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

No. F.DE.15(1330)/PSB/2023/ 3204-3208 **Dated:** 13/04/23

Order

WHEREAS, **Ambience Public School (School ID-1719113), A-1, Safdarjung Enclave, New Delhi-110029**(hereinafter referred to as " **the School**"), run by the Ambience Education 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 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 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 emails dated 25.08.2022 & 17.03.2023. The school was also provided an opportunity to be heard on 14.09.2022 & 21.03.2023 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/ (758)/PSB/2022/4831-4835 dated 22.06.2022 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 DOE and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements

1. As per direction no. 2 included in the Public Notice dated 4 May 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 Oct 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 Feb 2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same except in compliance with Rule 177 of DSER, 1973.

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

   As per Rule 177(2) of DSER, 1973, the savings referred to in sub-rule (1) shall be arrived at after providing for the following, namely:
   (a) pension, gratuity and other specified retirement and other benefits admissible to the employees of the school,
   (b) the needed expansion of the school or any expenditure of a development nature,
   (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,
   (d) co-curricular activities of the students,
   (e) reasonable reserve fund, not being less than ten percent, of such savings.

   Directorate's order No. F.DE.15(124)/PSB/2019/1255-59 dated 29.03.2019 for session 2017-18 and Order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20 noted that the school had utilised school funds for repayment of loans and interest thereon towards capital expenditure for school building. In the said orders, the school was directed to recover an amount of INR 2,32,76,098 from the society.

   Moreover, in the above mentioned orders for session 2017-18 and 2019-20, it was noted that the school had utilised INR 11,42,031 from development fund for expansion/additions to building during 2015-16 and 2016-17 and the school was directed to recover the amount of INR

11,42,031 from the society. It is the contravention of clause 14 of the order dated 11.02.2009 which clearly states that the development fund can be utilised for the purpose of furniture, fixtures and equipment.

Based on the submissions made by the school, it did not recover any of these amounts from the Society. Accordingly, the school is again directed to recover the amounts of INR 2,44,18,129 (INR 2,32,76,098 plus INR 11,42,031)from the society within 30 days from the date of this order and this amount has been considered as funds available with the school. Further, the school is directed not to utilise school fund for payment of loan and interest thereon.

2. Directorate's order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20 noted that the school had utilised development funds for purchase of a car for INR 10,68,059 in FY 2018-19. The car was purchased by making down payment of INR 1,43,059 and by taking secured loan for the remaining amount of INR 9,25,000. The school repaid principal loan amount of INR 2,48,485 and interest cost on loan of INR 69,678 to the bank during FY 2018-19.

The school was directed to recover the amount spent on purchase of car consisting of down payment, repayment of principal amount and interest to the bank from school funds in FY 2018-19 which amounts to INR 4,61,222 (INR 143,059 plus INR 2,48,485 plus INR 69,678).

During the personal hearing the school accepted that it had continued the practice of payment of loan and the interest cost from school funds after 2018-19. The school funds total amounting INR 12,16,759 was utilised from 2018-19 to 2021-22 against the car. School further submitted that it had recovered the entire amount of INR 12,16,759 from the society on 26.09.2022 and furnishes the copy of school's bank statement to this effect. The school's submission has been taken on record and considered. As this amount was received after 31st March 2022, the same has been considered while deriving the fund position of the school.

Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure."

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

Without ensuring the compliance of Rule 177 and directions of the Directorate, the school had utilised school funds to purchase Honda City car for INR 14,54,063 in FY 2020-21. Accordingly, the school is directed to recover INR 14,54,063 from the society within 30 days from the date of this order.

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

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

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

Further, 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."*

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

The record submitted by the School were taken on record, it has been noted that the School has got the actuarial valuation for the retirement benefits and created provision for gratuity of INR 2,50,86,080 and leave encashment of INR 94,22,294 as on 31.03.2022 in accordance with the actuarial valuation report for FY 2021-22. The school has invested of INR 48,00,000 against gratuity and INR 13,00,000 against leave encashment with LIC. The amount deposited with LIC as plan assets are lesser than the gratuity and leave encashment liability of the school.

Since, the investment with LIC is quality as plan assets within the meaning of AS-15 issued by ICAI, therefore, total amount invested by the school with the LIC amounting to INR 61,00,000 i.e., (INR 48,00,000 plus INR 13,00,000) has been considered while deriving the fund position of the school with the direction to maintain equivalent balance in plan assets to cover its retirement benefit obligations.

Accordingly, the amounts proposed by the school for gratuity of INR 32,00,000 and for leave encashment of INR 5,00,000 in the budget have not been considered.

4. Directorate's order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20 noted that there were differences between the incomes reported in the Income and Expenditure Account and fee computed on the basis details of students given by the school. The school was directed to submit the reconciliation of the amount collected from the students and income to be recognised based on the fee structure and number of students enrolled by the school.

The school has submitted the detailed reconciliation and explained that number of students enrolled in the school are not necessarily be the fee-paying students. Moreover, the school provides sibling fee concession, staff ward concession and concessions to meritorious students and thus, it would not be appropriate to consider that all enrolled students pay the fee as per the fee structure.

The school submission is taken on record and considered. However, the school is directed to present accounting for discounts and concession given to the students properly in the financial statements.

B. Other Suggestions for Improvement

1. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

   Para 99 of Guidance Note-21 Accounting by Schools 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."

   Based on presentations made in the financial statements FY 2017-18 and 2018-19, the Directorate's in order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20 had directed that the school had to comply the accounting treatment suggested in para 99 as the school was not transferring the deferred income to the credit of income and expenditure account to the extent of depreciation charged. Further, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to the development account and instead, the school treated it as revenue receipt. Thus, the school did not comply with the condition cited above i.e., *"..... income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."*

   It was noted that the school had followed the same practices in the financial statements for FY 2019-20 and 2020-21.

   Also, it was noted that in the fixed assets schedule relating to assets procured from development fund forming part of the financial statements for FY 2018-19 the school was presenting school building, vehicle and library books as fixed assets. Since development fund can be utilized only for purchase, upgradation and replacement of furniture, fixtures and equipment, such assets should not comprise part of the assets purchased from development fund. The school was directed to make necessary rectifications to its fixed assets schedule to ensure that only those fixed assets which are in the nature of furniture; fixtures and equipment are reported as purchased from development fund. On review of financial statements for FY 2019-20, 2020-21 and 2021-22 it is noted that the school is still showing vehicle and books as fixed assets in the fixed assets schedule relating to assets procured from development fund.

   During the personal hearing the school has submitted that it has started the compliance of para 99 in FY 2021-22 and has transferred the deferred income to the credit of income and expenditure account equivalent the depreciation charged.

The school is directed to ensure compliance of clause 14 of the order dated 11.02.2009 and para 99 of the Guidance Note 21 Accounting by school. The school is directed to make appropriate adjustments in development fund – utilised account for earlier years. Also, school is to ensure to credit the interest on development fund bank account and fixed deposit to the development fund account.

Further, the school is directed to make necessary rectifications to its fixed assets schedule to ensure that only those fixed assets which are in the nature of furniture, fixtures and equipment are reported as purchased from development fund.

2. The Directorate's in order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20 had noted that school did not mention previous year's figures in the receipts and payments account and schedules annexed to the financial statements. Also, the school had not presented the reference of the schedules in the financial statements and did not mention the schedule numbers in the balance sheet.

Further, in the audited financial statements for FY 2018-19 it was noted that the school reported fixed assets purchased from general reserve at the written down value, which is not in accordance with the disclosure requirements stated in the GN-21 Accounting by Schools issued by the Institute Chartered Accountants of India. Para 67 of the Guidance Note states "The financial statements should disclose, inter alia, the historical cost of fixed assets."

Also, it was noted that the school was charging depreciation on straight line method and at rates of depreciation other than those specified in Appendix I to the Guidance Note, which is a contravention of the directions issued by this Directorate.

The school was directed to disclose all fixed assets at gross (historic) value on the face of Balance sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side. School was directed to follow written down method of depreciation at the rates of depreciation specified in the Guidance Note and provide previous years' figures against all items in the financial statements.

On review of financial statements for FY 2019-20, 2020-21 and 2021-22 it is noted that the school is yet to comply with the aforesaid directions. The school is again directed to comply with the aforesaid directions.

3. As per Clause 19 of Order No. F.DE/15(56)/Act/2009/778 dated 11.02.2009 "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

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

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

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

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

The Guidance Note-21 also lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column). However, the school has not been following fund-based accounting in accordance with the principles laid down in the aforesaid Guidance Note.

From the information provided by the school and taken on record, it is noted that the school charges earmarked levies in the form of transport fee and activity charges. However, the school has not maintained separate fund accounts for these earmarked levies. The transport facility was found to be operated at deficit as expenses incurred by the school are more than the fee collected from the students.

The fee charged from all students loses its character of earmarked levy, being a non-user based fees. It is noted that the school charges activity fees from all the students. During the hearing, the school has submitted that activity fees are charged from students to offer them various options of activities in the school. All the expenses of the activity offered to the students are met out of the activity fee collected from the students.

These observations were also stated in order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20. The school is directed to operate transport facility on no-profit no-loss basis. Based on the above provisions, the school is required to maintain a separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fees, ensuring that the proposed levies are calculated on a no-profit no-loss basis and not to include fees collected from all students as earmarked levies. Accordingly, the school is directed to comply with the above-mentioned provisions.

The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

4. Clause 3 of the public notice dated 04.05.1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all*

it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate."

Further, clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11.02.2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

In order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20, the school was directed to refund the caution money to the eligible students or to treat the unclaimed caution money as income of the school.

The school has submitted that it has stopped the collection of caution money since FY 2020-21 and has refunded the caution money to most of the students. Also, school has decided to treat the unclaimed caution money as income of the school in the next financial year. The school is directed to ensure compliance with the above requirements especially ensuring that caution money is refunded along with interest to the students and un-refunded caution money as income while projecting the fee increase proposal of the subsequent year. Therefore, the balance in the bank account maintained for caution money refundable amounting to INR 5,94,430 as on 31.03.2022 as per the audited financial statements has been considered while deriving the fund position of the school.

5. 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	1,391
EWS Students*	314
% of EWS students	22.57%

**EWS includes non-fee-paying students.*

6. In order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20, certain differences were noted in the receipts and payment account for FY 2016-17. The school was directed to submit the reason of such differences and a reconciliation thereof.

In their submission after hearing, the school has submitted the reconciliation of such differences along with the reasons of such differences. The school submitted that, "*the matter was initially raised by the department while evaluating for fee proposal for session 2017-18. At that time, during hearing on 02.05.2018 some issues were raised by the PE team regarding preparation of Receipts and Payments Account submitted by the school. Post hearing on 02.05.2018, the school had submitted a detailed response vide letter dated 01.06.2018….*

.... All these points were considered by the department while issuing order no. F.DE.15(124)/PSB/ 2019/1255-1259 dated 29.03.2019 and the financial statements of the school were considered as reliable for FY 2016-17."

The head-wise reconciliation along with the justifications submitted by the school are evaluated in detail. The school submission has been taken on record and considered.

Also, the department had raised the issue of differences between the closing balance as on 31.03.2018 and the opening balance as at 31.03.2018. In their submission after hearing, the school has submitted the reconciliation of such differences along with the reasons of such differences. The school submitted that, *"All the differences as reported by your goodself in the order for session 2018-19 were actually related to the building and loans. In order to reconcile these differences, we have identified all such entries related to building and loan (which were started from FY 2012-13 in the school's financial statements)....*

.... the building was capitalised in year 2012-13 in the books of accounts of the school. The building was reconstructed through secured loan from Punjab and Sindh Bank and unsecured loans. Thus, in school's financial statements from 2012-13 to 2017-18, building was shown in the assets side and corresponding secured loan and unsecured loan were presented in the liability side.

After department's order for session 2017-18, the school management had decided to comply the directions of the Hon'ble DoE and made suitable accounting entries so that building could be shifted to the books of accounts of the society. The base year for such entries was decided 2012-13, the year in which building was capitalised in the books of accounts of the school."

The year-wise reconciliation statement from 2012-13 to 2017-18 submitted by the school presented the accounting adjustment carried by the school in relation to building, loan and related accounting heads. The submission of the school is taken on record and considered. Further, the school is directed to ensure to prepare the financial statements in accordance with format prescribed in Guidance Note 21 Accounting by schools and to make proper disclosure of transactions in the notes to accounts.

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

i. The total funds available for the FY 2022-23 is INR **15,51,43,330**out of which the expected expenditures of the school would be INR**16,91,59,143**resulting in deficit of INR **1,40,15,813** for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22	1,69,48,197
Investments as on 31.03.2022 as per Audited Financial Statement of FY 2021-22 **(Refer Note No. 1 Below)**	44,20,659
Liquid fund as on 31.03.2022	**2,13,68,855**
Add: Recovery from Society for building construction **(Refer to Financial Suggestion No. 1)**	2,44,18,129

Particulars	Amount (in INR)
Add: Recovery from society towards purchase of Cars in 2018-19 and 2020-21 **(Refer to Financial Suggestion No. 2)**	26,70,822
Add: Fees (estimated) for FY 2022-23 **(Refer Note No. 2 and 3 Below)**	11,14,06,884
Add: Other income (estimated) for FY 2022-23 **(Refer Note No. 2 Below)**	4,19,519
Add: Additional income of annual charges and development fund **(Refer Note No. 2 Below)**	65,05,561
Total available funds for FY 2022-23	**16,67,89,769**
Less: FDR in joint name with DOE	2,74,929
Less: Amount deposited with LIC as plan assets for gratuity and leave encashment **(Refer Financial Suggestion No. 3)**	61,00,000
Less: Caution money bank balance as on 31.03.2022	5,94,430
Less: Development fund **(Refer Note 1)**	38,26,206
Less: Development fund bank account balance as on 31.03.2022	8,50,875
Less Depreciation reserve fund as on 31.03.2022 **(Refer Note No. 4 Below)**	-
Estimated Available Funds for FY 2022-23	**15,51,43,330**
Budgeted Expenditure for FY 2022-23 **(Refer Note No. 5 & 6 Below)**	**14,61,45,715**
Less: Salary arrears (01.04.2020 to 31.03.2022)	**2,30,13,428**
Estimated Deficit	**1,40,15,813**

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

Particulars	As per AFS of FY 2021-22 (in INR)	Remarks
FDR in joint name of the Manager, School and the Secretary, CBSE	1,52,929	Deducted as not available for utilization.
Fixed Deposits (Development fund)	38,26,206	
Fixed Deposits (other)	1,22,000	
Total	**41,01,135**	

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 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	Difference	Remarks
Tuition Fee	7,26,27,786	7,26,27,786	-	
Annual Charges	2,70,65,704	3,18,42,005	47,76,301	The school recorded 85% of the income. Therefore, this has been grossed up.
Development fund	97,99,139	1,15,28,399	17,29,260	
Total	**10,94,92,629**	**11,59,98,190**	**65,05,561**	

Note 3: The School records certain non-cash income in income and expenditure of FY 2021-22 which has not been considered as income of the school while deriving the fund position. Details of such income is mentioned below:

Particulars	Amount (INR)	Remarks
Excess provision for leave encashment written back	3,42,717	Being non-cash income and irregular in nature.
Depreciation - deferred income	30,13,370	Being non-cash income. Hence, not considered.

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "*Registration feeand all one Time Charges*' levied at the time of admissions such as admission charges 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 already 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 as reported by the school in its audited financial statements for the FY 2021-22 has not been considered while deriving the fund position of the school.

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

Head of Expenditure	FY 2022-23	Amount Disallowed (INR)	Remarks
Gratuity	32,00,000	32,00,000	Refer Financial Suggestion No. 3
Leave Encashment	5,00,000	5,00,000	
Transportation	1,21,65,000	1,21,65,000	Neither income nor expenses

Head of Expenditure	FY 2022-23	Amount Disallowed (INR)	Remarks
Activity Charges	3,25,25,000	3,25,25,000	related to transport facility and activity charges are considered.

School has submitted that some of the expenses were budgeted in the proposal for FY 2022-23 in line with the actual expenditure incurred in 2019-20. However, on review of the same it was noted that the school has budgeted substantially higher amounts. The reasons are not found to be reasonable. Accordingly, these expenditures have been restricted to the extent of 10% of the actual expenditure incurred in FY 2019-20 and the balance amount have not been considered while determining the fund position of the school. The details are as follows:

Head of Expenditure	FY 2019-20 (INR)	FY 2022-23 (INR)	Amount Disallowed (INR)
Security & Housekeeping	53,09,318	67,00,000	8,59,750
Electricity Charges	82,40,786	1,00,00,000	9,35,136
Conveyance	3,47,060	5,00,000	1,18,234
Printing & Stationary	16,91,703	20,00,000	1,39,127
Office Expenses	46,866	1,00,000	48,447
Professional Charges	1,25,000	8,00,000	6,62,500
Water Charges	3,52,735	5,00,000	1,11,992
Total	**1,61,13,468**	**2,06,00,000**	**28,75,185**

Also, in the proposal for FY 2022-23 school had budgeted some of the expenses in line with the actual expenditure incurred in 2021-22. However, on review of the same it was noted that the school has budgeted substantially higher amounts. The reasons are not found to be reasonable. Accordingly, these expenditures have been restricted to the extent of 10% of the actual expenditure incurred in FY 2021-22 and the balance amount have not been considered while determining the fund position of the school. The details are as follows:

Head of Expenditure	FY 2021-22 (INR)	FY 2022-23 (INR)	Amount Disallowed (INR)
Property Tax	11,22,724	33,68,172	22,45,448
Advertisement Expenses	2,85,374	17,00,000	13,86,089
AMC	18,85,182	30,00,000	9,26,300
Repair to garden	12,981	12,00,000	11,85,721
Total	**33,06,261**	**92,68,172**	**57,43,557**

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

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

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

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

As per school's reply during hearing, it was held that the school has partially implemented the *7th* CPC from April 2022 and has provided calculation on the salary arrears as per 7th CPC for the period April 2016 to March 2023 amounting to INR 5,61,05,670 which includes INR 1,07,51,396 for the year 2022-23. In order No. 15/ (758)/PSB/2022/4831-4835 dated 22.06.2022 for session 2019-20, the school was directed to comply section 10(1) of the DSEA, 1973 and to implement the recommendations of 7th CPC for payment of salaries and salary arrears till FY 2020.

Therefore, while deriving the fund position for FY 2022-23, the 7th CPC salary arrears for the period April 2020 to March 2022 amounting to INR 2,30,13,428have been considered with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

ii. In view of the above examination, it is evident that the school does not have 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 the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate the proposal of the school for session 2022-23 have been evaluated and certain financial suggestions have been identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order).

AND WHEREAS, it is noticed that the school funds amounting INR 2,70,88,951 have been utilised in contravention of Rule 177 and other provisions of DSEAR, 1973 and other orders issued by the departments from time to time. The school has recovered INR 12,16,759 from the society. Therefore, the school is directed to recover balance amount i.e., INR 2,58,72,192 from the 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, the fee proposal of the school along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17(3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23.

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 **Ambience Public School (School ID-1719113), A-1, Safdarjung Enclave, New Delhi-110029**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 allowed to increase the fee by 12% for session 2022-23 to be effective from 01.10.2022.

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 i.e. 01.10.2022.

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
Ambience Public School (School ID-1719113),
A-1, Safdarjung Enclave, New Delhi-110029

No. F.DE.15 (1330)/PSB/2023 / 3204-3208 Dated: 13/04/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (South) 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 Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi