable from society and has been included while deriving the fund position of the school with the direction to the school to recover this amount within 30 days from the date of issue of this order.

Further, the school has not been maintaining a depreciation reserve fund in accordance with clause 14 of the order dated 11.02.2009. The school has been preparing a consolidated fixed assets schedule for the purchase of assets both from development funds and general funds. In the absence of a separate fixed assets schedule, it is difficult to identify whether particular assets were purchased out of the development funds or general funds. Therefore, the school is hereby directed to maintain a separate fixed assets schedule for the purchase of assets from development funds and general funds. The compliance with directions shall be evaluated while evaluating the fee hike proposal of subsequent year.

3. Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India "*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 review of the audited financial statement, it has been noted that the school upon purchase of assets out of the development funds, transfers an amount equivalent to the cost of the assets to General Funds instead of transferring it as deferred income which may be written off in proportion of deprecation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilization resulting incorrect reporting of General Reserve. Accordingly, the operation loss of INR 30.05 crores reported by the school in the audited financial statements is not correct and misleading to the reader of financial statements.

During personal hearing, school accepted this fact and agreed 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 of the next academic session.

4. As per Rule 177 of DSEA & R 1973, "*(1) Income derived by an unaided recognised school by way of fees shall be utilised 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 utilised 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 recognised 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) *The savings referred to in sub-rule (1) 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 per cent, of such savings."

The DoE through Order No. F.DE-15(336)/PSB/2020/9595 dated 21.12.2020, issued to the school post evaluation of fee increase proposal, directed the school to recover INR 3,87,600 from society on account of expenditure incurred for scholarship awards to the meritorious students without complying with Rule 177 of the DSER, 1973 which is still pending for recovery. Therefore, this amount of INR 3,87,600 has been added to the calculation of funds available with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

5. The submissions of the school regarding payment of administrative charges @ 4% of basic pay were taken on record and included in the Directorate's order issued tot eh school post evaluation of fee increase proposal for academic session 2016-17. Further, the school was directed through DoE Order No. FDE15(31) PSB/2019/902-906 dated 22.01.2019 that post implementation of 7th CPC, the school should not incur administrative charges beyond 2% of basic salary. However, while evaluating the fee increase proposal for the academic session 2019-20, it was noted that the school had calculated administrative charges @ 4% of basic salary till FY 2017-18 and @ 7% of basic salary thereafter. Accordingly, the school was directed to recover the excessive administrative charges paid to DAV CMC amounting to INR 66,64,224 (INR 13,38,885 in FY 2017-18, INR 53,25,339 in FY 2018-19).

   The documents submitted by the school post personal hearing were taken on record, the school mentioned in its reply that now it has been calculating administrative charges @ 2% of basic pay. The school has further submitted that it has not paid administrative charges from April 2019 onward to DAV CMC. However, on analysis of audited financial statements from FY 2019-20 to FY 2021-22, it was found that the school paid administrative charges of INR 11,72,584 in FY 2019-20. Therefore, excessive administrative charges paid by the school to DAV CMC as per the previous order of FY 2019-20 amounting to INR 66,64,224 is still recoverable from society and accordingly has been include while deriving the fund position of the school.

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

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

   Review of the audited financial statements of FY 2021-22 revealed that the school recorded total liability of INR 23,55,92,815 for retirement benefit as on 31.03.2022 based on the actuarial valuation report and has invested INR 8,02,05,385 with LIC in plan assets. Therefore, the amount deposited by the school in plan assets has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets.

7. The DoE, in its order issued to the school post evaluation of the fee hike proposal for academic session 2016-17, noted that an amount of INR 5,00,000 was paid to DAV CMC on account of the advertisement and publicity during FY 2016-17. As per the school submission, this amount was paid as part of the subscription to defray the expenses of holding a function in Jawahar Lal Nehru Stadium wherein students of the school also participated besides other schools. However, the school did not provide supporting documents with respect to such an event, i.e., list of participant schools, number of school participants, amount of contribution, total cost incurred, supporting of the invoices, basis of allocation of cost, etc.

   In the absence of detailed information, the expense of INR 5,00,000 is deemed to be an expense incurred on behalf of DAV CMC. Accordingly, the amount paid to DAV CMC as donation/ grant is hereby added to the fund position of the school considering the same as funds available with the school with the direction to the school to recover the same from the society within 30 days from issue of this order.

B. Other Suggestion for Improvements

1. As per Clause 19 of Order No. F.DE/15(56)/Act/2009/778 dated 11.02.2009 "*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.*"
   Further clause 21 of the aforesaid order "*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.*"

   And as per clause 22 of Order No. F.DE. /15(56)/ Act/2009/778 dated 11.02.2009 "*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.*"

   As per Rule 176 of the DSER, 1973 "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Further, sub-rule 3 of Rule 177 of DSER, 1973 provides "*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 of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" And, 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.*"

However, as per audited financial statements of FY 2019-20, it has been noted that the school charges earmarked levies in the form of Transport Fees, Science fee, IT Charges, Activity Charges, Group Insurance, Internet Charges and Computer Fee from students, safety, and security (newly introduced). However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

The aforementioned Guidance Note also 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 ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to 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 during subsequent proposal for enhancement of fees, ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

2. As per Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15.12.1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:
    - Registration Fee
    - Admission Fee
    - Caution Money
    - Tuition Fee
    - Annual Charges
    - Earmarked Levies
    - Development Fee

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ... ...*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Other.

It was noted that the school's fee structure includes pupil fund, which is collected from all students and based on details submitted by the school, it has been utilised towards varied expenses of the school including co-curricular, repairs and maintenance, printing, and stationery etc.

Based on the fact that the fee head of 'Pupil Fund' has not been defined for recognised private unaided school and the purpose for which the school has been utilising this may be get covered either from annual charges/ Tuition fee. Also, the school is directed not to collect pupil fund form students with immediate effect. Similar observation was also noted while evaluating the fee increase proposal for FY 2019-20.

3. As per the Director's order no. FDE15(31) PSB/2019/902-906 dated 22.01.2019 issued for academic session 2017-18, it was observed that the school has not prepared Fixed Asset Register (FAR). During personal hearing the school submitted that it has formed a team for physical verification of fixed assets and all the data has been captured in Microsoft excel post physical verification of fixed assets. It is also submitted that it had purchased a software in July 2018 and feeding the data in the software since 01.04.2014 by taking closing balance of 31.03.2014.

The school was asked to provide a copy of the fixed assets register either in soft copy or hard copy in order to see the progress of work, but the school has not provided these details for verification. In the absence of the same, it cannot be ascertained whether has prepared fixed assets register or not and that too in the proper format. The fixed asset register normally includes basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of assets and documenting complete details of assets at one place. Therefore, the school is directed to prepare and submit the fixed assets register at the earliest. The same shall be verified at the time of evaluation of the fee proposal of the school for the next academic session.

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

i. The total funds available for the FY 2022-23 is INR **32,07,28,288** out of which the expected expenditures of the school would be INR **36,28,60,266** resulting in net deficit of INR **4,21,31,978** for the FY 2022-23. The detailed calculation is as under

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statement	(67,02,382)
Reserve fund with DAV CMC as on 31.03.2022	23,94,624
Balance with DAV CMC publication	12,937
Investments as on 31.03.22 as per Audited Financial Statements	8,11,73,761
Liquid fund as on 31.03.22	**7,68,78,940**
Add: Recovery from Society for construction of school building **(Refer Financial Suggestion No. 1)**	8,68,972
Add: Utilization of development fee in contravention of Clause 14 of Order dated 11.02.2009 **(Refer Financial Suggestion No. 2)**	5,89,48,051

Particulars	Amount (INR)
Add: Recovery from Society towards purchase buses **(Refer Financial Suggestion No. 2)**	37,77,400
Add: Recovery from Society for payment of Scholarship without complying with Rule 177 of DSER, 1973 **(Refer Financial Suggestion No. 4)**	3,87,600
Add: Recovery of excess administrative charges paid **(Refer Financial Suggestion No. 5)**	66,64,224
Add: Expenses incurred on behalf of the DAV CMC **(Refer Financial Suggestion No. 7)**	5,00,000
Add: Excess Fee Collected by the School **(Refer Note No. 1 Below)**	1,47,20,367
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note No. 1 Below)**	23,10,86,612
Add: Other income for FY 2021-22 as per audited Financial Statements **(Refer Note No. 1 Below)**	80,69,883
Total available funds for FY 2022-23	**40,19,02,049**
Less: FDR on joint name with DOE	9,68,377
Less: Development Fund as on 31.03.2022 as per Audited Financial Statements	-
Less: Investment with LIC towards retirement benefits **(Refer Financial Suggestion No. 6)**	8,02,05,384
Estimated Available Funds for FY 2022-23	**32,07,28,288**
Less: Budgeted Expenditure of the school for FY 2022-23 **(Refer Note 2 No. 2 below)**	29,66,57,428
Less: Salary arrears on account of implementation of 7th CPC- INR 9,52,52,342 minus amount of INR 2,90,49,504 already allowed to the school in DoE order issued for FY 2019-20.	6,62,02,838
Estimated Deficit	**4,21,31,978**

