

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

No. F.DE.15 (1524)/PSB/2023/ 7402-7406

Dated: 21/08/23

Order

WHEREAS, Sumermal Jain Public School, B-2, Janakpuri, Delhi-110058 (School Id-1514089) (hereinafter referred to as "the School"), run by the Sumermal Jain Educational & Welfare Society (Regd.) (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177(1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to the DoE to examine the audited financial Statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every 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 increase proposal submitted by the private unaided recognized schools for some of the schools which have been allotted from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 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 DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

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

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, the order dispenses the proposal for increase of fee submitted by the school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 09th May 2023 to present its justifications/clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record.

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

A. Financial Suggestions for Improvement

1. As per Clause 14 of this Directorate's Order No. F.DE/15 (56) /Act /2009 / 778 dated 11 Feb 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 out of this fund, will be kept in a separately maintained Development Fund Account.”

As per Para 67 of the Guidance Note on ‘Accounting by Schools’ issued by Institute of Chartered Accountants of India, *“The financial statements should disclose, inter alia, the historical cost of fixed assets.”* Further, Notes to Part II of Appendix III to the aforementioned Guidance Note states *“Under each head, the original cost, the additions thereto and deductions therefrom during the year, depreciation written off or provided during the year, and the total depreciation written off or provided up to the end of the year should be stated.”*

Further, Para 58(i) of the Guidance Note states *“A school should charge depreciation according to the written down value method at rates recommended in Appendix I to the Guidance Note.”*

Para 99 of Guidance Note on Accounting by Schools (2005) 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.”*

The Directorate in its Order No. F.DE. 15/ (632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20, directed the school to ensure proper maintenance of depreciation reserve fund equivalent to the depreciation charged in the revenue accounts and to ensure that the fixed assets are reported in its financial statements at gross value.

On review of the audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has made rectification to Depreciation Reserve Fund (Development Fund Assets and General Fund Assets) and Assets Development Fund during FY 2019-20 and has calculated the correct balance of above funds and has reported fixed assets in its financial statements at historic value.

Further, the Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, up gradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate’s circular no. 1978 dated 16 April 2010 states *“All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase.”*

On review of audited financial statements for FY 2020-21, the school has utilized development fund for payment of salaries which is not in accordance with the above-mentioned provisions.

Similar observations were also noted in Directorate’s Order No. F.DE. 15/ (632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20 wherein the school has utilised development fund for purchase of assets and smart class expenses in FY 2017-18.

Accordingly, the school is directed to pass rectification entries and disclose correct balance of development fund account. Also, the school is directed to ensure utilization of development fund for purchase, upgradation and replacement of furniture, fixtures and equipment only.



2. Rule 177 of DSER, 1973 states *“(1) Income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

- a. award of the scholarships to students,*
- b. establishment of any other recognised school, or*
- c. 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.*

(2) The savings referred to in sub-rule (1) 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 development nature,*
- (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or 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.”*

The Directorate in its Order No. F.DE. 15/ (632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20, noted that the school has paid INR 12,24,798 as scholarships to students during FY 2016-17 to 2018-19 and the school was directed to recover the said amount from the society. However, no amount is recovered from the society.

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school had paid INR 1,39,396 and INR 13,118 as scholarships to students during FY 2019-20 and 2020-21 respectively without complying with the requirements of sub-rule 2 of Rule 177. Accordingly, INR 13,77,312 paid by the school as scholarship is hereby included in the calculation of available fund of the school with the direction to the school to recover this amount from the society within 30 days from the date of the order.

3. Section 18(4) of DSEA-1973 states *“(a) Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed; and (b) Charges and payments realised and all other contributions, endowments and gifts received by the school shall be utilised only for the specific purpose for which they were realised or received”.* And Rule 176 of DSER, 1973 state *“Income derived from collection for specific purpose shall be spent only for such purpose.*

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has incurred INR 50,000 (INR 25,000 each in FY 2020-21 and 2021-22) on membership expenses which cannot be considered as educational expenses. Similar observations were also noted in Directorate's Order No. F.DE. 15/ (632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20 and the school was directed to recover INR 77,000 from the society. However, the recovery is still pending.

The school in its compliance report has mentioned that *“The membership fee included the annual membership fee paid to the action committee of unaided recognized school of Delhi and is very nominal and should be considered as educational expenses”.* However, the response of the school is incorrect and these expenses may not be termed as educational expenses. Accordingly, the membership expenses paid by the school amounting to INR 1,27,000 has been included in the calculation of available fund of the school

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

4. As per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprised of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover 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 expenditures not included in the second category and the fourth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Clause 20 of Order No. F.DE./ 15(56) /Act/ 2009/ 778 dated 11/02/2009 states that "no fee, fund or any other charges by whatever name called, shall be levied or realised unless it is determined by the managing committee in accordance with the directions contained in the order and unless the representatives of the PTA and the nominees of the undersigned are associated with these directions"

The Directorate in its Order No. F.DE. 15/ (632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20, directed the school not to collect PTA Fee from the students and refund the amount to the students.

The school in its compliance report has mentioned that "the school is not collecting PTA Fund from any parents w.e.f. March 2020 till date due to pandemic period". This has been taken on record. Further, on review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has not collected PTA Fund from parents and as on 31.03.2022 the balance of PTA was Nil. The school is directed to ensure not to collect any fee in the name of PTA fee or to introduce new head of fee without approval from the Directorate.

5. As per 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, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

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

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*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 recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

According to sub rule (4) of Rule 173 - 'School fund how to be maintained' of DSER, 1973 "Every Recognised Unaided School Fund shall be kept deposited in a nationalised bank or a scheduled bank or in a post office in the name of the school, and such part of the said Fund as may be specified by the Administrator or any officer authorised by him in this behalf shall be kept in the form of Government securities and as cash in hand respectively."

On review of audited financial statements for FY 2019-20 to 2021-22, it is noted that the school has made investments of INR 2,06,34,907 in capital market linked schemes offered by AVIVA and HDFC insurance and has created SMJS Gratuity Trust corresponding to it. As per the terms and conditions of the policy

taken by the school, “the premium paid are subject to investment risks associated with capital markets and the NAVs of the units may go up or down based on the performance of the funds and factors influencing the capital markets and the insured is responsible for his/her decisions.”

Similar observations were also noted in the Directorate’s Order No. F.DE. 15/(632)/PSB/2022/ 3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/ 3850-3854 dated 31.05.2022 issued for FY 2019-20 and the school was directed to deposit school funds in nationalised bank or a scheduled bank or in a post office or any officer authorised them and to make investments that qualify as “Plan Assets” as per AS-15. However, the school has not complied with the above direction till the end of FY 2021-22.

The school has submitted the copy of the receipts of amount invested with LIC amounting INR 1,60,00,000 in LIC Group Gratuity Scheme which has been considered in the evaluation of fee increase proposal for FY 2022-23. Further, the school has not made provision for gratuity and leave encashment in accordance with the actuarial valuation report submitted by the school. As on 31.03.2022, the provision for gratuity and leave encashment are INR 3,48,27,710 and 1,46,55,042 in the audited financial statements whereas as per the actuarial valuation report, gratuity and leave encashment liability are INR 5,14,44,502 and INR 1,70,37,524 respectively.

Hence, for the purpose of evaluation of fee increase proposal for FY 2022-23, INR 2,06,34,907 earmarked towards investments for gratuity has not been considered while deriving the fund position of the school as amount invested with LIC has already been considered. And the amount proposed by the school of INR 83,27,275 for gratuity and INR 46,12,785 for leave encashment in the budget for FY 2022-23 has not been considered.

Therefore, the school is directed to make investments that qualify as ‘Plan Assets’ per AS-15 in accordance with sub-rule (4) of Rule 173 within 30 days from the date of the order. Further, the school is directed to follow the provisions laid down under DSER, 1973 and not to invest school funds in volatile investments, which are subject to market risks.

6. As per Clause 18 of Order No. F.DE. 15/(56)/Act /2009/778 dated 11/02/2009, 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 concerned school and shall be returned to the student at the time of his/her leaving the school along with the Bank interest.

The Directorate in its Order No. F.DE. 15/ (632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20, directed the school to maintain separate bank account for security deposit/ caution money.

The school in its compliance report has mentioned that “the school will open bank account for caution money”. This has been taken on record. Accordingly, the school is again directed to open separate bank account for security deposit/ caution money and make the investment or maintain the bank balance equivalent to the security amount reflected in the Balance Sheet. The compliance will be verified at the time of evaluation of fee proposal of the school in next academic session. Thus, the balance of caution money refundable of INR 12,55,740 as on 31.03.2022 has been considered while deriving the fund position of the school.

B. Other Suggestions for Improvement

1. Rule 176 - ‘Collections for specific purposes to be spent for that purpose’ of the DSER, 1973 states “Income derived from collections for specific purposes shall be spent only for such purpose.”

Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009 states that *Earmarked levies shall be charged from the user student only. Earmarked levies for the services rendered shall be charged in respect of facilities involving expenditure beyond the expenditure on the earmarked levies already being charged for the purpose. They will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. All transactions relating to the earmarked levies shall be an integral part of the school accounts*

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Further, clause 19 of Order No. F.DE. 15/(56)/Act/2009/778 dated 11 Feb 2009 States "The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."

Also, earmarked levies collected from students are a form of restricted funds, which, according to the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

On review of the audited financial statements for FY 2019-20 to 2021-22, it is noted that the school charges earmarked levies in the name of science fees, transport charges, computer fees, biology fee, fashion studies fee, home science fee, psychology fee, dairy and I card fee, summer school of drama, summer hobby course, summer academy of sports from students.

However, the school has not maintained separate fund accounts for these earmarked levies which implies that the school has been either generating surplus from these earmarked levies, which is being utilised for meeting other expenses of the school or incurring losses (deficit), which is being met from other fees/income (Tuition Fees and annual charges).

Similar observations were also noted in Directorate's Order No. DE.15 (280)/PSB/2019/1465-1469 dated 04/04/2019 issued for FY 2017-18, Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20.

Details of surplus/deficit, based on breakup of expenditure given in the financial statement are given below:

8

Particulars	Fee Collected for the FY 2019-20	Expenses for the FY 2019-20	Difference for the FY 2019-20	Fee Collected for the FY 2020-21	Expenses for the FY 2020-21	Difference for the FY 2020-21	Fee Collected for the FY 2021-22	Expenses for the FY 2021-22	Difference for the FY 2021-22
Science Fees*	4,54,965	-	4,54,965	-	-	-	-	-	-
Transport Charges	7,19,245	5,82,855	1,36,390	-	4,04,198	-4,04,198	-	4,60,857	-4,60,857
Computer Fees*	8,30,305	3,92,444	4,37,861	-	1,22,779	-1,22,779	-	1,25,988	-1,25,988
Biology Fee*	45,954	-	45,954	-	-	-	-	-	-
Fashion Studies Fee*	4,47,400	-	4,47,400	-	-	-	-	-	-
Home Science Fee*	4,14,480	-	4,14,480	-	-	-	-	-	-
Psychology Fee*	2,46,098	-	2,46,098	-	-	-	-	-	-
Diary and I Card Fee	4,48,360	2,29,502	2,18,858	-	1,25,467	-1,25,467	-	-	-
Sumer School of Drama	1,85,200	-	1,85,200	-	-	-	-	-	-
Summer Hobby Course	45,000	1,28,205	-83,205	-	-	-	-	-	-
Sumer Academy of Sports	-	1,16,935	-1,16,935	-	11,760	-11,760	-	36,256	-36,256
Smart Class Fee	34,27,203	35,26,379	-99,176	-	34,95,412	34,95,412	-	34,27,119	34,27,119
ERP Fee	11,60,650	12,72,273	-1,11,623	-	15,00,351	15,00,351	-	15,30,974	15,30,974

*The school is not maintaining a separate fund account for the above-mentioned earmarked fees, therefore the expenses incurred with respect to science fees, biology fees, fashion studies fee, home science fee and Psychology fee could not be traced from the financial statements to calculate surplus/deficit.

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

Therefore, the school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year.

And the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss. This being procedure observation no financial impact has been while deriving the fund position of the school.

Further, as per condition of Land allotment letter, the school shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. And accordingly, The Directorate of Education sought online proposals from the schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016

However, the financial statements of FY 2018-19 revealed that the school has introduce two new earmarked levies namely 'Smart Class' and 'ERP fee' without obtaining the approval from the Directorate and collected INR. 10,87,722 and INR. 32,81,730 respectively during the financial year. Therefore, the school is also directed to adjust this collection against future dues from the students and stop immediately stop to charge these levies from the students.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

2. As per the provisions of rule 107- 'Fixation of Pay' of DSER, 1973, "(1) The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum of the scale of pay. Provided that a higher initial pay, in the specified scale of pay, may be given to a person by an appointing authority....

(2) The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school."

The Directorate in its Order No. DE15 (280)/PSB/2019/1465-1469 dated 04.04.2019 issued for FY 2017-18 noted that the gross salary of Principal computed as INR 2,13,057 (with a grade pay of INR 8,700) for the month of December 2017 as per the salary computation of 7th CPC was found excess in comparison to the salaries paid to comparable staff in government schools. Also, the Directorate's in its Order dated 04.04.2019 issued for FY 2017-18 stated the compliance of the above will be examined at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

The school vide its representation dated May 13, 2019 did not submit the reconciliation of salary from her date of joining and subsequent increments. In absence of such details, it could not be concluded whether excessive salary is being drawn by the principal of the school is within the limit prescribed under fixation of Pay or it would be on higher side.

Moreover, the school failed to explain why salary of the principal was not fixed in accordance with Rule 107 of DSER, 1973 and did not provide details of her salary from the date of her joining and subsequent increments. In view of this, the contention of the school is not tenable and the school is again directed to comply with the above direction of the Directorate's and submit the compliance report within 30 days from the date of issue of the order. Further, in case the school wish to pay salaries to its selected employees more than those of the employees of the corresponding status in school run by the appropriate authority, then the same should be either borne by the society or management of the school.

3. As per the provisions of Para 7 of Accounting Standard 10 issued by the Institute of Chartered Accountants of India, "The cost of an item of property, plant and equipment should be recognized as an asset if, and



only if: (a) it is probable that future economic benefits associated with the item will flow to the enterprise; and (b) the cost of the item can be measured reliably.”

Further, the contract between the school and the contractor for Smart class hardware and content provider states,

“4.1 EM shall sell to school all the goods described in annexure-2 hereto. Subject to clause 4.4. below, EM shall ensure that all the hardware and accessories provided to the school remain in working condition throughout the duration of the agreement, provided that the school timely fulfils its payment obligations for the same.

4.2 School shall earmark the classrooms in which the goods are to be installed by EM.

4.3 School shall provide proper electrical wiring and earthing to the point of installation in the classroom and ensure uninterrupted power supply through adequate backup for smooth operation and running of the classroom.

4.4 School shall provide necessary documentation, including gate entry pass forms for entry of hardware into the state in which the school is situated. School shall be responsible for obtaining such forms from the GST Department as may be required. EM can, if required, assist in procurement of the same, on submission of, inter alia, No objection certificate, by the school, along with Pan Card copy of the school and principal and any other document, as may be required.”

From the above-mentioned terms and conditions of the contract, it is clearly visible that future economic benefits associated with the item will flow to the enterprise and the cost of the item can be measured reliably. Therefore, the assets purchased for providing smart classes to the students should have been recognized as fixed assets of the school.

The Directorate in its Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20, noted that the school has incurred expenditure of INR 32,56,213 towards purchase of hardware during FY 2018-19 and the same has been accounted for as revenue expenditure instead of capital expenditure by the school. Also, the Directorate in its order issued for the FY 2017-18 directed the school to capitalize the expenditure incurred towards the purchase of smart class equipment and correspondingly charge depreciation on the same. However, no corrective action has been taken by the school till date. Therefore, the school is again directed to comply with the correct accounting principle and capitalize the hardware part of the smart class and charge depreciation on the same.

4. The Directorate’s Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20, noted that the school has submitted fixed asset register (FAR) that disclosed asset name, date of purchase and amount of the assets. The school should 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 in its compliance report has mentioned that “the above parameters shall be included in the fixed asset register from now onwards.” This has been taken on record. Accordingly, the school is directed to comply with the directions given by updating the FAR with relevant details mentioned above in accordance with the process for periodic physical verification of assets and document the results of physical verification of assets. The same shall be verified at the time of evaluation of fee hike proposal for subsequent year.

5. The Directorate in its Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022 issued for FY 2019-20, noted that the school was not complying with the DOE Order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 and condition mentioned at S. No. 18 in the land allotment letter which provides for 25% reservation to children belonging to EWS category.

As per school's submission, the details of EWS students and total number of students are as follows:

Particulars	FY 2019-2020	FY 2020-21	FY 2021-22
Total Strength	2,248	2,257	2,276
EWS	325	350	398
% EWS to the total number of students	14.46%	15.51%	17.49%

As per table above, it can be noted that the school has not been complying with the directions of the Directorate and conditions of land allotment letter. Therefore, the concerned DDE (District) is requested to look into this matter and ensure compliance with the above directions.

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 11,24,53,209 out of which cash outflow in the FY 2022-23 is estimated to be INR 11,73,14,795. This results in deficit of INR 48,61,586 for FY 2022-23 after all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	11,48,941
Investments as on 31.03.22 as per Audited Financial Statements	2,90,20,228
Liquid Funds as on 31.03.2022	3,01,69,169
Add: Recovery from the society against scholarship paid to students during FY 2016-17 to 2018-19 [Refer Financial Suggestion No. 2]	13,77,312
Add: Recovery from the society against Membership expenses paid by the school during the FY 2016-17 to 2021-22 [Refer Financial Suggestion No. 3]	1,27,000
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	9,78,77,601
Add: Other Income for FY 2021-22 as per Audited Financial Statements (Refer Note 2 Below)	1,92,668
Add: Additional Income of Annual Charges and Development Fund (Refer Note 4 Below)	1,35,85,541
Add: Additional Fees due to increase in fee @10% from 01.07.2022 (Refer Note 5 Below)	67,92,770
Less: Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 (Refer Note 3 Below)	1,98,51,914
Total Available Funds for FY 2022-23	13,02,70,147
Less: FDR on joint name with Dy Director Education / Secretary, CBSE and Manager of the school (Refer Note 1 Below)	5,61,198
Less: Investment made with LIC against provision made for retirement benefits. (Refer Financial Suggestion No. 5)	1,60,00,000
Less: Caution Money (Refer Financial Suggestion No. 6)	12,55,740
Net Available Funds for FY 2022-23 (A)	11,24,53,209
Less: Budgeted expenses for the session 2022-23 (Refer Note 6 and 7 Below)	11,73,14,795
Total Estimated Expenditure for FY 2022-23 (B)	11,73,14,795
Net Deficit (A-B)	48,61,586



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

Particulars	Amount (in INR)	Remarks
FDR in the joint name of Dy Director Education and Manager of the school or Secretary, CBSE and Manager of the school	5,61,198	Deducted while calculating available funds of the school.
Total	5,61,198	

Note 2: All the fee and other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23.

Note 3: The Arrears of Annual Charges and Development Charges of FY 2020-21 collected in FY 2021-22 as per the school's submission are as under:

Fee heads	Arrears of FY 2020-21 collected in FY 2021-22
Annual Charges	1,24,44,694
Development Fee	74,07,220
Total	1,98,51,914

Note 4: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

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

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

From review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school post personal hearing, it has been noted that the school has reported tuition fees annual charges and development fees at 85% in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Particulars	Income as per Audited Income & Expenditure Account for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition fee	6,23,78,680	7,33,86,682	As per the details provided by the school, Tuition Fee, Annual Charges and Development Charges collected in FY 2021-22 at the rate of 85% and thus, difference amount of INR 1,35,85,541 has been considered.
Annual Charges	91,17,833	1,07,26,862	
Development Charges	54,88,217	64,56,726	
Total	7,69,84,730	9,05,70,271	

Note 5: The school was allowed to increase fee 5% vide Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19 and 5% vide Order No. F.DE.15/ (634)/PSB/2022/3850-3854 dated 31.05.2022, from 1st July, 2022. School has submitted that it has increased the fee @10% from 1st July 2022. Accordingly, additional income on account of fee increase will also accrue to the school in FY 2022-23 and thus, following amount has been considered as funds available with the school:

Fee heads	Actual receipt in FY 2021-22	Grossed Up	Total Estimated Fee	Increased fee (with fee increase @10% for 9 months)
Tuition fees	6,23,78,680	1,10,08,002	7,33,86,682	7,88,90,684
Annual Charges	91,17,833	16,09,029	1,07,26,862	1,15,31,377
Development Fee	54,88,217	9,68,509	64,56,726	69,40,980
Total	7,69,84,730	1,35,85,541	9,05,70,271	9,73,63,041
Impact of fee increase				67,92,770

Note 6: All budgeted expenditure proposed by the school amounting to INR 29,83,98,673 has been considered while deriving the fund position of the school except the following:

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Salary - Teaching and Non-teaching staff	10,13,32,470	1,05,84,574	Restricted to 130% of expenditure incurred in FY 2021-22.
Salary Arrear	5,26,21,336	5,26,21,336	Refer Note 7 Below
Gratuity	83,27,275	83,27,275	Refer Financial Suggestion No. 5
Leave Encashment	46,12,785	46,12,785	
Repair and Maintenance	25,00,000	11,44,082	Restricted to 110% of Expenditure incurred in FY 2021-22
Deficit Estimated upto 31st March 22	9,31,34,807	9,31,34,807	Not an expense. Also, basis and the justification not provided.
Dairy & I.D Card Exp	3,00,000	3,00,000	Neither Income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Smart class Fee	45,00,000	45,00,000	
ERP/Software Maintenance	20,00,000	20,00,000	
Transport expenses	8,00,000	8,00,000	
Capital Expenditure	1,00,00,000	30,59,020	Restricted to development fee

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
			expected to be received in FY 2022-23
Total	28,01,28,673	18,10,83,878	

Note 7: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3(17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of 7th CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

As per school's reply during hearing, it was held that the school has implemented 7th CPC recommendations w.e.f. 01.04.2023. Further, salary arrears amounting to INR 1,49,74,054 has already been allowed in the Directorate's Order No. F.DE. 15/(632)/PSB/2022/3860-3864 dated 31.05.2022 issued for FY 2018-19. And therefore, amount of salary arrears as proposed in the budget for FY 2022-23 has not been considered as the same was already considered while allowing fee increase for session 2018-19 and 2019-20 and the school was directed to implement the recommendations of 7th CPC for payment of salaries to the staff.

- ii. In view of the above examination, it is evident that the school does not have adequate funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 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 provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the proposal of the school for the session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instruction against which have been given in the order) that the sufficient funds are not available with the school to carry out its operations for the academic session 2022-23.

AND WHEREAS, it is noticed that the school has incurred INR 15,04,312 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 the order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. Further, school is hereby directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of the order.

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC.

AND WHEREAS, the fee proposal of the school 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 sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23. 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 5% to be effective from 01 April 2023.

AND WHEREAS, the act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

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 the order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for fee hike of **Sumermal Jain Public School, B-2, Janakpuri, Delhi-110058 (School Id-1514089)** filed 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 allowed to increase the fee by 5% for session 2022-23 to be effective from 01.04.2023.

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



1. To increase the fee by 5% from the specified date i.e. 01.04.2023.
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 the 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.



(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Sumermal Jain Public School,
B-2, Janakpuri, Delhi-110058 (School Id-1514089)

No. F.DE.15 (1524)/PSB/2023 / 7402-7406

Dated: 21/08/23

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 (West-A) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.



(Jai Parkash)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi