

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

No. F.DE.15 (116)/PSB/2022/ 454-459

Dated: 16/01/23

Order

WHEREAS, **Rainbow English School (School ID- 1618248), C-3 Janakpuri, New Delhi-110058**, (hereinafter referred to as "**the School**"), run by the Diwan Chand Memorial Educational 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 dated 06.09.2022. The school was also provided an opportunity to be heard on 29.09.2022 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/ (795)/PSB/2022/5039-5043 dated 27.06.2022 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

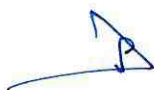
1. As per clause 2 included in the Public Notice dated 04.05.1997, *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the 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.*

Accordingly, 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. As per provision of Rule 177 of DSER, 1973, the school fee at the first instance should not be utilized for meeting establishment cost and other benefits admissible to the employees and capital expenditure should be met out the saving if any.



The Directorate in its Order No. F.DE-15/(795)/PSB/2022/5039-5043 dated 27.06.2022 issued for FY 2019-20 and Order No. F.DE-15/(259)/PSB/2019/1420-1424 dated 29.03.2019 issued for FY 2017-18, noted that the school had utilized INR 2,55,35,693 from FY 2014-15 to FY 2018-19 for addition in the school building without complying with the above-mentioned provisions. Given the facts 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 2,55,35,693 from society which is still pending for recovery.

The documents submitted by the school post personal hearing were taken on record. The school mentioned in its reply that *"as per Rule 177..... on perusal of the above injunction, we may clearly see that the said capital expenditure on building g is allowed under Rule 177 of the DSER'1973"*.

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 claim of the school is not tenable and is unjustified.

Further, during FY 2019-20, the school incurred INR 16,16,208 for addition to the fixture. However, based on the supporting documents provided by the school, it was note that it was related to the construction of school building which was capitalized under the fixture just in order to escape itself from the recovery. Thus, it appears that the school changes the nomenclature of expenditure with the clear intention to get the fee hike from the department.

Therefore, the total expenditure of INR 2,71,51,901 (i.e., INR 16,16,208 + INR 2,55,35,693) incurred by the school on construction of school building without complying with the above-mentioned provisions have been considered as fund available with the school. And has been considered while deriving the fund position 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 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.

In addition to the above, the expenditure of INR 25,00,000 proposed by the school in its budget for the FY 2022-23 towards school building renovation has not been considered while deriving the fund position of the school considering the same is not in accordance with the above-mentioned provisions.

2. Rule 175 of DSER, 1973 State *"all income received by the school is required to be reflected in the accounts with regard to the School Fund or the Recognized Unaided School Fund, as the case may be, clearly exhibiting the income accruing under each head, i.e., fees, fines, income from building rent, interest, development fee, etc."*

The Directorate in its Order No. F.DE-15/(795)/PSB/2022/5039-5043 dated 27.06.2022 issued for FY 2019-20 and Order No. F.DE-15/(259)/PSB/2019/1420-1424 dated 29.03.2019 issued for FY 2017-18, noted that income earned by the school of INR 52,16,728 from FY 2010-11 to FY 2018-19 by letting out of the premises of the school was not reflected as income in the books of accounts of the school. It was also noted that these funds were retained by the society which was not in accordance with the above-mentioned provisions. Accordingly, the school was directed to recover rental income of INR 52,16,728 for 9 years from the society which is still pending for recovery.

The documents submitted by the school post personal hearing were taken on record. The school mentioned in its reply that *"we would like to submit that this activity was undertaken by the society independent of the school and was resultant not reported in the books of the school. Nevertheless, the school was prospectively pivot to the accounting practices directed by the Evaluators in subsequent years accordingly to the plausibility of the said change in accounting policies"*

On review of the document submitted by the school, it has been noted that even today the school has not been recording rental income in schools' accounts. During the personal hearing the school was asked to provide details of rental income collected by the society from FY 2019-20 to FY 2021-22 which the school has not provided. In the absence of the relevant information average rental income taking the basis of previous order has been calculated. Accordingly, INR 17,38,909 (INR 52,16,728/9*3) has been considered as rental income of school for the FY 2019-20 to FY 2021-22.

Thus, total rental income of INR 69,55,637 (INR 17,38,909 plus INR 52,16,728) related to letting out of school premises has 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. 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. F.DE-15/(795)/PSB/2022/5039-5043 dated 27.06.2022 issued for FY 2019-20, noted that the school had incurred capital expenditure of INR 18,55,000 for purchase of buses during FY 2017-18 to FY 2018-19 which was not in accordance with above mentioned



provisions. Given the fact that the school did not implement the recommendation of the 7th CPC and has not invested the an amount in qualify assets for payment of retirement benefits in accordance with AS-15. Therefore, it was directed to the school to recover INR 18,55,000 from the 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 disallowed expenditure on bus was incurred for the purpose of transportation of the students and their paraphernalia to various places inside and outside the state for co-curricular activities"*.

