

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

No. F.DE.15 (1139)/PSB/2022/ 679-683

Dated: 20/01/23

Order

WHEREAS, North Delhi Public School, Shalimar Bagh, New Delhi-110088 (School ID-1309178) (hereinafter referred to as "the School"), run by the Hari Ram Memorial 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.

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 increase 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 increase of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for increase 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 increase proposal filed by the aforesaid school, necessary records and explanations were also called from the school through emails dated 16.09.2022 and 27.09.2022 and the school was also provided an opportunity of being heard on 06.10.2022 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.

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 18.08.2022, 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. 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 recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."

The review of the audited financial statements of FY 2021-22 revealed that the school has provided provision for gratuity amounting to INR 56,30,233 and leave encashment amounting to INR 2,63,359 which was equivalent to the actuarial liability determined by the actuary. However, it has been noted that the school has not made any investment towards the provisions created for gratuity and leave encashment that qualify as plan assets.

Therefore, the school is directed to deposit the amount determined by the actuary in plan assets as per the requirements of AS-15 and submit the compliance report within 30 days from the date of issue of this order. Accordingly, an amount of INR 12,57,794 budgeted by the school for FY 2022-23 has not been considered while calculating the fund position of the school.

B. Other Suggestion for Improvements

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 and smart class fees from the students. The school has maintained separate fund accounts for these earmarked levies.

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 smart class fees from all the students loses its character of earmarked levy. Thus, the school is directed based on the nature of the smart class fees not to charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

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. 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 the 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) which inter-alia provides for preparation of Receipt and Payment accounts by the school giving details of all the receipts and payments made during the financial year.

As required in aforesaid provisions, school is required to prepare receipt & payment account as part of their financial statements. However, on review of audited Financial Statements for the FY 2019-20 to FY 2021-22, it has been noted that the school is not preparing Receipt and Payment account as a part of the financial statements. Therefore, school is directed to prepare Receipt and Payment Accounts in accordance with the guidance note cited above.



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

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

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

Review of the audited financial statements for the FY 2019-20 to 2021-22 of the school revealed that the school has been recording income on cash basis while expenses are being recoded on accrual basis. Thus, the school is deviating from basic principle in preparation of books of account and presenting the audited financial statements. Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.

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

- i. The total funds available for the FY 2022-23 is INR 4,42,58,231 out of which the expected expenditures of the school would be INR 4,95,40,919 resulting in net deficit of INR 52,82,688 for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	80,62,555
Investments as on 31.03.22 as per Audited Financial Statements (Refer Note 1 Below)	37,74,182
Liquid Funds as on 31.03.2022	1,18,36,737
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	3,74,89,259
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 3 Below)	17,31,928
Total Available Funds for FY 2022-23	5,10,57,924
Less: FDR in the name of DoE & Manager for salary reserve as on 31.03.2022 (Refer Note 4 Below)	-
Less: Gratuity and Leave Encashment Fund with LIC as on 31.03.2022 (Refer Financial Suggestion No. 1)	-
Less: Development Fund as on 31.03.2022 (Refer Note 5 Below)	64,97,311

Less: FDR jointly with DoE (Refer Note 1 Below)	3,02,382
Net Available Funds for FY 2022-23 - (A)	4,42,58,231
Less: Budgeted expenses for the session 2022-23 (Refer Note 6 Below)	4,01,15,388
Less: Salary arrears on account of implementation of 7th CPC (Refer Note 7 Below)	94,25,531
Total Expected Expenditure for FY 2022-23 - (B)	4,95,40,919
Net Deficit (A-B)	52,82,688

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

Particulars	Amount (in INR)	Remarks
PTA	1,89,680	
Secretary CBSE	1,18,488	Investments has been considered while calculating fund position of the school.
Secretary CBSE	1,27,448	
DOE	56,446	
4 Months' Salary Reserve	32,82,120	Refer Note 4 Below
Total	37,74,182	

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 of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported tuition fees, annual charges and development charges at 100% and has also been noted that the school is recording its income on receipts basis. Thus, the school is not maintaining its books and accounts in accordance with GAAP (Generally Accepted Accounting Principles).

The detailed calculation has been provided below:

Particulars	Income as per AFS for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	2,06,64,504	1,91,08,716	As per reconciliation submitted by the school for FY 2021-22, income reported in audited financial statements include arrears of FY 2020-21 hence, income of FY 2021-22 on accrual basis has been considered in fund position of the school.
Annual Charges	1,15,49,312	62,35,200	
Development Fees	52,50,593	28,66,740	
Total	3,74,64,409	2,82,10,656	

Note 3: All the other income as per audited financial statements of 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 except reversal of leave encashment provision amounting to INR 1,48,218 being a non-cash item.

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.

The balance of Salary Reserve as on 31.03.2022 is INR 97,76,397 as per audited financial statements of the school for FY 2021-22. However, the school has earmarked investment INR 32,82,120 in the name of school but not 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.

Further, the school has proposed provision of 4 month's salary reserve for the FY 2022-23 amounting to INR 1,84,09,836. However, the school has not earmarked investment against the salary reserve outstanding in the books as on 31st March 2022. Thus, proposed provision amounting to INR 1,84,09,836 for FY 2022-23 has not been considered while calculating the fund position of the school.

Shall
Submit
FDR of
joint name
of Rs 32.82 lac

Note 5: As per audited financial statements, the development fund balance is at INR 64,97,310 and the same had been maintained in a separate bank account by the school. Hence, the same has been considered while calculating 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:

Head of Expenditure	FY 2022-23	Amount Disallowed (INR)	Remarks
Gratuity and Leave Encashment	12,57,794	12,57,794	Refer Financial Suggestion No. 1
Salary Arrear	5,36,17,564	5,36,17,564	7th CPC arrears has been considered separately
4 Months' Salary reserve	1,84,09,836	1,84,09,836	Refer Note 4 Above
Depreciation	22,36,097	22,36,097	Expense being a non-cash item
Transport Expenses	18,39,000	18,39,000	Neither income nor expenditure has been considered while calculating the fund position of the school for FY 2022-23 on the assumption that earmarked levies are collected on no profit/no loss basis.
Computer Class Expenses	4,00,800	4,00,800	
Smart Class Expenses	7,85,000	7,85,000	
Pupil Fund Expenses	14,50,000	14,50,000	
Building Repair & Maintenance	70,00,000	60,76,219	Restricted to 110% of FY 2021-22 expense.
Total	8,60,72,310	8,60,72,310	

Note 7: The school has submitted 7th CPC salary arrears for 74 employees for the period starting from 01.01.2016 till 31.03.2022. However, as per staff statement provided by the school during fee hike proposal for the FY 2022-23, school only has 19 permanent staff. During the personal hearing, the reason for proposing 7th CPC salary arrears for 74 employees was asked and school submitted that 55 employees had resigned and left school from FY 2016-17 to FY 2021-22. The school was asked to submit releasing letters of the employees and on review of the releasing letters, it was noted that school had taken a declaration from all the employees stating, "All dues with the School are settled". Thus, considering the above fact, salary arrears for 19 employees is considered only.

Moreover, the school had not applied for fee hike during the last 3 years (i.e. FY 2017-18 to FY 2019-20). From that it seems the school has sufficient funds to meet expenditure during the above-mentioned period. Hence, 7th CPC salary arrears only for the period 01.04.2020 to 31.03.2022 of 19 employees amounting to INR 94,25,531 has been considered while calculating the fund position of the school.

50 staff statement

ii. In view of the above examination, it is evident that the school does not have surplus fund to meet its budgeted expenditure for the academic session 2022-23 at the existing fee structure. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states:

"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 and other suggestions 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, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (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.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the 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 14% to be effective from 01 Oct 2022.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other suggestions noted during the above evaluation process and submit the compliance status within 30 days from the date of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for fee increase for the academic session 2022-23 of **North Delhi Public School, Shalimar Bagh, New Delhi-110088 (School ID- 1309178)** is hereby accepted by the Director (Education) and the school is allowed to increase its fee by 14% to be effective from 01 Oct 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEA 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
North Delhi Public School,
Shalimar Bagh, New Delhi-110088
School ID- 1309178

No. F.DE.15 (1134)/PSB/2022/ 679-683

Dated: 20/01/23

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-West 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.

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