

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

No. F.DE.15 (1157)/PSB/2022/732-737

Dated: 24/01/23

Order

WHEREAS, **Happy Model School (School ID- 1514094), B-2 Janak Puri, New Delhi-110058**, (hereinafter referred to as "**the School**"), run by the Happy Montessori School Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning agencies.

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

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

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

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email and the school was also provided an opportunity to be heard on 01.09.2022 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/ (828)/PSB/2022/5342-5346 dated 01.07.2022 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. As per clause 2 included in the Public Notice dated 04.05.1997, *"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 in the case of Delhi Abibhavak Mahasangh concluded that *"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 10.02.02005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

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

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 connection, it is also important to mention that society was allotted institutional land and the cost of such land was very low as compared to the price of commercial and even residential land in that nearby location. The land was allotted to society at a very low price because society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. The society also undertook to execute this work from

its own resources or by arranging funds through donations/ subscriptions, or from any other legal possible manner. Considering the society's noble motive, DoE had recommended to DDA/other land-owning agencies for allotment of land to society; otherwise, it would not have been possible for society to buy such prime land in such a posh area at a very low price.

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

The Directorate in its Order No.15/ (828)/PSB/2022/5342-5346 dated 01.07.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had incurred capital expenditure of INR 3,51,76,090 from FY 2016-17 to FY 2018-19 for addition to the building without complying with the above-mentioned provisions. Given the fact that the school did not implement the recommendation of the 7th CPC and has not invested an amount in qualify assets for payment of retirement benefits in accordance with AS-15. Accordingly, the school was directed to recover INR 3,51,76,090 from society which is still pending for recovery.

The documents submitted by the school post personal hearing were taken on record. The school mentioned that *"the CAs (appointed by DOE) have inferred contravention to Rule 177 DSER 1973 without conducting the proper due diligence on the matter....."*

1. *It is worthy to be highlight that the said expenditure was never done for the construction of any new building/asset or to increase the FAR of building*
2. *The amount shown under the head of 'building/CWIP' is merely afflicted with wrong nomenclature and there has been no addition/increase in the FAR of the building. The school commenced operation in 1980 and since then, the FAR of the building has remained the same as it was at the time of commencement of school....."*
3. *Further, the society in its charitable intent, infused funds in school to partially fund the said expenditure during the said period. The society balance in the school accounts, as on March 31,2018 was Rs. 1,68,75,288/-. In proof, copy of the financial statement already shared with your respected department".*

The contention of the school is incorrect because based on the above-mentioned provisions and pronouncements of the Courts, the cost relating to land and construction of school building should be borne by the society, being the property of the society and the school funds i.e., fee collected from students should not be utilized for the same. Further, Rule 177 of DSER, 1973, the school fee at the first instance should be utilized for meeting establishment cost and other benefits admissible to the employees and capital expenditure should be met out the saving if any. Furthermore, the school did not implement the recommendation of the 7th CPC and has not invested an amount in qualify assets for payment of retirement benefits in accordance with AS-15. Therefore, the contention of the school is not tenable and justified.

Further, the submission of the school that the school infused funds is also incorrect because as per the audited financial statements the school instead of recording this as capital contribution and grant has recorded as amount payable by the school to the society. This indicates that the school has made a temporary arrangement with the intention withdraws the observation of DoE and pay back this society at latter stage as and when the funds will be available with the school. Therefore, this amount is still recoverable from the society.

Furthermore, on review of the audited financial statements of FY 2019-20 to FY 2021-22, it has been noted that the school has further incurred capital expenditure on construction of school building. And has made certain adjustment in its fixed asset schedule in FY 2021-22 in order to reduce the amount already capitalised under the head building. The summary of addition and adjustment made by the school is provided below.

(Amount INR)				
Particulars	FY 2019-20	FY 2020-21	FY 2021-22	Total
Addition to the building	1,95,96,437		12,78,685	2,08,75,122
Tiles/Stone/Ceiling tiles			20,34,435	20,34,435
Total Addition to School Building				2,29,09,557
Less: Amount transferred to repair and maintenance from fixed asset schedule in FY 2021-22			1,18,21,682	1,18,21,682
Less: Amount transferred to FA Schedule of Development fund out of FA schedule of School Fund in FY 2021-22			88,66,438	88,66,438
Net Amount Capitalized (out of school fund)				22,21,437

Therefore, the above expenditure of INR 3,73,97,527 i.e., (INR 22,21,437 + INR 3,51,76,090) incurred by the school without complying with the above-mentioned provisions have 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 the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

- The Hon'ble High Court of Delhi, in its judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh held that "*Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society*". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states "*Capital Expenditure cannot constitute a component of financial fee structure*".

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

of scholarships to students, establishment of any other recognised School, or assisting any other School or educational institution, not being a college, under the management of the same Society or trust by which the first mentioned School is run". Further, Rule 176 states "Income derived from collections for specific purposes shall be spent only for such purpose".

The Directorate in its Order No.15/ (828)/PSB/2022/5342-5346 dated 01.07.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had incurred capital expenditure of INR 26,54,990 during FY 2018-19 for purchase of a Innova-car without complying with the above-mentioned provisions. Because the school did not implement the recommendation of 7th CPC until now and has not invested an amount equivalent to the liability of gratuity and leave encashment that qualify as plan assets within the meaning of AS-15. Accordingly, the school was directed to recover INR 26,54,990 from society which is still pending for recovery.

The documents submitted by the school post personal hearing were taken on record. The school mentioned that *"the same was done looking into the practical aspects of running the school. The vehicle is used by the school for the following purposes....."*

The contention of the school is incorrect because that the school has not implemented the recommendation of 7th CPC and has not invested an amount in qualify assets for payment of retirement benefits in accordance with AS-15. Thus, the school is not complying with the provision of Rule 177 of DSER, 1973 and pronouncements of Supreme Court and High Court. Therefore, the school funds utilized by the school for purchase of a car is not justified and therefore, cannot be admissible to the school.

Therefore, the expenditure amounting to INR 26,54,990 incurred by the school in contravention of above-mentioned provisions have been considered as fund available with the school while deriving the fund position with the direction to the school to recover the same from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

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

Further, para 57 states *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date"*. Also, para 7 of the Accounting Standard defines Plan Assets as under:

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

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



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

The record submitted by the School were taken on record, in the audited financial statements the school has reported provision for gratuity INR 2,54,80,954 as on 31.03.2022. However, the school has neither created any provision for leave encashment nor got the actuarial valuation report for that..

Additionally, the school has not invested any amount in plan assets which can be utilized by the school for payment this liability. Since, the School has not invested any amount in 'Plan Assets' as per the requirements of AS-15 issued by the ICAI. The contention of the school is not tenable as investment held by the school in the form of FDR does not qualify as Plan Asset.

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

Accordingly, an amount of INR 18,20,068 (i.e. 1/14 of INR 2,54,80,954) has been considered while deriving the fund position of the school with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, the school shall not be allowed further instalments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

B. Other Suggestion for Improvements

1. *Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed".*

Further, Rule 180 (1) of DSER, 1973 states "every recognized private school shall submit returns and documents in accordance with Appendix-II".



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

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

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

- a. The audit report of FY 2019-20 and FY 2020-21 has been issued in Form 10B under the Income Tax Act, 1961 which is not in conformity of the above-mentioned provisions.
- b. In the audit report the auditor has not given reference to "Receipt & Payment Account." Although, the same has been signed by the auditors.

In view of the above, the school is hereby directed to get its accounts audited in accordance with above mentioned provisions and resolve all queries raised by the statutory auditor before completion of the audit. The compliance with this direction will be examined while evaluating the fee hike proposal of the subsequent year. However, for the purposes of evaluation of fee hike proposal for the academic session 2022-23, the balance sheet and income and expenditure submitted by the school for FY 2019-20, 2020-21 and 2021-22 has been considered.

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

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

3. As per Clause 19 of Order No. F.DE/15(56)/Act/2009/778 dated 11.02.2009 "*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.*"

Further clause 21 of the aforesaid order "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.'*"

And as per clause 22 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

As per Rule 176 of the DSER, 1973 "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Further, sub-rule 3 of Rule 177 of DSER, 1973 provides "*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).*" And, 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.*"

However, as per audited financial statements of FY 2019-20, it has been noted that the school charges earmarked levies in the form of CAL Fees, Transport Fees, Computer Fees, Lab Fees, Science Fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit) which has been met from other fees/income.

The aforementioned Guidance Note also lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('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). However, the school has not been following fund-based accounting in accordance with the principles laid down by the aforesaid Guidance Note.

Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fees, ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

4. From review of documents submitted by the School with the proposal of fee hike for FY 2022-23, the following has been note with respect to the Fixed Asset Register (FAR) maintained by the school:
 - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
 - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
 - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register

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

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

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

6. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	2,292
EWS Students*	406
% of EWS students	17.71%

*Included EWS and other non-fee paying students.

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 is **INR 15,61,36,066** out of which the expected expenditures of the school would be **INR 16,30,73,495** resulting in net deficit of **INR 69,37,429** for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	1,37,19,103
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	54,55,574
Liquid Fund as on 31.03.2022	1,91,74,677
Add: Recovery from society for addition to the building (Refer Financial Suggestion No. 1)	3,73,97,527
Add: Recovery from society for purchase of a Car (Refer Financial Suggestion No. 2)	26,54,990
Add: Fee as per Audited Financial Statements of FY 2021-22	9,87,04,371
Add: Other income as per Audited Financial Statements of FY 2021-22	59,58,644
Less: Deferred income as per Para 99 (Being notional in nature)	51,84,496
Total Available Funds for FY 2022-23	15,87,05,713
Less: FDR in the Joint Name of School Manager and CBSE as per Audited Financial Statements of FY 2021-22	7,25,000
Less: FDR for caution money	24,579
Less: Development fund as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	-
Less: Liability towards retirement benefit obligation (Refer Financial Suggestion No. 3)	18,20,068
Less: Depreciation reserve fund (Refer Note No. 1 Below)	-
Net Available Funds for FY 2019-20	15,61,36,066
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 2 & 3 Below)	15,45,31,971
Less: Impact of 7th CPC as per budget of FY 2022-23	85,41,524
Estimated Deficit	69,37,429

Note 1: 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 for the FY 2020-21 has not been considered while deriving the fund position of the School.

Note 2: All budgeted expenditure proposed by the school has been considered while deriving the fund position of the school except the followings.

Heads	Proposed Amount (INR)	Amount Disallowed	Reasons
Impact of 7 th CPC	85,41,524	85,41,524	Considered separately
Orientation programme expense	10,00,000	10,00,000	The school has proposed new heads of expenditure without providing justification for the need of these expenditure.
Building Cleaning expense	20,00,000	20,00,000	

Note 3: While evaluating the fee hike proposal, the department considers how much liquid funds schools would require for a particular session for smooth operation without compromising the quality of education. Thus, while deriving the fund position of the school, all legitimate revenue as well as capital nature expenditures in accordance with the provisions of DESAR, 1973 and the pronouncement of Courts judgment have been considered. Therefore, the balance of the other current assets and other current liabilities has not been considered because these are cyclic in nature, as the

same would have been part of the budgeted income and expenditure of the school in earlier years. Although it is reflected in the financial statements at the end of the financial year.

- ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16 April 2010 states that:

"All schools must, first of all, explore and exhaust the possibility of utilizing the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilized for years together may also be used to meet the shortfall before proposing a fee increase."

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

AND WHEREAS, it is noticed that the school has incurred INR 4,00,52,517 in contravention to the provisions of DSEA&R, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

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

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 07% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2022-23.



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 **Happy Model School (School ID- 1514094), B-2 Janak Puri, New Delhi-110058**, filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 07% to be effective from 1 October, 2022.

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

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

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

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

Nandini

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

To
The Manager/ HoS
Happy Model School
(School ID- 1514094),
B-2 Janak Puri,
New Delhi-110058

No. F.DE.15 (1157)/PSB/2022/732-737

Dated: 24/01/23

Copy to:

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