The contention of the school is incorrect because based on the above-mentioned provisions and pronouncements of the courts, 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 claim of the school is not tenable and is unjustified.

Further, on review of the audited financial statement for FY 2019-20, it has been noted that the school has utilized school funds of INR 8,79,077 for purchase of a car. The school has purchased this car without complying with the provision of Rule 177 of the DSER, 1973.

Therefore, the total expenditure incurred by the school of INR 27,34,077 (INR 8,79,077 plus INR 18,55,000) in contravention of above-mentioned provisions have been considered as funds available with the school and has been included 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.

4. Rule-107 'Fixation of pay' of the DSER' 1973 states:

1. *The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum scale of pay. Provided that a higher initial pay, in the specified scale of pay may be given to a person by appointing authority.....*
2. *The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school.*

Section 10 (1) of DSEA, 1973 states *"The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority"*

The Directorate in its Order No. F.DE-15/(795)/PSB/2022/5039-5043 dated 27.06.2022 issued for FY 2019-20, noted that the school had paid INR 24,32,861 to teaching staff as special allowances in addition to their salaries in lieu of extra classes given by them to the students. Since government doesn't pay any additional amount to teachers for any extra classes being given. Therefore, the school had paid such amount in contravention of above-mentioned provision and the school was directed to recover this amount from the society which is still pending for recovery.



The documents submitted by the school post personal hearing were taken on record. The school mentioned in its reply that *"we would like to plead that the disallowance of the said expenditure on the basis of Rule 107 of DSER 973 is not justified for the school. This amount is for the service rendered in addition to the prescribed services for the teachers and would have been incurred had the same services been outsourced. This is the sort of overtime allowance and cannot be avoided as per prescribed rules"*

The claim of the school is incorrect because salary and other benefits payable to any of the employee should be governed as per Rule 107 of DSER'1973. Further, as per Section 10 (1) of DSEA'1973, the scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of any recognized private school should not be less than those of the employees of the corresponding status in the schools run by the appropriate authority.

Thus, neither Rule 107 of the DSER, 1973 nor Section 10 of the DSEA, 1973 has specified additional allowance to be paid for taking extra classes. Thus, paying extra allowances to some of the teacher over and above their normal salary is unjustified.

Further, on review of the audited financial statements from FY 2019-20 to FY 2021-22, it has been noted that the school has made payment of INR 8,44,300 in FY 2019-20, INR 8,54,115 in FY 2020-21 and INR 6,79,900 in FY 2021-22 over and above the salary expenditure which is not in accordance with the above-mentioned provisions.

Therefore, the total amount of INR 48,11,176 (INR 24,32,861 plus INR 8,44,300 plus INR 8,54,115 plus INR 6,79,900) paid by the school in contravention of above-mentioned provisions have been considered as fund available with the school and has been included 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.

Accordingly, the amount proposed by the school of INR 8,00,000 in its budget towards extra coaching classes has not been considered while deriving the fund position of the school.

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

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

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



The school has reported provision of INR 1,17,39,538 for gratuity and INR 55,93,514 for leave encashment in the audited financial statements for FY 2021-22 on the basis of actuarial valuation report. However, the school has not invested any amount in plan assets for payment of gratuity and leave encashment in accordance with AS-15.

However, the school has invested INR 10,00,000 for payment of gratuity and INR 10,00,000 for payment of leave encashment with LIC post 31.03.2022 and provided the investment proof thereof. Since investment with LIC qualify as plan asset within the meaning of AS-15. Therefore, the amount invested by the school totling to INR 20,00,000 has been considered while deriving the fund position of the school.

The school is hereby further directed to invest the remaining amount in the plan asset within 30 days from the date of issue of this order and compliance of the same will be reviewed at the time of subsequent fee hike proposal.

6. Para 99 of Guidance Note-21 '*Accounting by school*' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "*Where the fund is meant for meeting capital expenditure, upon incurrance of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year*".

On review of audited financial statements of the FY 2019-20 to FY 2021-22, it has been noted the school has maintained 'depreciation reserve fund' mainly to collect development fee. However, the school is following correct accounting treatment with respect to collection and utilization of development fund mentioned in the Guidance Note-21 cited above.

However, the school charges loss on sale of fixed asset at gross value of the asset discarded/sold off in the income and expenditure account by doing so the school finally charges depreciation on the assets to income and expenditure account. Further, upon purchase of the assets out the development fund the school not created deferred income which need to be credited to income and expenditure account equivalent to the depreciation charged.

It has also been noted that the school has been utilizing development funds for meeting other expenditure of the school other than purchase of furniture, fixture, and equipment. Therefore, the school is hereby directed to ensure that the development fee should be collected and used in accordance with clause 14 of the order dated 11.02.2009.

In view of the above, the school is hereby directed not to collect development fee from the students until it complies with the above-mentioned requirements.

B. Other Suggestion for Improvements

1. 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.

2. 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.

3. 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.

4. 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	1902
EWS Students*	424

Particulars	FY 2022-23
% of EWS students	20.50%

*Included EWS and other non-fee paying students.

5. Appendix-III (Part-I-General Instructions and Accounting Principles) of Guidance Note-21 states:

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

Further, Clause 24 of DoE Order dated 11.02.2009 states “Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP).

On review of the audited financial statements and other records submitted by the School, it has been noted that the school has been recording income on receipts basis whereas expenditure on accrual basis. Thus, the school is deviating from basic principle in preparation of books of account and presenting the audited financial statements. The details of income collected by the school viz a viz income reported by the school is provided below.

Particular	FY 2021-22	FY 2020-21	FY 2019-20
Tuition Fee as per the fee reconciliation statements submitted by the school	5,54,33,353	6,12,48,985	6,14,37,174
Tuition Fee collected as per audited financial statement	5,54,33,353	6,20,48,111	6,06,38,048
Total	-	(7,99,126)	7,99,126

Thus, the school in order to report excessive operational loss in the audited financial statements and at the same time to get the fee hike from the department has been reporting income on cash basis while the expenditure on accrual which is against the basic principle of the accounting. It is also wondering that even the statutory auditor of the school has not mentioned this fact in its independent audit report.

Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year. However, the audited financial statements submitted by the school for FY 2019-20, FY 2020-21 and FY 2021-22 has been considered in the evaluation of fee increase proposal.

6. 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 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.

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 10,10,05,059** out of which the expected expenditures of the school would be **INR 10,80,87,718** resulting in net deficit of **INR 70,82,658** 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)	(22,69,913)
Investments as on 31.03.2022 (as per projected Financial Statements of FY 2021-22)	5,02,036
Total Liquid Funds as on 31.03.2022	(17,67,877)
Add: Recovery from society for addition to the building (Refer Financial Suggestion No. 1)	2,71,51,901

Particulars	Amount (INR)
Add: Recovery from society for letting out of school premises (Refer Financial Suggestion No. 2)	69,55,637
Add: Recovery from society for purchase of buses and cars (Refer Financial Suggestion No. 3)	27,34,077
Add: Recovery from society for payment of extra classes (Refer Financial Suggestion No. 4)	48,11,176
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 1 Below)	6,79,28,481
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 1 Below)	75,065
Add: Additional income of annual charges and development fund (Refer Note 1 Below)	12,14,019
Less: Fee arrears of FY 2020-21 recorded in FY 2021-22	55,68,085
Gross Available Funds for FY 2022-23	10,35,34,394
Less: FDR in the name of DoE and Manager of the school	5,02,036
Less: Staff retirement benefits for leave encashment (Refer financial observation 3)	20,00,000
Less: Depreciation Reserve Fund (Refer Note 2 Below)	-
Less: Development Fund as on 31.03.2022	27,299
Net Available Funds for FY 2022-23	10,10,05,059
Less: Budget expenses for FY 2022-23 (Refer Note 3 & 4 Below)	8,89,65,437
Add: Salary arrear (Refer Note 5 Below)	1,91,22,281
Net Deficit	70,82,658

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.

(iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

From review of the audited financial statements of FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 85% of the annual charges and development charges its audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to annual charges and development fee has been grossed up in order 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	5,54,33,353	5,54,33,353	
Annual Charges	24,69,420 (after adj. of arrear of FY 20-21)	29,05,200	The school recorded 85% of the income.
Development fund	44,10,023 (after adj. of arrear of FY 20-21)	51,88,262	Therefore, this has been grossed up.

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 for the FY 2020-21 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	Proposed Amount (INR)	Amount Disallowed	Reasons
Establishment cost	7,75,00,000	2,26,01,563	The school has proposed excessive establishment expenditure along with salary arrears of 7 th CPC. Therefore, it has been restricted up to 130% of actual expenditure incurred by the school during the previous year.
Earmarked levies	98,29,000	98,29,000	Neither earmarked levies income nor expenses have been considered while deriving the fund position of the school.
Building renovation expense	25,00,000	25,00,000	Refer Financial Suggestion No. 1
Extra coaching class	8,00,000	8,00,000	Refer Financial Suggestion No. 4

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 Salary arrears of 7th CPC of INR 1,91,22,281 for FY 2020-21 and FY 2021-22 as claimed by the school 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 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 2,71,51,901 for construction of school building in contravention to Rule 177 of DSER'1973 and to charge INR 69,55,637 from society for letting out of school premises and incurred INR 75,45,253 for purchase of vehicle 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 12% 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).

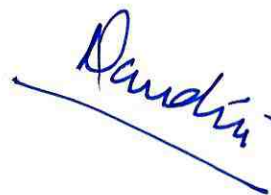
Accordingly, it is hereby conveyed that the proposal for fee hike of **Rainbow English School (School ID- 1618248), C-3 Janakpuri, New Delhi-110058**, filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 12% 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 Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Rainbow English School
(School ID- 1618248),
C-3 Janakpuri, New Delhi-110058,

No. F.DE.15 (1116)/PSB/2022 / 454-459

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