

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

No. F.DE.15 (032)/PSB/2022/ 9094-9098

Dated: 04/11/22

**Order**

WHEREAS, **Bal Bharati Public School (School ID – 1413222), Sector - 14, Rohini, Delhi - 110085** (hereinafter referred to as “**the School**”), run by the Child Education 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. The school was also provided an opportunity to be heard on 30.08.2022 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. F.DE.(237)/PSB/2021/3818-3820 dated 24.09.2021 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. 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 No. 2 of the 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”*. Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states *“Capital expenditure cannot constitute a component of the financial fee structure.”*

Additionally, Rule 177 of DSER, 1973 states *“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, 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, 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.

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e.,





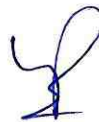
fees collected from the students should not be used for the purchase of land and construction of the school building. In this connection, it is also important to mention that society was allotted institutional land and the cost of such land was very low as compared to the price of commercial and even residential land in that nearby location. The land was allotted to society at a very low price because society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. The society also undertook to execute this work from its own resources or by arranging funds through donations/subscriptions, or from any other legal possible manner. Considering the society's noble motive, DoE had recommended to DDA/other land-owning agencies for allotment of land to society; otherwise, it would not have been possible for society to buy such prime land in such a posh area at a very low price.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of the land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE and society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the DoE supported the main source (i.e., land) required to establish the school by recommending to the land-owning agency for allotment of land. After considering the recommendation of the DoE, a clause was also included in the land allotment letter that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow all the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time. Accordingly, the school is bound to comply with all directions issued by it issued from time to time.

The DoE, in its Order No. F.DE.(237)/PSB/2021/3818-3820 dated 24.09.2021 issued to the school post evaluation of fee hike proposal for the academic session 2019-20, noted that the school had incurred capital expenditure of INR 1,32,59,553 towards the construction of a swimming pool, basketball/tennis court and rainwater harvesting during FY 2016-17 to FY 2018-19. The DoE also noticed that the aforesaid expenditures were incurred by the school without complying with the provision of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover a total of INR 1,32,59,553 from the society.

The representation dated 14.10.2022, submitted by the school in response to the aforesaid findings, was taken on record. The school explained in its representation that INR 30,82,765 was incurred for the construction of the swimming pool in FY 2016-17, whereas the remaining expenditures of INR 1,01,76,788 were related to the preparation of the basketball/tennis court and rainwater harvesting and were incurred out of the development funds. The school also mentioned that it was not related to any new addition to the school's building as the major components of these expenditures of INR 1,01,76,788 was fixtures and furniture. Therefore, amount of INR 1,01,76,788 should be considered while deriving the fund position of the school.

Based on the information provided by the school, only expenditure of INR 30,82,765, which was incurred by the school for the construction of the swimming pool, has been included while deriving the position of the school with the direction to the school to recover this amount from society within 30 days from the date of the issue of this order. And the remaining amount of INR 1,01,76,788, which was related to the purchase/upgrade of furniture, fixtures, and equipment, has not been considered while deriving the fund position of the school. 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.

2. The Directorate, in its Order No. F.DE-15/ACT-1/WPC-4109/PART/13/425-430 dated 02.02.2017 issued to the school post evaluation of fee increase proposal for the academic session 2016-17 and Order No. F.DE-15/(597)/PSB/2018/30352-56 dated 11.12.2018 issued to the school post evaluation of fee hike proposal for the academic session 2017-18 and Order No. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school has made payments of INR 1,46,53,500 from FY 2016-17 to FY 2018-19 to various centers / institutes, which are managed by the same society at a flat rate per student/ teacher in respect of activities/training/orientation, etc. organized by the school at these centers / institutes without working actual cost for these services. That raised the question of whether these expenditures were incurred at an arm's length price or not. Accordingly, the school was directed to recover INR 1,46,53,500 (i.e., INR 62,64,900 in FY 2016-17, INR 49,20,600 in FY 2017-18 and INR 34,68,000 in FY 2018-19) from society which is still pending for recovery.

The documents submitted by the school post-personal hearing were taken on record based on the information provided by the school, such as comparative quotations and supporting bills, etc., for FY 2017-18 and FY 2018-19. It has been noted that these expenditures were incurred after following the due process of procurement. Accordingly, the aforesaid recovery of INR 1,46,53,500 has been reduced by INR 83,88,600 (i.e., INR 49,20,600 in FY 2017-18 and INR 34,68,000 in FY 2018-19) on the basis of the documents provided by the school. And the remaining amount of INR 62,64,900, for which the school has not provided any details, is still recoverable from the society and 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 the issue of this order.

3. Section 18(4) (b) of DSEA, 1973 states "*charges and payments realized, and all other contributions, endowments and gifts received by the school shall be utilized only for the specific purpose for which they were realized or received*".

Further, Rule 177 (1) of DSER, 1973 states "*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.....*".

The Directorate, in its Order No. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had utilized the school funds of INR 24,05,519 during FY 2015-16 and FY 2016-17 for the purchase of cars 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 24,05,519 from society, which is still pending for recovery.

The school explained in its reply dated 14.10.2022, that the aforesaid expenditure was incurred in compliance with the provisions of Rule 177 of DSER, 1973 as the school had a surplus during those financial years when the cars were purchased. The school's contention is not correct given





the fact the school neither invested the requisite amount in plan assets for retirement benefits nor for salary reserve.

Therefore, the above amount of INR 24,05,519 is still recoverable and has been considered as funds available to the school while deriving the fund position. 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.

4. Section 18(4) (b) of DSEA, 1973 states "*charges and payments realized, and all other contributions, endowments and gifts received by the school shall be utilized only for the specific purpose for which they were realized or received*".

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

Further, Rule 177 (1) of DSER, 1973 states "*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.....*".

The Directorate in its Order No F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued for FY 2019-20, noted that the School utilized the school funds for purchase of bus of INR 31,95,603 during FY 2015-16 and FY 2016-17 without complying with Rule 177 of DSER, 1973. Accordingly, the school was directed to recover INR 31,95,603 from society, which is still pending for recovery

The school explained in its reply dated 14.10.2022, that the aforesaid expenditure was incurred in compliance with the provisions of Rule 177 of DSER, 1973 as the school had a surplus during those financial years when the bus was purchased. The school's contention is not correct given the fact the school neither invested the requisite amount in plan assets for retirement benefits nor for salary reserve.

Therefore, the above amount of INR 31,95,603 is still recoverable and has been considered as funds available to the school while deriving the fund position. 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.

5. 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 May 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 1 5.12.1999 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:** Registration fee INR 25 per student prior to admission, shall be charged.
- b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states *"admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage".*
- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 per student shall be charged. The caution money thus collected shall be kept deposited in a Scheduled



Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.

- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.
- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of 'Activity fee for Orientation Programme and Activity Fee for Skill development' from the students of the nursery class at the time of admission is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also charging unwarranted fee under different heads or introduction of any new head in the fee structure other than the prescribed heads of fee and accumulation of surplus funds out of it is prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education. Also, charging of fees in the name of Smart Class, Activity fee, Miscellaneous Charges, and CBSE Registration Fees from the students of all classes losses the character of earmarked levies and is another form of charging capitation fee and involvement in the profiteering and commercialization of the education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible for looking after the smooth operation of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the compliance of directions of the Hon'ble High Court and Supreme Court as well as the orders/circulars issued by the Directorate of Education from time to time in this regard. The manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently, jointly as well as in their personal capacity, be responsible for the levy and collection of capitation fees and any other unauthorised fees collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect. The school is also directed to submit compliance with this direction within 30 days from





the date of issue of this order. Noncompliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

6. The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:
- a) It is reiterated that annual fee-hike is not mandatory.
  - b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
  - c) If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

The Directorate, in its Order No. F.DE.(154)/PSB/2021/3008-3012 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had increased their fee structure in academic session 2018-19 without seeking approval from the DoE. Accordingly, the school was directed to either refund the increased fee to the students or adjust the same against future dues from the students. However, the school has not complied with the above direction. Therefore, the school is hereby again directed to comply with the above-mentioned direction and submit the compliance report 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. As per Para 99 of Guidance note on "*Accounting by School*" issued by the Institute of Chartered Accountants of India (ICAI), relating to the 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*".

The review of the audited financial statements from FY 2019-20 to FY 2021-22 revealed that the school has not been following the accounting treatment specified in para 99 of the Guidance Note-21; rather, the school is following a very complex accounting treatment with respect to the collection and utilization of development fees. Therefore, the school is directed to simplify its accounting treatment with respect to the collection and utilization of development fee in



accordance with para 99 of the guidance note cited above. Since the year-end balance of the general fund and development fund is reflected correctly in the audited financial statements of FY 2021-22. The closing development fund balance of INR 4,29,68,083 as on 31.03.2022 has been considered while deriving the fund position of the school.

8. Para 49 of Accounting Standard 15 'Employee Benefits' issued by The Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*"

Further, para 57 states "*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*". Also, para 7 of the Accounting Standard defines Plan Assets as under:

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

The school has reported a provision for gratuity of INR 8,67,30,198 and INR 4,19,84,499 for leave encashment in the audited financial statements of FY 2021-22 based on the valuation determined by the actuary. Further, the school has invested INR 10,05,75,920 with LIC towards gratuity and leave encashment and reported the same in the audited financial statements. This investment with LIC qualifies as a plan asset within the meaning of AS-15. Therefore, the same has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets within 30 days from the date of issue of this order.

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

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

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

Review of the audited financial statement of FY 2021-22, it has been noted that the school only refunds the principal amount of caution money to the students at the time of their leaving from the school which is not accordance with the above-mentioned provisions.

Therefore, the school is directed to comply with the above-mentioned provision and refund the caution money along with the interest earned thereon. However, the caution money of INR 77,500 (payable within 12 months) reported by the school in the audited financial statements of FY 2021-22 has been adjusted while deriving the fund position of the school.





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

- i. The total funds available for the FY 2022-23 amounting to **INR 23,65,71,408** out of which expected expenditures for the FY 2022-23 would be **INR 26,35,91,444** resulting in net deficit of **INR 2,70,20,036**. The detailed calculation is provided below:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	1,64,34,685
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	17,69,52,181
<b>Liquid Funds as on 31.03.2022</b>	<b>19,33,86,866</b>
Add: Recovery from society for construction of building (Refer Financial Suggestion No. 1)	30,82,765
Add: Recovery from society for transfer of fund to other institutions (Refer Financial Suggestion No. 2)	62,64,900
Add: Recovery from society for purchase of cars (Refer Financial Suggestion No. 3)	24,05,519
Add: Recovery from society for purchase of bus (Refer Financial Suggestion No. 4)	31,95,603
Add: Fees as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	17,38,09,875
Add: Other income as per audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	86,56,990
Add: Additional income as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	47,17,965
Less: Income related to transport and activity as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	48,50,294
<b>Total available funds for FY 2022-23</b>	<b>39,06,70,189</b>
Less: FDR deposited with DoE	46,60,995
Less: FDR deposited with Delhi High Court	58,16,283
Less: Caution money as per Audited Financial Statements of FY 2021-22 (Refer Other Suggestion No. 1)	77,500
Less: Development Fund as per Audited Financial Statements of FY 2021-22 (Refer Financial Suggestion No. 7)	4,29,68,083
Less: Salary Reserve as per Audited Financial Statements of FY 2021-22 (Refer Note No. 3 Below)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 8)	10,05,75,920
<b>Estimated Available Funds for FY 2022-23</b>	<b>23,65,71,408</b>
Less: Budgeted expenditures (Refer Note No. 4,5 and 6 Below)	22,78,81,145
Less: Salary arrears towards 7th CPC (Refer Note No. 7 Below)	3,57,10,299
<b>Estimated Deficit</b>	<b>2,70,20,036</b>

**Note 1:** Cash, bank and invest related to the transport funds and activity fund have been excluded in the above calculation.

**Note 2:** The Department, vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020, has issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-



mentioned orders directed the management of all the private schools not to collect any fee except the tuition fee, irrespective of the fact whether running on private land or government land allotted by DDA/other land-owning agencies, and not to increase any fee in FY 2020-21 till further direction

The department, in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of the Single Bench of the Hon'ble High Court of Delhi and the interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of the Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again 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 a 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 of the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month's fee or refunded to the parents.
- (ii) The amount so payable by the concerned students shall be paid in six equal monthly instalments w.e.f. 10.06.2021. 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, it has been noted that the school has collected its annual charge and development fee after providing a discount of INR 47,17,965. Therefore, income collected by the school during the FY 2021-22 with respect to annual charges and development fees has been grossed up in order to make comparative income with the FY 2022-23. The school has reported this figure in its audited financial statements as well. Additionally, the income related to the transport and activity has not been considered in the above calculation.

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

The school in its audited financial statements of FY 2021-22 has reported provision amounting to INR 2,82,82,814 towards salary reserve without earmarking investment in accordance with the above-mentioned provisions. Therefore, it has not been considered while deriving the fund position of the school.

**Note 4:** 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 fees is comprised of "*registration fee and all one-time charges*" levied at the time of admission, such as admission charges and caution money. The second category of fee comprises the '*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 libraries, laboratories, science, and computers up to class X and the 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 should consist of all



'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fees, 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 fee head has already been defined, and the use of development fees or any other fee heads for investments against the depreciation reserve fund is not mentioned anywhere. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the 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 the charging of development fee, as per the above provisions and the decision of the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., 2004(5) SCC 583. despite the fact that clause 7 of the preceding directive does not require the keeping of any investments in a 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 merely 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 the 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 FY 2021-22 has not been considered while deriving the fund position of the school.

**Note 5:** All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school.



**Note 6:** While evaluating fee hike proposals, the department considers how much liquid funds would require the school for a particular session for smooth operation of the school without compromising on the quality of education. Thus, while deriving the fund position of the school, all legitimate expenditures of revenue as well as capital in accordance with the provisions of DESAR, 1973 and the pronouncement of court judgement have been considered. Therefore, the balance of other current assets and other current liabilities has not been considered. Because it is obvious that current assets, loans and advances, and current liabilities are cyclical in nature, and this has already been considered in the form of the school's budgeted income and expenditure in previous years. Thus, current assets, loans and advances, and current liabilities will always be reflected in the audited financial statements of the school at the end of each financial year.

**Note 7:** Salary arrears towards implementation of 7<sup>th</sup> CPC has been considered. The calculation of which is provided below.

Particulars	Amount (INR)
Salary arrears as per audited financial statement of FY 2021-22 ( <b>Refer Schedule 5 of AFS 21-22</b> )	1,78,08,366
7 <sup>th</sup> CPC Arrears for the period from 01.01.2016 to 31.03.2018 ( <b>Refer Point No. 10 of Notes to Accounts of AFS 21-22</b> )	3,41,00,000
Less: Arrears belongs to transportation fund ( <b>Refer Schedule 5 of AFS 21-22</b> )	4,97,823
Less: Amount already collected from students and available with the school in the form of FDR	1,57,00,244
<b>Total amount towards 7<sup>th</sup> CPC Arrears</b>	<b>3,57,10,299</b>

- 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 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 the 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 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, the school has incurred capital expenditure for the construction of a swimming pool amounting to INR 30,82,765 in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. The school has purchased vehicle/car of INR 56,01,122



without complying with requirement of Rule 176 and 177 of DSER 1973 and the School has transferred INR 62,64,900 to other institutions under same society in contravention of Order No. F.DE-15/ACT-1/WPC-4109/PART/13/425-430 dated 02.02.2017. Accordingly, the school is directed to recover the aforesaid amounts within 30 days from the date of issue of this order. Noncompliance with this directive will be taken seriously in accordance with the provisions of the DSEAR, 1973, with no further opportunity to be heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee 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 the 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 that charging of any arrears on account of fees for several months from the parents is not advisable, not only because of the additional sudden burden falling 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, who, after considering all the material on the record, and after considering the provisions of Section 17 (3), 18(5), and 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 employees' benefits, the fee hike is required to the School.

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

Accordingly, it is hereby conveyed that the proposal for fee hike **Bal Bharati Public School (School ID - 1413222), Sector - 14, 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



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

To  
The Manager/ HoS  
Bal Bharati Public School (School ID - 1413222),  
Sector - 14, Rohini, Delhi - 110085

No. F.DE.15 ( 1032)/PSB/2022 / 9094-9098

Dated: 04/11/22

**Copy to:**

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (North West-B) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



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