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

No. F.DE.15 (1273) / PSB / 2022 / 2072-2076 **Dated: 03/03/23**

ORDER

WHEREAS, **DAV Centenary Public School, Narela, Delhi -110040**, **School ID-1310280** (hereinafter referred to as " **the School**"), run by the **DAV College Managing Committee** (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. Further, the school was also provided an opportunity of being heard on 12.08.2022 to present its justifications/ clarifications on the fee increase proposal and full statement of fees filed under section 17(3) of the DSEA, 1973. Based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted during the personal hearing with the school. During that hearing, the compliance of Order No. F.DE 15(688)/PSB/2022/4065-4069 dated 03.06.2022 issued for academic session 2019-20 were also discussed and the school's submissions were taken on record.

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

A. Financial Suggestions for Improvement:

1. Para 57 of Accounting Standard 15 (AS-15) 'Employee Benefits' issued by the Institute of Chartered Accountants of India states that "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, Para 7.14 defines the Plan Assets as:

   (a) *Assets held by a long-term employee benefit fund; and*
   (b) Qualifying insurance policies.

   Further, Para 60 of Guidance Note-21 on 'Accounting by Schools' (2005) issued by the Institute of Chartered Accountants of India states that *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

   An appropriate charge to the income and expenditure account for a year should be made through a provision for the accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons, say less than fifty, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"plan assets"* as per AS-15 issued by ICAI.

   On review of the audited financial statements for FY 2021-22 submitted by the school, it has been noted that the school has a total retirement benefit obligation of INR 5,54,12,474 as per LIC valuation report for the FY 2021-22 against which the School has invested INR 2,59,06,411 in the plan assets as on 31.03.2022 within the meaning of AS-15 and reported the same in its audited financial statements. Therefore, the total amount invested by the School in planned assets towards retirement benefits of INR 2,59,06,411 has been considered while calculating the fund position of the school.

   Further, the amount proposed by the school as provision for retirement benefit of INR 55,64,103 (INR 38,94,873 against gratuity plus INR 16,69,230 against leave encashment) has been considered as expense while calculating the fund position of the School. The School is hereby directed to make equivalent investment in the plan assets against the provision recorded in its audited financial statements.

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 utilized 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 2020-21 and FY 2021-22, it has been noted that the school has been collecting the development fee from students. However, from FY 2020-21 onwards it has been treating development fee as revenue receipts instead of capital receipts. The audited financial statement of FY 2021-22 revealed that the school has maintained a development fund balance of INR 2,17,66,396 as on 31.03.2021 against having a liquid funds of INR 10,48,737 as on 31.03.2021. Further, the school has not submitted complete details/annexures of audited financial statement of FY 2021-22 due to which the balance of development fund can't be ascertained. Therefore, no amount of development fund is considered while calculating the fund position of the School.

   During the personal hearing, the school explained that due to paucity of funds it has utilized all the funds for payment of salary and salary related cost. During the hearing, the school was asked provided fund wise collection and utilization which the school has not provided. Accordingly, the development fee collected by the school in last two financial years (examination restricted to last three years only) was not in accordance with clause 14 of the order dated 11.02.2009.

The school is hereby further directed to ensure the collection and utilization of development fee/ fund in accordance with above cited Clause 14 of the order dated 11.02.2009.

3. *Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed".* Further, Rule 180 (1) of DSER, 1973 states *"every recognized private school shall submit returns and documents in accordance with Appendix-II".*

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, the DoE vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, specified the format of returns and documents submitted to be submitted by the private unaided recognized schools. As per this order the format of the financial statements shall be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time by ICAI.

Based on the abovementioned provisions, every private unaided recognized school is required to get its accounts audited by the Chartered Accountant before submission of return under Rule 180(1) of DSER, 1973. The documents submitted by the school were taken on record. Review of the audited financial statements and Independent Auditors Report for FY 2019-20; 2020-21 & 2021-22 the following was noted:

a. The audit report has been issued in Form 10B under the Income Tax Act, 1961 which is not in conformity of the above-mentioned provisions.

b. In the audit report the auditor has not given reference to "Receipt & Payment Account." However, the same has been attested by the auditors.

In view of the above, the school is hereby directed to get its accounts audited in accordance with above mentioned provisions and resolve all queries raised by the statutory auditor before completion of the audit. The compliance with this direction will be examined while evaluating the fee hike proposal of the subsequent year. However, for the purposes of evaluation of fee hike proposal for academic session 2022-23, balance sheet and income and expenditure submitted by the school has been considered.

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

Further, Clause 2 of Public Notice dated 04.05.1997 states that "*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, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by DoE states that "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Rule 177 of DSER, 1973 states that "*Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be* *utilized by its management committee for meeting capital or contingent expenditure of the school or for one or more of the following:*

- *educational purposes, namely award of scholarships to students,*
- *establishment of any other recognized school,*
- *assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.*

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
b) *The needed expansion of the school or any expenditure of a developmental nature.*
c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
d) *Co-curricular activities of the students.*
e) *Reasonable reserve fund, not being less than ten percent, of such savings".*

Based on the above-mentioned provisions, the cost relating to land and construction of school building should be met by society being property of society and school funds i.e. fee collected from students should not be used for the same. Further, as per Rule 177 of the DSER, 1973, income derived by way of fees shall be utilized at the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that if there is any saving thereafter, it may be utilized by its management for the specified purposes provided under Rule 177(2) of the DSER, 1973. Further, the aforesaid savings shall be arrived at after providing the following.

- Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.
- The needed expansion of the school or any expenditure of a developmental nature.
- The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.
- Co-curricular activities of the students.
- Reasonable reserve fund, not being less than ten percent, of such savings.

The Directorate Order No. F.DE 15(688)/PSB/2022/4065-4069 dated 03.06.2022 issued for academic session 2019-20, noted that the School has utilised school funds for making repayment of principal and interest thereon on loan taken for construction of School building and has already utilised INR 85,76,960 till FY 2018-19. Therefore, the School was directed to recover this amount from the Society which is still pending for compliance.

Further, the School was asked to provide complete details of loan taken and their repayment schedule. However, the same has not been provided by the School for review. However, on review of the receipt and payment account of audited financial statement from FY 2019-20 to FY 2021-22, it has been noted that there is decrease in loans and advance and has been shown on payment side. The details of such payments are:

Period	**Amount (INR)**
FY 2019-20	17,12,095
FY 2020-21	1,48,22,744
FY 2021-22	0.00
Total	1,65,34,839

Period	Amount (INR)
Less: Loan taken from the Society for establishment expense	50,00,000
Net amount recoverable from Society	**1,15,34,839**

Therefore, the School is hereby directed to recover INR 2,01,11,799 i.e., (INR 1,15,34,839 + INR 85,76,960) has been considered as fund available with the School while calculating the fund position of the school with the direction to the School to recover the same from the Society within 30 days from the date of issue. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

5. The submissions of the school regarding payment of administrative charges @ 4% of basic pay (as per 6th CPC) of staff were taken on record and included in Directorate's order no. F.DE 15/ACT-I/WPC-4109/PART/13/ 958 dated 13.10.2017. Further, the school was directed vide order No. F.DE 15(688)/PSB/2022/4065-4069 dated 03.06.2022 post implementation of the recommendations of 7th CPC, the school should not incur administrative charges beyond 2% of the basic salary which the school has started following.

However, while evaluating the fee hike proposal for academic session 2019-20, it was noted that the school had paid administrative charges to DAV CMC @ 7% on salary (Basic pay + Grade pay) for FY 2017-18 & 2018-19 respectively. Accordingly, the school was directed to recover the excess administrative charges paid to DAV CMC amounting INR 24,76,241 and which is still pending for recovery.

The review of the audited financial statements, it has been noted that the school has recognized "*service charges @ 5% of basic pay*" payable to DAV CMC.

The aforesaid 5% is in excess of @ 2% administrative charges allowed to school as per the previous order. Thus, the school has not followed the direction mentioned in Order No. F.DE 15(688)/PSB/2022/4065-4069 dated 03.06.2022. The school further explained that from FY 2019-20, it has only provided the above expenditure in the books of accounts and has not made any payment in this regard. Therefore, the excess liability booked by the school towards service charges payable to DAV CMC i.e., (5% of basic pay) need to be reversed. Further, the amount proposed by the School of INR 26,19,260 towards 5% service charges has not been considered as budgeted expense for FY 2022-23.

Further, excessive administrative charges already paid by the school to DAV CMC as per the previous order of FY 2019-20 amounting to INR 24,76,241 which is still recoverable from society has been included while calculating the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

Non-compliance with the above direction would be reviewed seriously, and appropriate action against the school under Section 24(4) of the DSEA, 1973 will be taken without giving any further opportunity.

6. The Hon'ble High Court of Delhi, in its judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh held 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*".

Further, Rule 177 of DSER, 1973 states "*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*". Further, Rule 176 states *"Income derived from collections for specific purposes shall be spent only for such purpose"*

The Directorate Order No. F.DE 15(688)/PSB/2022/4065-4069 dated 03.06.2022 issued for academic session 2019-20, noted that the School the School had utilised the school funds of INR 27,49,891 for purchase of vehicle/buses in FY 2017-18 and FY 2018-19 and the above expenditure was incurred by the school without complying with the provisions of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 27,49,891 from society, which is still pending for recovery.

Further, the School had neither invested the requisite amount in plan assets for retirement benefits nor for salary reserve. Therefore, INR 27,49,891 is still recoverable and has been considered as funds available to the school while calculating the fund position of the school. The school is hereby again directed to recover this amount from society within 30 days from the date of the issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

7. 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 and 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 school*' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, *"Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year*".

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 revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an accounting head and school do not require creation of equivalent investments against the depreciation reserve.

From review of presentation of the audited financial statements of FY 2021-22, 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 to 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 11.62 crores reported by the school in the audited financial statements is not correct and misleading to the reader of financial statements due to involvement of notional amount.

B. Other Suggestions for Improvement:

1. Para 58(i) of Guidance Note-21 'Accounting by schools' issued by the Institute of Chartered Accountants of India (ICAI) states *"A school should charge depreciation according to written down value method at rates recommended in appendix 1 to the Guidance note"*. During personal hearing the school explained that the books of accounts are maintained in accordance with the Income Tax Act 1961 and the rates of

depreciation prescribed there under are used.

Therefore, the school is directed to make necessary adjustments and ensure that depreciation is charged on fixed assets at the rate prescribing in Appendix 1 to Guidance Note-21. The above being a procedural finding, no financial impact is warranted for deriving fund position of the school.

2. Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 11.02.2009 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 state that *"Earmarked levies shall be charged from the user student only."*

Rule 176 of DSER, 9173 states *"Income derived from collections for specific purposes shall be spent only for such purpose."* Further, 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 of 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 a 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. The Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

On review of the financial statements submitted by the school, it has been noted that the school charges earmarked levies in the form of (i) Dairy receipt, Science fees, Commerce fee, Computer fees, Breakage recovery fees, Physical education fees and (ii) transportation fees. Although, the School has been preparing separate income and expenditure for these earmarked levies. However, at the end of the financial year, the school transfers the surplus/ deficit earned from these earmarked levies to school funds, which means in case of surplus, the same is used by the school for meeting other expenditures of the school and, in case of loss, the same is met from the school funds. This clearly indicates that the school is not following fund-based accounting with respect to earmarked levies collected by it in the name of (i) Dairy receipt, Science fees, Commerce fee, Computer fees, Breakage recovery fees, Physical education fees and (ii) transportation fees.

Particulars	**Transport Fees**	**Diaries receipt, Science fees, Commerce fees, etc.**
Financial Year 2019-20		
Income (A)	75,58,280	80,83,525
Expenditure (B)	69,87,629	*
Difference for the year (A-B)	**5,70,651**	**43,39,985**
Financial Year 2020-21		
Income (A)	-	8,46,044
Expenditure (B)	3,93,270	*
Difference for the year (A-B)	**(3,93,270)**	**8,46,044**
Financial Year 2021-22		
Income (A)	-	10,41,226

Particulars	Transport Fees	Diaries receipt, Science fees, Commerce fees, etc.
Expenditure (B)	5,31,573	*
Difference for the year (A-B)	**(5,31,573)**	**10,41,226**
Total (Surplus)	**(3,54,192)**	**99,70,795**

*Expense related to earmarked levies has not been separately mentioned in the income and expenditure account.

As the school has not been maintaining a separate bank account for the collection of these earmarked levies and all the money collected by the school is kept in common school's accounts from where all payments related to these earmarked levies are also made and then at the year-end, the School based on its judgement allocates some of the school's expenditures under these heads which in fact is not the correct accounting for earmarked levies.

The earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee).

Thus, the act of the school of charging an unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus funds therefrom are tantamount to profiteering and commercialization of education as well as charging of capitation fee in other forms. Unintentional surplus, 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 during subsequent proposal for enhancement of fee 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

3. From review of documents submitted by the School with the proposal of fee hike for FY 2022-23, the following has been note with respect to the Fixed Asset Register (FAR) maintained by the school:

- No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

4. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

From review of the audited financial statements from FY 2019-20 to FY 2021-22, it has been noted that the school has not made any disclosure in its audited financial statements related to related party disclosure. In the absence of such details, the purpose and genuineness of transactions entered between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

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

6. Further, the department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, 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 will also be applicable with respect to collection of fees for academic session 2021-22.

   During the personal hearing, the school explained that it has collected 100% of tuition, development and annual fees from the students. Thus, the school has not complied with the direction issued vide order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021.

Accordingly, the school is directed to adjust/refund the same against future dues from the students and submit the compliance report within 30 days from the date of issue of this order.

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

i. The total funds available with the school for FY 2022-23 amounting to **INR 12,99,79,701** out of which estimated expenditures (i.e., outflow) for the FY 2022-23 is to be **INR 11,84,99,114.** This results in net surplus amounting to **INR 1,14,80,587** for the FY 2022-23 after making all payments. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	1,96,92,144
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	2,62,61,415
Liquid fund as on 31.03.2022	**4,59,53,559**
Add: Recovery from the society for repayment of principal and interest on loan taken for construction of Building **(Refer Financial Suggestion No. 4)**	2,01,11,799
Add: Recovery of excess administrative charges paid to the DAVCMC **(Refer Financial Suggestion No. 5)**	24,76,241
Add: Recovery from Society for utilizing school fund for purchased of Buses **(Refer Financial Suggestion No. 6)**	27,49,891
Add: Fees for FY 2021-22 as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	7,86,09,223
Add: Other income for FY 2021-22 as per audited Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	21,61,794
Add: Impact of order No. F.DE-15/(623)/PSB/2022/3400-3404 dated 31.05.2022 issued for academic session 2018-19 in which the school was allowed to increase fee by 9.5% from July 2022 **(Refer Note No. 2 Below)**	56,00,907
Total available funds for FY 2022-23	**15,76,63,414**
Less: FDR in joint name with DOE and Manager of the School	7,27,302
Less: Security Deposits as on 31.03.2022	10,50,000
Less: Depreciation reserve fund **(Refer Note No. 3 Below)**	-
Less: Development Fund as on 31.03.2022 **(Refer Financial Suggestion No. 2)**	-
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Suggestion No. 1)**	2,59,06,411
Estimated Available Funds for FY 2022-23	**12,99,79,701**
Less: Budgeted expenses for the session 2022-23 **(Refer Note No. 4 & 5 Below)**	10,56,89,397
Less: Salary arrears proposed by the School of INR 5,75,47,781 *minus* salary arrears of INR 4,47,38,064 already allowed in previous fee hike order.	1,28,09,717
Estimated Surplus	**1,14,80,587**

Note 1: All fee and income has been considered as per audited financial statement of FY 2021-22.

Note 2: Additional income on account of impact of order No. F.DE-15/(623)/PSB/2022/3400-3404 dated 31.05.2022 issued for academic session 2018-19, has been computed as mentioned below:

Particulars	Amount (INR)
Total fees (excluding other income) of as per Audited Financial Statement of FY 2021-22	7,86,09,223
Multiply: Fee increase allowed as per fee hike order of academic session 2018-	9.5%

Particulars	Amount (INR)
19	
Additional Fee for 9 months	**56,00,907**

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: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school excerpt the following:

Heads	Amount (INR)	Reasons
7th CPC Arrears	5,75,47,781	Separately Considered
Other-Admin charges paid to DAVCMC	26,19,260	Refer financial suggestion 5
Inspection charges	1,50,000	New head of expense is not allowed.
Staff welfare	2,50,000	
Other maintenance	6,00,000	
Transportation expense	11,50,000	No income and expense have been considered in above table.

Note 5: While evaluating the fee hike proposal, the department considers how much liquid funds schools would require for a particular session for smooth operation without compromising the quality of education. Thus, while deriving the fund position of the school, all legitimate revenue as well as capital nature expenditures in accordance with the provisions of DESAR, 1973 and the pronouncement of Courts judgment have been considered. Therefore, the balance of the other current assets and other current liabilities has not been considered because these are cyclic in nature, as the same would have been part of the budgeted income and expenditure of the school in earlier years. Although it is reflected 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 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, it is noticed that the school has incurred INR 2,53,37,931 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, 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 available with the school for meeting financial implication for the academic session 2022-23.

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 **DAV Centenary Public School, Narela, Delhi -110040, School ID-1310280** 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 rejected by the Director (Education) with the above conclusion and suggestions.

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/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the School should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

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
DAV Centenary Public School,
Narela, Delhi -110040,
School ID-1310280

No. F.DE.15 (1273)/PSB/2022/2072-2076

Dated: 03/03/23

Copy to:

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