

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

No. F.DE.15 (1125)/PSB/2022/ 498-503

Dated: 16/01/23

Order

WHEREAS, **Himalaya International School (School ID - 1413310), F Block, Behind Jai Apartment, Sector-9, Rohini, Delhi - 110085** (hereinafter referred to as "**the School**"), run by the Rohini Shiksha & Sanskritik Santhan (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 13.09.2022 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/ (137)/PSB/2022/2117-2121 dated 21.04.2022 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. 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*."

Also, 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. 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 regard, it is also important to mention that society was allotted an institutional land at very low cost compared to the price of commercial and as well as residential land of that nearby locality. The reason for allotment of land at such low cost was the 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. In its offer the society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, the DoE had recommended to the land owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such posh location.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of 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. 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 main source (i.e., land) which was required to establish and run the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause was included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The DoE noted in the Order No. 15/ (137)/PSB/2022/2117-2121 dated 21.04.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that school had incurred capital expenditure towards purchase of land amounting to INR 21,01,000, INR 70,00,000 and INR 73,00,000 in FY 2016-17, 2017-18 and 2018-19 respectively and capitalized the land cost in fixed assets. It was also noted that the school had incurred the above expenditure without complying with the provisions of Rule 177 of the DSER, 1973. Therefore, the school was directed to recover INR 1,64,01,000 (*INR 21,01,000 plus INR 70,00,000 plus INR 73,00,000*) from society which is still pending for recovery.

On review of audited financial statement for FY 2021-22, noted that school has removed the land purchase cost amounting to INR 1,64,01,000 from fixed assets schedule and increased the General fund balance. However, no amount has been received from the society. During the FY 2021-22, the school has removed **land** from fixed assets and reduced the loss in the books, indicating the diversion of school funds towards the land purchase and the subsequent removal of this expenditure from the financial statements. Given the fact that the school before incurring the said capital expenditure did not invest the amount in plan asset for payment of retirement benefits, did not pay salary to the staff in accordance with the recommendation of 7<sup>th</sup> CPC and did not maintain four months' salary reserve for future contingencies. Therefore, it appears that the school has been trying to exhaust all its funds first and then requesting fees hike from the Director of Education under the shadow that the school does not have sufficient to implement the recommendation of 7<sup>th</sup> CPC fully and funds to invest in plan assets.

Therefore, the amount of INR 1,64,01,000 utilised by the school in contravention of above-mentioned provision has been considered as fund available with the school while deriving the fund



position with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Non-compliance 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.

2. 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 Rs. 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, as per 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.*”

On review of audited financial statement for the FY 2019-20 to 2021-22, it has been noted that the school is refunding only the principal amount to the student at the time of leaving the school, which is not in accordance with clause 18 of Order No. F.DE/15 (56) /Act /2009 / 778 dated 11.02.2009. The balance of caution money as on 31.03.2022 is INR 13,49,000 as per audited financial statements for the FY 2021-22 against which balance available in the form of cash/ bank/ FDR are nil indicating that the school has already utilized these funds for meeting other expenditure of the school without making the appropriate entries in the books of accounts. Therefore, closing balance of caution money 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.

3. 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.”

Para 60 of the Guidance Note – 21 ‘*Accounting by Schools*’ issued by the Institute of Chartered Accountants of India states for accounting of retirement benefits, it is recommended that the principles laid down in AS-15 should be followed.

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.*”

On review of the audited financial statements of FY 2021-22, revealed that the school has recorded liability for retirement benefits amounting to INR 15,41,138 as on 31.03.2022. However, the aforesaid provision has been created without obtaining the valuation report from the registered actuarial valuer. Further, the school has not invested any amount in plan assets within the meaning of AS-15 till 31.03.2022.

Further, school has invested INR 15,41,138 with LIC on 07.09.2022 and submitted the investment proof. As the investment with LIC qualifies as plan assets within the meaning of AS-15 therefore, amount invested by the school has been considered while deriving the fund position of the school with the direction to the school record its retirement benefit obligation as per actuarial valuation report and deposit the remaining amount in plan assets within 30 days from the date of issue of this order.

4. 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". However, do not 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 utilized account and the depreciation reserve fund do not correspond to the cost of assets purchased with development funds.

Further, the school has reported a development fund balance of INR 41,99,261 as on 31.03.2022 as per audited financial statements of FY 2021-22 while the cash/bank balance against the development was nil. This indicates that the development fund balance has been utilized 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 accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of the next academic session.

5. Post personal hearing, the school submitted salary arrears of INR 2,63,96,499 pending for payment from January 2016 to March 2022. The School was asked to provide the soft file of calculation of 7<sup>th</sup> CPC arrear and the school submitted the same vide its email dated 09.12.2022. While reviewing the calculation submitted by the school. following major observations have been noted:

- a. The School claims salary arrears which include 42 employees those already left the school with their full and final settlement.
- b. The school didn't implement the recommendation of 6<sup>th</sup> CPC completely and smartly, claims its arrears of 6<sup>th</sup> CPC while calculating the arrears of 7<sup>th</sup> CPC.
- c. The School also claims the salary arrears of one of the employee who joined on 06.07.2019 however, arrears for Jan-16 to Mar-17 has also been claimed.

Based on the aforesaid findings, which are material in nature, Therefore, the school was provided another opportunity to provide justification on the same on 13.12.2022. However, partial response from the school has been received vide email dated 14.12.2022 in which school accepted the fact that school has been paying 6CPC on pre-rata basis.

In view of the above- mentioned findings, the figures of salary arrears for FY 2020-21 & 2021-22 as submitted by the school of INR 76,87,768 has been considered while calculating fund position.

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

1. Section 13 (1) of the Right to Education Act, 2009 states "*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*". Further Section 13 (2) states "*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.*

Additionally, 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*, 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 capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the recommendation of the DoE. Therefore, the school is bound to follow all the instruction/direction issued by the DoE under the obligation of land allotment letter.

Additionally, Rule 50 of DSER, 1973 states "*the school is not run for profit to any individual, group or association of individual or any other person' and 'the managing committee observes the provisions of the Act and Rules made there under'*".

Based on the provisions mentioned above and the pronouncement of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only to the amount/contribution received at the time of admission only but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of new head of fee in the fee structure whether at the time of the admission of the students or otherwise.

In this regard the Directorate vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 has already specified the head of fees that a recognized private school can collect from the students/parents. Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents otherwise than the specified head of fees.

Therefore, any demand of capitation fee or introduction of the new head of fee in the fee structure of the school other than the notified head of fees will be considered as *commercialization of education*, which cannot be permitted at any cost.

Review of the documents submitted by the school revealed that the school has been charging an 'Smart class charges' of INR 4,800 other than the permitted heads of fee from students at the time of admission and 'Activity charges' of INR 7,500 other than the permitted heads of fee from students of Nursery and KG class. Accordingly, the school is hereby directed to immediately stop collection of one-time charges from students. Similar findings were noted by the DoE in its previous order issued to the school post evaluation of the fee hike proposal for academic session 2019-20, but the school has not complied with that direction until now.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by the DoE from time to time. The manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure the admission process is



transparent. They are jointly and severely responsible in their personal capacity for the levy and collection of the capitation fee and any other unauthorized fee. Therefore, non-compliance by the school with this direction within the stipulated time frame shall be viewed seriously and necessary action against the school shall be initiated without providing further opportunity to be heard.

2. 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.

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.

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

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

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

Review of the audited financial statements 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 3,66,92,281** out of which cash outflow for the FY 2022-23 is estimated to be **INR 3,12,84,860**. This results in a surplus of **INR 54,07,421** 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	34,85,400
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22 (Refer Note No. 1 Below)	12,92,482
<b>Liquid fund as on 31.03.2022</b>	<b>47,77,882</b>
Add: Amount Recoverable from society (Refer Financial Suggestion No. 1)	1,64,01,000
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	1,79,94,056
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 2 Below)	5,15,745
Add: Additional income of annual charges and development fund (Refer Note No. 2 Below)	7,17,175
Less: Arrears of fee recorded in FY 2021-22 related to FY 2020-21. (Refer Note No. 2 Below)	17,49,782
Less: Non Cash Income of unclaimed caution money (Refer Note No. 3 Below)	1,66,500
<b>Total available funds for FY 2022-23</b>	<b>3,84,89,576</b>
Less: FDR in joint name with DOE	2,56,157
Less: Student Security Deposit (Refer Financial Suggestion No. 2)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 3)	15,41,138
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 (Refer Financial Suggestion No. 4)	-
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 4 Below)	-
<b>Estimated Available Funds for FY 2022-23</b>	<b>3,66,92,281</b>
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 5 and 6 Below)	2,35,97,092
Less: Arrears of 7th CPC (Refer Financial Suggestion No. 5)	76,87,768
<b>Estimated Surplus</b>	<b>54,07,421</b>

**Note 1:** The detail of fixed deposit held by the school as per the audited financial statements of FY is provided below:

S. No	Particulars	Amount In INR	Remarks
1	FDR in Joint name of Manager and DDE	2,56,157	Considered separately.
2	FDR in the School Name (As Gratuity Reserve)	10,36,325	Part of the funds position as it is available with the school for utilization.
	<b>Total</b>	<b>12,92,482</b>	

**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 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. 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	1,21,67,881	1,21,67,881	
Annual Charges	19,06,786	22,43,278	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	21,57,207	25,37,891	

Similarly, arrears amounting to INR 17,49,782 for FY 2020-21 received in 2021-22 has not been considered while calculating fund position of school.

**Note 3:** Liability written back with respect to caution money of students amounting to INR 1,66,500 which was reported as income in Income and expenditure account of AFS-2021-22 being notional in nature has not been considered which deriving the fund position.

**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 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 incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."



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

**Note 5:** All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Income as per Budgeted of FY 2022-23	Disallowed	Remarks
Salary to Drivers	15,07,600	15,07,600	Neither Income nor expenses related to transport has been considered in the above table.
Fuel Expenses - CNG	1,70,000	1,70,000	
Vehicle Repairs	1,75,000	1,75,000	
Teacher Training	1,00,000	1,00,000	The school has introduced new head of expenditure without providing propose justification.
Sanitisation	1,00,000	1,00,000	
Conveyance	25,000	25,000	
Educational Tours	50,000	50,000	
Birthday Celebration	1,00,000	1,00,000	
Art & Craft	50,000	50,000	
E-learning Material	1,25,000	1,25,000	
SMS Charge	6,45,000	6,45,000	
First Aid	1,75,000	1,75,000	
Nurse	2,40,000	2,40,000	
Health Software	2,20,000	2,20,000	
Fire Extinguishers	15,000	15,000	
LED & Projector	1,20,000	1,20,000	
Housekeeping	11,58,504	9,00,000	
Salaries	2,42,44,173	77,11,837	The school has proposed excessive salary expenditure as compared to the expenditure incurred by the school during the previous financial year. Therefore, excess expenditure of INR 77,11,837 has not been considered while deriving the fund position of the school. This was discussed with the school during the personal hearing.

Particulars	Income as per Budgeted of FY 2022-23	Disallowed	Remarks
Capital Expenditure	28.05,000	6,78,675	The school has proposed expenditure higher than the capital receipts. Therefore, INR 6,78,675 has not been considered considering the excessive expenditure

**Note 6:** While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

- ii. In view of the above examination, it is evident that the school 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 available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has incurred INR 1,64,01,000 in contravention of Rule 177 and other provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the

material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are available with the school for meeting financial implication for the academic session 2022-23.

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

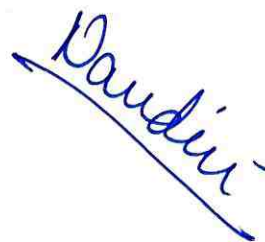
Accordingly, it is hereby conveyed that the proposal for fee hike of **Himalaya International School (School ID - 1413310), F Block, Behind Jai Apartment, Sector-9, Rohini, Delhi - 110085** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

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

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



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

To  
The Manager/ HoS  
Himalaya International School (School ID - 1413310),  
F Block, Behind Jai Apartment,  
Sector-9, Rohini, Delhi - 110085

No. F.DE.15 ( 1125 )/PSB/2022 / 498 -503

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