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 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.

From review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the School has recorded all the income in the financial year 2021-22 including the accrual of the previous year. However, the school has not provided details regarding the income related to the previous 2020-21 which has been recorded in the FY 2021-22. In the absence of the required information the whole income recorded by the school during FY 2021-22 has been considered while deriving the fund position of the school. Further, the school has been reporting (as liability) in the audited financial statements fee refundable to the students from more than three financial years but has neither been adjusting nor refunding to the students. Therefore, this amount of INR 1,47,20,367 reported by the school as fee refundable has been included while deriving the fund position of the school.

Note 2: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Salaries and wages of the teaching and non-teaching staff	22,42,69,288	30,03,46,448	5,81,35,617	Restricted under 110% of the expenses incurred in PY
7th CPC arrear payable to staff		1,65,00,000	1,65,00,000	Considered Separately
Salary arrear payable (up to 31-03-2022)		3,85,39,300	3,85,39,300	
MACP Arrear payable		28,03,400	28,03,400	
Arrear of gratuity and Leave encashment -payable to DAV CMC		4,86,90,700	4,86,90,700	Retirement expenses already considered
Arrear of admin and service charges-payable to CAV CMC		3,81,31,000	3,81,31,000	Not allowed as per the previous year order
Inspection charges payable		1,06,300	1,06,300	
DA arrear payable to staff		4,65,25,300	4,65,25,300	Considered Separately
Arrear of bonus payable		10,00,000	10,00,000	
Repayment of loan from associate school		2,41,96,800	2,41,96,800	Not allowed as this loan was not required.
Services		80,87,560	80,87,560	Not allowed as per previous year order
Inspection charges		3,91,948	3,91,948	
Car/vehicle maintenance	3,69,078	5,00,000	5,00,000	Neither income nor expenditure

Head of Expenditure	FY 2021-22	FY 2022-23	Amount Disallowed (INR)	Remarks
Transport Expenses		4,00,000	4,00,000	has been considered
Transport hire charges		72,00,000	72,00,000	
Printing and stationary	5,11,587	30,00,000	24,37,254	Restricted up to 110% of the expenses incurred in PY
Electricity and water charges	16,30,380	40,00,000	22,06,582	
Legal and professional expense		5,00,000	5,00,000	New heads no proper justification provided by the school.
In-service education		2,00,000	2,00,000	
telephone expense		2,00,000	2,00,000	
Medical expense		2,00,000	2,00,000	
Examination expense		5,00,000	5,00,000	
Housekeeping material		8,50,000	8,50,000	
Refreshment and Entertainment		50,000	50,000	
Sports expense		1,00,000	1,00,000	
AMC		8,00,000	8,00,000	
Function expense		10,00,000	10,00,000	
Agency charges	67,69,844	1,80,00,000	98,76,187	Restricted up to 110% of the expenses incurred in PY
Other expense	3,42,037	48,16,949	44,40,708	
Others	1,05,685	25,00,000	23,83,747	
Capital expenditure	34,663	1,21,50,000	58,41,000	Allowed to the extent of Income proposed by the school.
Total	**23,40,32,562**	**58,22,85,705**	**32,27,93,404**	

Note 3: 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 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.

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 that:

"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 INR 7,11,46,247 in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, 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 18% 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 **Darbari Lal DAV Model School, BN Block Shalimar Bagh, Delhi-110088 (School ID- 1309175)** 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 18% 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.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Darbari Lal DAV Model School (School ID- 1309175)
Shalimar Bagh, Delhi-110088

No. F.DE.15 (1004)/PSB/2022 / 8576-8580 Dated: 25/10/22

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 (Northwest-A) 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.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi