

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

No. F.DE.15 (1130) / PSB / 2022 / 548-554

Dated: 16/01/23

**ORDER**

WHEREAS, Adarsh Public School, C-Block, Vikaspuri, New Delhi- 110018 (School ID- 1618184) (hereinafter referred to as "the School"), run by the B.R. Memorial Society (hereinafter referred to as "Society"), is a private unaided school recognized by the Directorate of Education, Govt c. 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 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 called from the school through email. The school was also provided an opportunity to be heard on 13.09.2022, to present its justifications/clarifications on the fee increase proposal. Based on the discussion, the school was asked to submit necessary documents and clarification on various issues noted and discussed during the aforesaid personal hearing. During personal discussion, compliance of Order No. F.DE 15(628)/PSB/2018/30542-30546 dated 14.12.2018 issued to the school post evaluation of the fee hike proposal for FY 2017-18 were also discussed and the school's submissions were taken on record.

AND WHEREAS, on receipt of further clarifications/ documents as well as the documents uploaded by the school on the web portal of the department, as a result of the personal hearing, were evaluated by the team of Chartered Accountants and key suggestions noted for improvement by the school are hereunder:

**A. Financial Suggestions for Improvement:**

1. As per AS-15 on 'Employee Benefits' issued by the Institute of Chartered Accountants of India (ICAI) states that "*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 AS-15 states that "*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.*"

The documents submitted by the school were taken on record. From review of the documents submitted by the school revealed that the school has reported total liability of INR 3,26,49,885 (i.e., INR 3,15,09,604 + INR 11,40,281) towards gratuity and leave encashment in the audited financial statements for FY 2021-22 based on the draft actuarial valuation report. During personal hearing, the school was asked to provide final actuarial valuation report basis on which it has recorded the liability for retirement benefits which the school has not provided for verification.

During personal hearing, the school explained that due to paucity of funds it could not invest the whole amount in plan assets. However, it already invested INR 36,62,911 with HDFC life for payment of gratuity as on 31.03.2022 and submitted investment proof. Thereafter in October 2022, the school has further invested INR 1,50,00,000 with LIC and submitted the payment receipts. Since, the investment with HDFC life and LIC qualifies as plan assets within the meaning of AS-15. Therefore, amount invested by the school in plan assets totaling to INR 1,86,62,911 has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets within 30 days from the date of issue of this order.



2. Section 2(m) defines that "*Manager*" in relation to a school, means the person, by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 5, with the management of the affairs of that school".

Further, Rule 59 of DSEAR, 1973 states "*Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee:*

(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided.

(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties, and responsibilities of the manager.

(l) bills (including bills relating to the salaries and allowances of the teachers and non- teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorized by that committee in this behalf.

(m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school.

( r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager.

Thus, the post of Manager is an honorary post and the same is filled through nomination/election as per the provisions of Rule 59 of DSEAR, 1973. Accordingly, the manager of the school cannot be treated as an employee of the school as he/she functions on behalf of the managing committee and cannot be paid salary as per the provisions of the DSEAR, 1973.

The Directorate in its Order No. F.DE 15(628)/PSB/2018/30542-30546 dated 14.12.2018 issued to the school post evaluation of the fee hike proposal of FY 2017-18, noted that the school paid INR 27,844 to Mr. Prashant Sahgal (son of chairman of the school) without providing any reason for which this payment was made to him. Therefore, the School was directed to recover INR 27,844 from society which is still pending for recovery.

Further, on review of the related party disclosure made by the school in the audited financial statements of FY 2021-22, it has been noted that the school has paid INR 9,00,000 as professional charges to Ms. Usha Sahgal-Manager. During the personal hearing the school was asked to justify whether the above payment to the manager was made in the capacity of manger or otherwise, but the school has not submitted any reply for that. In the absence of the necessary information, it appears that the school has paid salary/ other



allowance to the manager and recorded the same in its books of accounts as professional charges which is not in accordance with the above-mentioned provisions.

Accordingly, total payment of INR 27,27,844 [i.e., INR 27,844 plus (INR 9,00,000 \* 3 years)] made by the school to the related person has been considered as funds available with the school while deriving the fund position with the direction to the school to recover this amount from the society/related personal within 30 days from the date of issue of this order. Further, the school is also directed not to make any further payments to the manager of the School. Non-compliance with the above direction shall be viewed seriously in accordance with the provision of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

3. As per clause 2 of 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, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by DoE states that *"Capital expenditure cannot constitute a component of the 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, 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.

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"*.

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. In this regard,



it is also important to mention that society was allotted an institutional land at lower cost compared to the price of commercial as well as the residential land in that nearby locality. The reason for allotment of land at such lower cost was that society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. In its offer society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, DoE had recommended to the land owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at such cost in such posh location.

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

The DoE in its Order No. F.DE 15(628)/PSB/2018/30542-30546 dated 14.12.2018 issued to the school post evaluation of the fee hike proposal of FY 2017-18, noted that the school had utilized school funds/development fund of INR 1,70,03,059 for the construction of school building in FY 2015-16 and FY 2016-17 which was not in accordance with above mentioned provisions.

The department also noted that the school incurred the above expenditure without complying with the provisions of Rule 177 of DSER, 1973. Because the school has not implemented the recommendation of the 7<sup>th</sup> CPC fully and has not invested an amount in plan asset for payment of gratuity and leave encashment. Accordingly, the school was directed to recover the above amount of INR 1,70,03,059 from the society which is still pending for recovery.

During the personal hearing, the school explained that the above amount could not be recovered from society because the society does not have its own sources income to contribute further funds in the school. The school further submitted that it should not be recovered from society because once the society has hand over the building to the school. The further expenditure relating to upkeep of the building should be borne by the school and not by the society. The explanation submitted by the school is not tenable given the fact that the school has not implemented the recommendation of 7<sup>th</sup> CPC fully and has not invested an amount in plan asset for payment of gratuity and leave encashment. Further, the above expenditure was incurred without complying with the provision of Rule 177 of DSER, 1973.

Therefore, the above expenditure incurred by the school of INR 1,70,03,059 has been included while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.



4. The Directorate in its Order No. F.DE 15(628)/PSB/2018/30542-30546 dated 14.12.2018 issued for academic session 2017-18 and Order No. F.DE 15/ACT-1/WPC-4109/PART13/68 dated 23.12.2016 issued for academic session 2016-17, noted that the school made excess payment to manpower agency to the tune of INR 72.46 lakhs during FY 2013-14 to FY 2015-16 which was not in accordance with the terms of contract entered into with the agency.

Further, it was also noted that the school paid INR 5,71,591 for payment of vehicle not owned by the school during FY 2013-14 to FY 2015-16 without maintaining any logbook for recording the usage of the vehicle and the school also failed to provide any further evidence for validating the use of such vehicle. Therefore, the school was directed to recover INR 78,17,591 (i.e., INR 72,46,000 *plus* INR 5,71,591) from society which is still pending for recovery.

During the personal hearing the school was asked to provide justification on the legality of the above expenditure, but the school has not submitted any reasonable justification for making to the manpower agency and vehicle not owned by the school.

Therefore, the above amount of INR 78,17,591 is again added to the available funds of the school while deriving the fund position with the direction to the school to recover the same from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

5. 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, fixtures and equipment.*" Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

From a review of the audited financial statements of FY 2021-22, it has been noted that the school has reported development fund balance of INR 5,74,10,893 i.e., (INR 1,62,85,210 *plus* INR 4,11,25,683) against which the school has a cash, bank balance including investment of INR 2,85,64,642. as on 31.03.2022.

During the personal hearing, the school explained that due to paucity of funds it has utilized some of the development funds for payment of salary and salary related cost but was not passed the correct accounting entries in the books of accounts due to which fund balance is not matching with cash, bank and investment.

Accordingly, the development fund balance to the extent of INR 2,85,64,642 has been considered while deriving the fund position of the school with the direction to the school to rectify its books and accounts by passing the necessary accounting entries in its books and accounts. The school is further directed to ensure the collection and utilization of development fee/ funds in accordance with above cited Clause 14 of the order dated 11.02.2009.

6. As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, "*no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or trust or any other institution*".

This was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs. Union of India & Others.

Review of the audited financial statements of Adarsh Kindergarten School of FY 2021-22, it has been noted that the school has recoverable balances from the society and other school running under the same management. Since, Adarsh Public School and Adarsh Kindergarten School has been considered as a single unit for the purpose of evaluating the fee hike proposal for FY 2022-23, the net amount of INR 2,07,65,574 (after adjusting interunit transaction of INR 2,23,61,436) which is recoverable from society has been considered while deriving the fund position of the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order.

**B. Other Suggestions for Improvement:**

1. Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India "*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.*"

From review of the audited financial statement, it has been noted that the school upon purchase of assets out of the development funds, transfers an amount equivalent to the cost of the assets to General Funds instead of treating it as deferred income which may be written off in proportion of depreciation charged on the assets. As the school has not been following correct accounting treatment with respect development fund utilization resulting incorrect reporting of General Reserve.

During personal hearing, school accepted this fact and agreed to rectify its accounting from the next financial year onward. The compliance with respect to this submission shall be verified while evaluating the fee increase proposal of the next academic session.

2. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:

- No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate





identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

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

Particulars	FY 2022-23
Total Students	2,664
EWS Students*	497
% of EWS students	18.66%

\*EWS includes non-fee paying students also.

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

- i. The total funds available with the school for FY 2022-23 amounting to **INR 17,66,80,772** out of which the expected expenditures for FY 2022-23 to be **INR 18,57,32,832**. This results in net deficit of **INR 90,52,060** for the FY 2022-23. The details calculation is provided below:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	2,85,64,642
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	5,67,89,604
<b>Liquid Fund as on 31.03.2022</b>	<b>8,53,54,246</b>
Add: Recovery from society/ related person towards payment in contravention of provision of DSEAR, 1973 (Refer Financial Suggestion No. 2)	27,27,844
Add: Recovery from society for construction of school building (Refer Financial Suggestion No. 3)	1,70,03,059
Add: Recovery from Society for expenditure incurred without providing any supporting documents (Refer Financial Suggestion No. 4)	78,17,591
Add: Amount recoverable from the Society as on 31.03.2022 as per Audited Financial statements of FY 2021-22 (Refer Financial Suggestion No. 6)	2,07,65,574
Add: Fee as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	10,01,91,759
Add: Other income as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	37,04,598
Add: Additional income of annual charges and development fees (Refer Note No. 1 Below)	35,79,966
<b>Total Available Funds for FY 2022-23</b>	<b>24,11,44,637</b>



Particulars	Amount (INR)
Less: FDR in the Joint Name of School Manager and CBSE as per Audited Financial Statements of FY 2021-22	7,89,418
Less: Deposit made with High court as on 31.03.2022	1,64,46,894
Less: Investment towards gratuity and leave encashment (Refer Financial Suggestion No. 1)	1,86,62,911
Less: Development funds to the extent of available cash, bank and investment as on 31.03.2022 (Refer Financial Suggestion No.5)	2,85,64,642
Less: Depreciation reserve fund (Refer Note No. 2 Below)	-
<b>Net Available Funds for FY 2022-23</b>	<b>17,66,80,772</b>
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 3 & 4 Below)	14,35,85,695
Less: Salary Arrears (Refer Note No. 5 Below)	4,21,47,137
<b>Estimated Deficit</b>	<b>90,52,060</b>

**Note 1:** The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 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 of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges in its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order to make comparative income with the FY 2022-23. The detailed calculation has been provided below:



Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	8,04,38,258	8,04,38,258	
Annual Charges	99,69,506	1,17,28,831	The school recorded 85% of the income in the audited financial statements. Therefore, it has been grossed up.
Development fund	1,03,16,970	1,21,37,612	

**Note 2:** As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

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

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

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

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

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

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

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

Heads	Expenditure as per AFS 2021-22	Proposed Amount (INR)	Amount Disallowed	Reasons
Teaching staff	7,16,53,987	10,63,95,000	1,32,44,817	The School has claimed excessive salary expenditure including salary arrears. Since the salary arrears proposed by the school has been considered separately therefore, this expenditure has been restricted to 130% of previous year expense.
Investment with LIC	-	1,50,00,000	1,50,00,000	Considered separately. Refer Financial Suggestion No. 1.
Impact of 7 <sup>th</sup> CPC	-	1,82,81,000	1,82,81,000	Based on the discussion with the school during personal hearing the school could not offered any justification about the requirement of these expenditure. Therefore, it has not been considered in the budgeted expenditure of the school.
Salary arrears of 7 <sup>th</sup> CPC	-	12,52,49,000	12,52,49,000	Separately considered. Refer Note No. 6 below.
Transportation Fund expense	21,71,246	86,27,000	14,68,387	The school has claimed excessive transportation expense as compared to expenditure incurred in FY 2019-20. Therefore, this expenditure has been restricted to 110% of expenditure incurred in FY 2019-20.

**Note 4:** 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.

**Note 5:** The DoE invited the fee increase proposal for academic session 2018-19 and 2019-20 vide Order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, but the school did not apply for the same therefore, it is presumed that the school has sufficient funds to implement the recommendation of 7<sup>th</sup> CPC.

In view of the above, salary arrears proposed by the school of INR 4,21,47,137 related to FY 2020-21 and FY 2021-22 has been considered while deriving the fund position.

- 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.

*"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 paid/utilised INR 27,27,844 towards payment to manager in contravention of Section 2(m) and Rule 59 of DSEA&R'1973, INR 1,70,03,059 towards construction of school building in contravention of Rule 177 of DSER'1973 and other pronouncement of Court judgements, INR 78,17,591 towards excessive payments of vendors in contravention of Order No. F.DE 15/ACT-1/WPC-4109/PART13/68 dated 23.12.2016 and INR 2,07,65,574 towards amount recoverable from society in contravention of Clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 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 10% to be effective from 01 October 2022.

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

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Adarsh Public School, C-Block, Vikaspuri, New Delhi- 110018 (School ID-1618184)** 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 10% 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  
Adarsh Public School,  
C-Block, Vikaspuri,  
New Delhi- 110018  
(School ID-1618184)

No. F.DE.15 (1130)/PSB/2022 / 548-554

Dated: 16/01/23

**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