

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

No. F.DE.15 (1)20/PSB/2022/ 526-531

Dated: 16/01/23

Order

WHEREAS, Prince Public School (School ID - 1413212), Sector-24, Rohini, Delhi - 110085 (hereinafter referred to as "the School"), run by the Prince Public Society (hereinafter referred to as "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '*the Act*') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '*the Rules*').

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

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

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

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

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.



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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

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

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

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

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

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

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 18.08.2022. The school was also provided an opportunity to be heard on 25.08.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on



various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/ (530)/PSB/2022/3078-3082 dated 17.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

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

**A. Financial Suggestion for Improvements**

1. *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 other documents required to be submitted by the private unaided recognized schools. The aforesaid order also specifies format for the financial statements to be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

Based on the abovementioned provisions, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. The documents submitted by the school for evaluation of the fee hike proposal were taken on record, and a review of the audited financial statements and Independent Auditors Report of FY 2021-22 revealed that:

- a. The audit report has been issued in Form 10 B, as prescribed by the Income Tax Act 1961, which is not in conformity with the above-mentioned provisions.
- b. In the audit report, the auditor has mentioned 'profit and loss account' whereas the school is required to prepare 'income and expenditure account'.
- c. In the audit report, no reference with respect to 'Receipt & Payment Account' is mentioned, raising the doubt as to whether this has been audited or not. Although the same was duly signed by the auditor and management of the school.

In light of the foregoing, the school is hereby directed to have its accounts strictly audited in accordance with the aforementioned provisions. However, the aforesaid audited financial statements submitted by the school have been considered for the evaluation of the fee hike proposal of the school, with the direction to the school to strengthen its process



for preparation and presentation of the audited financial statements in accordance with the above-mentioned provisions.

2. 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.*"

The Directorate's Order No. F.DE-15/311/PSB-2019/1615-1619 dated 05.04.2019 issued to the school post evaluation of the proposal for enhancement of fee for FY 2017-2018 noted that during FY 2015-2016, the school had purchased a luxury car amounting to INR 15,68,404 out of school funds and by taking a loan from Vijaya Bank. The school paid INR 3,99,108 from school funds toward the total cost of the car, with the remainder paid from the loan. It was also noted that the school had incurred the above expenditure without complying with the provisions of Rule 177 of the DSER, 1973. While evaluating the fee increase proposal for FY 2019-20, it was noted that the school paid INR 9,44,786 towards principal and interest costs until 31.03.2019. Therefore, the school was directed to recover INR 13,43,894 (i.e., INR 3,9,108 plus 9,44,786) from society.

Now the school has submitted that it has sold the aforesaid car in FY 2021-22 and has recovered INR 6,10,000. Therefore, the balance amount of INR 7,33,894 (INR 13,43,894 minus INR 6,10,000) is still pending for recovery. The school submitted in its reply that it will be recovered from society during FY 2022-23. Accordingly, the balance amount of INR 7,33,894 has been included while deriving 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.

3. 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.*"

Directorate's Order No. 15/ (530)/PSB/2022/3078-3082 dated 17.05.2022 issued to the school post evaluation of fee hike proposal for the academic session 2019-20, noted that the school purchased 2 buses from school funds and by taking a loan from Vijaya Bank in FY 2015-16. Till the financial 2016-17 the school had utilized school funds of INR 19,81,787 towards repayment of the loan and interest thereon.

It was further noted that the school, instead of recovering the aforesaid amount, incurred additional expenditure on the purchase of buses of INR 19,50,000 by taking a loan of INR 13,00,362 during the FY 2018-19 from Vijaya Bank. The balance of INR 6,49,638 was paid out the school funds as a down payment. It was further noted that during the FY 2017-18 and 2018-19 the school has paid INR 22,77,952 for loan (principal) repayment and INR 9,08,295 towards interest thereon. Accordingly, the school was directed to recover INR 58,17,672 (INR 19,81,787 plus INR 6,49,638 plus INR 22,77,952 plus INR 9,08,295).

In addition to the above, on review of the audited financial statements, it was noted that the school has utilized school funds of INR 42,01,622 towards repayment of loans and interest costs thereon during FY 2019-20 to FY 2021-22. The school incurred above expenditure without complying with the provisions of Rule 177 of the DSER, 1973.

It is also pertinent to mention here that school submitted in its representation that *"the school is running transport facility in order to ensure a better strength in school. As the school is not well connected with the public transport like metro and buses, it has become essential for the school to provide facility to the students' despite of having deficit under transport fund. Further the school is low fee based and parent are not in position of afford higher transport fee and if school increases the transport fee large numbers of fee-paying student will leave the school and it shall be more difficult for the school to manage its financial affairs with lesser number of the students."*

Because the transportation facility is supported by earmarked levies, it must be run on a no-profit, no-loss basis. As a result, the school cannot shift the financial burden to other students who do not use the transportation services. Therefore, the principal amount and interest paid on the bus loans, being additional burdens should not be met out of school funds (fees collected from students).

Accordingly, the amount of INR 1,00,19,294 spent by the school on the purchase of buses 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 this amount from the society within 30 days from the date of this order. The school is further directed to ensure that transport vehicles are procured only from the transport fund and not from school funds unless savings are derived in accordance with Rule 177 of the DSER, 1973.

4. 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 *"the 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."*

As per Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 stated *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account."*

Based on the aforementioned-provisions, costs relating to the land and construction of school buildings should be met by the society, being the property of the society, and the school funds, i.e., the fees collected from the students, should not be used for such purposes.



The DoE noted in the Order No. 15/ (530)/PSB/2022/3078-3082 dated 17.05.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, that the school had incurred capital expenditure on the construction of a building amounting to INR 10,26,694. This expenditure was incurred out of the development funds. Thus, the school incurred the aforesaid expenditure without complying with the provision of the Rule 177 of DSER, 1973 and clause 14 of the order dated 11.02.2009.

It was also noted while evaluating the fee hike proposal for FY 2019-20, that the fixed asset schedule enclosed with the financial statements of the school for FY 2017-2018, the school utilised an amount of INR 10,26,694 from the development funds for the construction of school building and transferred this amount from the development funds to the Development Utilised Account. Further, from the financial statements of FY 2018-2019, it was noted that the school removed this school building from the fixed assets schedule. The school posted an adjustment entry in its book of accounts for INR 10,26,694 by debiting the Development Funds Utilised Account and crediting fixed assets ('school building'). Thus, the impact of this adjustment entry was the removal of the school's expenditure on the school building and the understatement of the development fund utilized reserve, indicating the diversion of school funds towards the building's construction and the subsequent removal of this expenditure from the financial statements. However, the school mentioned in the notes to accounts annexed with the financial statements for FY 2018-19 that the school has rectified the wrong capitalisation of renovation expenditure incurred on the school building, which was correctly charged from the development fund.

Using the development fund for building construction or renovation was incorrect in the first place, as the development funds can only be used for the purchase, upgrade, and replacement of furniture, fixtures, and equipment, not for building construction. This expenditure of a developmental nature on school buildings could have been incurred from school funds, but only after complying with the requirements laid out in Rule 177. Based on the fact that the school did not implement the recommendation of the 7th CPC and did not even get its liability towards retirement benefits (gratuity and leave encashment) of staff valued from an actuary in accordance with the requirements of Accounting Standard 15 and did not secure funds in plan-assets such as group gratuity and group leave encashment policies of LIC or other insurers, the school did not comply with the requirements of Rule 177 (1), i.e., "*Income derived by an unaided utilized 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.*".

In view of the above, the school was directed to recover the amount of INR 10,26,694 spent on construction/renovation of school building which is still pending for recovery. Therefore, this has been considered 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.

5. 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".

Based on the above-mentioned provisions, upon utilization of development funds, the school needs to create the 'Development Fund Utilisation Account' (or by any other name), which may be treated as deferred income. And this deferred income should be written off in proportion to the depreciation charged to the revenue account. By following the aforesaid accounting treatment specified in para 99 of GN-21, the depreciation reserve fund would be mere an accounting head, and school need not the require creation of equivalent investments against the depreciation reserve.

From the review of the presentation of the audited financial statements of FY 2021-22, it has been noted that upon purchase of assets out of the development funds, the school transfers an amount equivalent to the cost of the assets to "Development fund utilized" and writes off in the proportion of depreciation charged on the assets purchased out of development funds. As a result, the closing balances of the development fund utilised account and the depreciation reserve fund do not correspond to the cost of assets purchased with development funds. Therefore, the school is hereby directed to rectify its books of accounts in accordance with accounting treatment suggested in Para 99 of Guidance Note 21 issued by ICAI.

Further, on review of the audited financial statements of FY 2021-22, the school has reported a development fund balance of INR 1,04,64,085 while the cash/bank balance against the development was nil. This indicates that the school has already utilized the development fund balance for meeting other expenditure of the school without making the appropriate entries in the books of accounts. Therefore, closing balance of development funds has not been considered while deriving the fund position of the school with the direction to the school to rectify its books of accounts and submit the compliance report thereof.

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 assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."



A review of the audited financial statements of FY 2021-22 revealed that the school has recorded a liability for retirement benefits of INR 16,85,447, in accordance with the actuarial report determined by the actuary, against which the school has not invested any amount in plan assets within the meaning of AS-15.

Gratuity is a statutory obligation that employers must pay to eligible employees upon retirement or resignation, as the case may be. However, over the years, the department has noticed that most of the schools have been recording liabilities for retirement benefits in their financial statements without making any investment in Plan Asset, either due to paucity of funds or otherwise. Accordingly, many schools keep the retirement benefit 'unfunded', which is not in the true spirit of the law and also defeats the objectives of maintaining the books of accounts as per Generally Accepted Accounting Principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgement titled Modern School vs. Union of India and Ors. Therefore, it has been felt that in order to protect the statutory dues of the employees, instead of disallowing the full liability on account of non-investment in plan assets, it would be rational to spread this liability over the period of 14 years on the assumption that normally a student studies 14 years in the school. This will not only give schools time to gradually invest in Plan Asset, but it will also reduce the sudden financial burden of fees on parents and students due to huge liabilities for retirement benefits.

Accordingly, an amount of INR 1,20,389 (*i.e.*, 1/14 of INR 16,85,447) has been considered while deriving the fund position of the school, with the direction to the school to invest the aforesaid amount in plan assets in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, it shall not be allowed further installments, and the amount so allowed to the school shall be recovered from the society or school management along with interest while evaluating the fee increase proposal for the subsequent year.

7. Directorate's Order No. 15/ (530)/PSB/2022/3078-3082 dated 17.05.2022 issued to the school post evaluation of fee hike proposal for the academic session 202-20, it was noted that the school has taken various services from the son of the president of the society (Mr. Prince Solanki) and has incurred expenditure on the same. The school was taking services such as:
1. Vehicle hire charges,
  2. Professional charges,
  3. Housekeeping staff expenses

The school was asked to submit the contract or agreement and supporting documents, including invoices and documents for the selection of the vendor and determination of the price for FY 2017-2018 and FY 2018-2019. During the personal hearing, the school mentioned that while it is making payments to Mr. Prince Solanki for the aforementioned services, it has not entered into any contract or agreement with him for the provision of such services and does not have any document in relation to the determination of prices for the services. The school stated that it did not conduct any procurement process to determine whether or not the services obtained were at arm's length price. Also, the school failed to provide bills or supporting documents in relation to expenses recorded for vehicle hire charges and professional charges. While the school submitted the invoices towards housekeeping expenses for FY 2017-2018, the invoices did not mention complete details such as the number of housekeeping staff, monthly rates, number of duties, etc. and only mentioned a lumpsum amount of INR 1,82,000 every month. Further, attendance sheets for the staff deployed at the school were not provided. The school provided the following details





of the payments made to the son of the president of the society for FY 2017-2018 and FY 2018-2019 as under:

Financial Year	Vehicle Hire Charges	Professional Charges	Housekeeping Expenses
2017-2018	1,44,000	5,46,000	28,61,988
2018-2019	48,000	1,61,000	14,02,968
<b>Total</b>	<b>1,92,000</b>	<b>7,07,000</b>	<b>42,64,956</b>

Therefore, since the school failed to substantiate the genuineness and propriety of these transactions, these transfers are considered as diversion of funds to the son of the president of the society. Accordingly, the amount of INR 51,63,956 was added to the fund position of the school with the direction to the school to recover the same from society/son of the society's president.

From the documents submitted by the school, the school explained that INR 1,92,000 and INR 7,07,000 were paid to Prince Solanki towards car hire charges and consultancy charges for providing services in relation to the management of school affairs without submitting supporting documents such as agreements, etc.

The school also stated that INR 28,61,988 was spent on housekeeping and outsourced staff charges to M/s Oceana Enterprise Private Limited, and it provided an invoice copy for verification. The M/s Oceana Enterprise Private Limited has also installed solar panels in the school and charges INR 6.50 per unit for electricity used, which is cheaper than the electricity company charging INR 12 per unit. However, the school could not provide any details with respect to the expenditure of INR 14,02,968.

In view of the above and based on the details provided by the school, the amount of INR 23,01,968 (INR 1,92,000 plus INR 7,07,000 plus INR 14,02,968) is still recoverable from the society or the son of the society president. Therefore, this has been considered in determining the fund position of the school, with the school being directed to recover this amount within 30 days from the date of issue of this order.

8. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

The financial statements of the school for FY 2018-19 reflected an advance to the society of INR 21,26,177. Accordingly, the school was directed, through the Directorate's Order No. 15/(530)/PSB/2022/3078-3082 dated 17.05.2022, to recover an amount of INR 21,26,177 from the society.

On review of the audited financial statements of FY 2021–22 and based on the documents submitted by the school, it has been noted that the school has recovered this amount from society in FY 2021–22.

## **B. Other Suggestion for Improvements**

1. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1):*

- a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

*"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis"*.

The Hon'ble Supreme Court categorically held that *"though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"*

Further, the Hon'ble High Court in LPA 196/2004 in the matter of 'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009' states *"no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged"*.

Further, The Directorate of Education, vide Order No. DE15/ 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, indicated the following types of fee that a recognised private unaided school can collect from the students/ parents:



- a. Registration Fee
- b. Admission Fee:
- c. Caution Money
- d. Tuition Fee
- e. Annual Charges
- f. Earmarked Levies
- g. Development Fee

Based on the provisions mentioned above, charging of ' smart class fees,' from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of smart class fees indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non- compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

2. As per para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

On review of audited financial statements for the FY 2019-20, FY 2020-21 and FY 2021-22, it is noted that the school has presented its fixed assets purchased out of school funds at Written Down Value (WDV) which is not consistent with the Guidance Note. Thus, the school is hereby directed to comply with the requirements of Guidance Note issued by ICAI

3. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:
  - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
  - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.



- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.
- FAR has not been updated in FY 2019-20 for the assets purchased from development fund

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. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter require to provide 25% reservation for children belonging to a EWS category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. From the records provided by the school, the percentage of EWS has been calculated below:

Particulars	FY 2022-23
Total Students	1173
EWS Students	200
% of EWS students	17.05%

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

**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 amount to **INR 7,76,15,547** out of which cash outflow for the FY 2022-23 is estimated to be **INR 8,60,28,836**. This results in a deficit of **INR 84,13,289** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	86,09,889
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	15,37,118
<b>Liquid fund as on 31.03.2022</b>	<b>1,01,47,007</b>
Add: Recovery of amount incurred on purchase of car (Refer Financial Suggestion No. 2)	7,33,894
Add: Recovery from society towards purchase of bus (Refer Financial Suggestion No. 3)	1,00,19,294
Add: Recovery from society towards construction of building (Refer Financial Suggestion No. 4)	10,26,694
Add: Amount recoverable from society/ son of president of society (Refer Financial Suggestion No. 7)	23,01,968
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 1 Below)	4,98,61,132
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 1 Below)	32,16,097
Add: Additional income of annual charges and development fund (Refer Note No. 1 Below)	19,66,968
<b>Total available funds for FY 2022-23</b>	<b>7,92,73,054</b>
Less: FDR on joint name with DOE & CBSE	15,37,118
Less: Student Security Deposit as per Audited Financial Statements of FY 2021-22	-
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 (Refer Financial Suggestion No. 5)	-
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 2 Below)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 6)	1,20,389
<b>Estimated Available Funds for FY 2022-23</b>	<b>7,76,15,547</b>
Less: Budgeted Expenditure as provided by the school (Refer Note No. 3 and 4 Below)	6,06,85,711
Less: Salary Arrears (Refer Note 5 Below)	2,53,43,125
<b>Estimated Deficit</b>	<b>84,13,289</b>

**Note 1:** The Department vide its order No.F.No.PS/DE/2020/55 dated 18.04.2020 and order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

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

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

From review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges its audited financial statements of FY 2021-22. Also, arrears of FY 2020-21 has been recognized in FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order after deducting the income of FY 2020-21 to make comparative income with the FY 2022-23. The detailed calculation has been provided below.

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	3,19,70,653	3,19,70,653	
Annual Charges	67,53,505	79,45,300	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	43,92,647	51,67,820	

**Note 2:** As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the

services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrance of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund has not been considered while deriving the fund position of the school.

**Note 3:** All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Income as per AFS for FY 2021-22	Income as per Budgeted of FY 2022-23	Disallowed	Remarks
Salary Arrears	-	8,00,00,000	8,00,00,000	Considered separately
Salaries	2,37,54,393	3,49,86,000	41,05,289	The proposed expenditure was on higher side based on the information/ documents submitted by the school post personal hearing. Therefore, the excess of INR 41,05,289 has not been considered.
Car/vehicle maintenance	16,32,280	42,38,000	42,38,000	Neither Income nor expenses related to transport has been considered in the above table.
Insurance	3,98,931	6,76,000	6,76,000	
Interest on loan	92,277	1,00,000	1,00,000	
Transport hire charges	-	20,00,000	20,00,000	

**Note 4:** While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

**Note 5:** Salary arrears of INR 2,75,18,773 towards implementation of 7<sup>th</sup> CPC has been considered for the period from 01.04.2020 to 30.06.2022 based on the fact salary arrears towards implementation of 7<sup>th</sup> CPC from 01.01.2016 to 31.03.2020 has already been considered by DoE while evaluating the fee hike proposal for academic session 2019-20.

Further, on review of salary arrears working details provided by the school, it has been noted that it also includes the name of contractual staff as well. Therefore, this has not been considered. . The instance of such employees is provided below.

1. Chestha
2. Shikha Rani
3. Poonam Sehgal
4. Simran Kaur Rayat

- ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states that,

*"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not*



*been utilised for years together may also be used to meet the shortfall before proposing a fee increase."*

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the School to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has incurred INR 1,40,81,850 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 6<sup>th</sup> 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 15% 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 **Prince Public School (School ID - 1413212), Sector-24, Rohini, Delhi - 110085** 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 15% to be effective from 1 October, 2022.

Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority.

*Nandini*

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

To  
The Manager/ HoS  
Prince Public School (School ID - 1413212),  
Sector-24, Rohini, Delhi - 110085  
No. F.DE.15 ( 1120 )/PSB/2022 / 526 - 531

Dated: 16/01/23

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 B) ensure the compliance of the above order by the school management.
4. DE's nominee concerned.
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

*Nandini*

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