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

No. F.DE.15 (974) / PSB / 2022 / 7963-7967 **Dated: 03/10/22**

ORDER

WHEREAS, **Vasant Valley School, Sector-C, Vasant Kunj, New Delhi-110070, School ID-1720124** (hereinafter referred to as " **the School**"), run by the Education Today 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(614)/PSB/2019/3228-33 dated 14.12.2019, 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. Further, the school was also provided an opportunity of being heard on 23.08.2022 to present its justifications/ clarifications on the fee increase proposal and full statement of fees filed under section 17(3) of the DSEA, 1973. Based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted during personal hearing with the school. During that hearing, the compliance of Order No. F.DE.-15(614)/PSB/2019/3228-33 dated 14.12.2019 issued for academic session 2019-20 were also discussed 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 fee increase, and subsequent documents submitted by the school as a result of the personal hearing, were evaluated by the team of Chartered Accountants and key suggestions noted for improvement by the School are hereunder:

A. Financial Suggestions for Improvement:

1. Para 57 of Accounting Standard 15 (AS-15) 'Employee Benefits' issued by the Institute of Chartered Accountants of India 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 recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*" Further, Para 7.14 defines the Plan Assets as:
   (a) *Assets held by a long-term employee benefit fund; and*
   (b) *Qualifying insurance policies.*

   And Para 60 of Guidance Note-21 'Accounting by Schools' (2005) issued by the Institute of Chartered Accountants of India states *"A defined benefit scheme is a scheme under which amounts to be paid as retirement benefits are determined usually by reference to employee's earnings and/or years of service"*.

   An appropriate charge to the income and expenditure account for a year should be made through a provision for accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons say less than 50, 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.

   Review of the audited financial statements of FY 2021-22 revealed that the school has total liability of INR 5,57,52,260 towards gratuity in accordance with the actuarial valuation report. The school did not get the actuarial valuation report for leave encashment. In 'Significant Accounting Policy' the school mentioned that *"as per policy being following by the school, leaves are not got accumulated and carry forward for utilization in future period, therefore all the leave get utilized by the staff in the year of its accrual itself......"*. In view of this facts, the School has not accounted for liability on account of leave encashment.

   Further, the Directorate, while passing the fee hike order for FY 2019-20, directed the School to make earmarked equivalent investments against provision for Gratuity with LIC (or any other agency) in order to protect statutory payment due to the staff. Since then, two years has lapsed but the School has not invested even a single rupee in an investment that qualify as Plan Assets within the meaning of AS-15. Thus, the school has not complied with the directions mentioned in the fee hike order issued for FY 2019-20.

During the personal hearing, the school explained that it has not invested any amount in Plan Asset, but it has an investment of INR 1,16,90,113 in the form of FDR, which can be utilized for payment of gratuity as and when required. The contention of the school is not tenable as investment held by the school in the form of FDR does not qualify as Plan Asset.

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

Accordingly, an amount of INR 39,82,326 (i.e. 1/14 of INR 5,57,52,260) has been considered while deriving the fund position of the school with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, the school shall not be allowed further installments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

2. Directorate Order No. F.DE.15(308)/PSB/2019/1590-1594 dated 5.12.2019 and Order No. F.DE.-15(614)/PSB/2019/3228-33 dated 14.12.2019 noted that the school is paying a salary to a member of the school's managing committee. It has been noticed that the school paid approximately INR 3,38,56,156 to Mr. Arun Kapur, member of the managing committee of the school from FY 2014-15 to December 2019. As the position of 'Director Academic and Administration' is not a prescribed post in the Recruitment Rules. Thus, the amount of remuneration of INR 3,38,56,156 paid to Arun Kapur from FY 2014-15 to December 2019 is recoverable from society. Accordingly, the school is directed to recover the aforesaid amount from society which is still pending for compliance. Details of the yearly payment made to the members of the managing committee are provided below:

Financial Year	Amount (INR)
2014-15	43,00,000
2015-16	48,00,000
2016-17	60,00,000
2017-18	67,92,771
2018-19	68,36,220
2019-20 (paid till Dec'2019)	51,27,165
Total	**3,38,56,156**

As per the school representation and discussion held with the school during a personal hearing, the school mentioned that Mr. Arun Kapur was getting the remuneration being a renowned educationist with vast experience. And his remuneration was based on his experience, knowledge and for working with the School at the designation of 'Director Academic and Administration'. The school further explained that upon the objection from the department it has stopped paying a salary to Mr Anun Kapur from January 2020. The school further mentioned that the aforesaid amount was paid to him for his services to the school and therefore, nothing is recoverable from him. Consequently, this recovery needs to be dropped by the department. The explanation provided by the school is not tenable given the fact that the position of 'Director Academic and Administration' is not a prescribed post in the Recruitment Rules. Therefore, the above amount of INR 3,38,56,156 is still pending for recovery.

Further, the School has reported INR 22,81,254 (net of depreciation i.e. INR 4,62,99,170 *minus* INR 4,40,17,916 attributable to depreciation refer point no. 3 below) as payable to 'Education Today Trust' as on 31.03.2022. Accordingly, the net amount of INR 3,15,74,902 (INR 3,38,56,156 *minus* INR 22,81,254) has been included while deriving the fund position of the school with the direction to the School to recover this amount from society/management within 30 days from the date of issue of this order.

3. Clause 2 of 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.*"

Further, as per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 December 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also, through its judgement on a review petition in 2009, restricted the transfer of funds to society.

On review of the audited financial statements of FY 2021-22 and as per the explanation provided by the School, it has been noted that the school charges depreciation in its Income and Expenditure Accounts on the assets owned by the society, which have been indicated as used by the school. The School has been charging depreciation on such assets (which has been reflected as an expense of the school for years) and credited the society's ledger with the corresponding amount.

The Society's ledger in the books of account of the school was analyzed based on information provided by the School and it has been noted that out of the Society's balance of INR 4,62,99,170 as on 31.03.2022, INR 4,40,17,916 (INR 4,26,19,821 till FY 2016-17 as per DoE Order for FY 2019-20 plus INR 13,98,095 from FY 2017-18 to FY 2021-22) was pertaining to depreciation on Society's assets recorded by the School. Thus, the school is directed to reverse the notional depreciation expense charged and reverse the Society's ledger with corresponding amount to reflect correct balance of Society in the books of account of the School and not to charge depreciation on such assets subsequently.

4. Clause 14 of 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, upgradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

Further, Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.*"

The school has reported a closing balance of development fund balance of INR 14,47,20,330 as on 31.03.2022 While as per schedule 8 'Notes to the Accounts', the School has already utilized the entire development fund for the purchase of fixed assets. Therefore, there is no cash and balance available against development funds. During a personal hearing, the school mentioned that the school has completely utilized the development fund and the depreciation reserve fund investment has been used for assets purchased in excess of development fees.

Further in the notes to account annexed to the audited financial statements of the school for FY 2021-22, it is mentioned that *"As per Duggal Committee Report, school is allowed to charge development fee from financial year 1999-2000 and accordingly a sum of INR 14,47,20,330 as on 31 March 2022 relates to development fee charged by the school as per the recommendation of the Duggal Committee Report. Out of INR 14,47,20,330 the amount utilized against acquisition of fixed assets aggregates to INR 20,72,07,987 (includes all assets acquired after 1st April 1999) starting from FY 1999-2000. Accordingly, the entire development fee fund as of 31 March 2018 stand fully utilized for purchase of fixed assets and the purchase over and above development fee fund amounting INR 6,24,87,657 have been met out of depreciation reserve fund".*

Thus, the total value of assets purchased by the school was INR 20,72,07,987. Of the total, the assets value of INR 14,47,20,330 was purchased out of the development fund and the assets value of INR 6,24,87,657 was purchased out of the depreciation reserve funds till 31.03.2022. However, as per the depreciation schedule, the total value of fixed assets is INR 19,10,35,059, resulting in a difference of INR 1,61,72,928 which is required to explained within 30 days from the date of issue of this order.

Basis the presentation made in the audited financial statements of FY 2021-22 submitted by the school, the school has not made any adjustment from the development fund for assets purchased out of development fund instead the School has reported the same in note to accounts in its financial statements. In view of the above facts, the balance of development fund recorded in the balance sheet as on 31.03.2022 has not been considered while deriving the fund position of the school. The school is directed rectify the accounting and presentation of development fund in its subsequent financial statements to reflect the actual development fund unutilized as on 31 March and ensure that the development fund is utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment.

Further, as per clause 14 of the order dated 11.02.2009, depreciation reserve (i.e. to be created equivalent to the depreciation charged in the revenue accounts) is more of an accounting head for 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. Also, the school has enclosed a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statements of FY 2021-22 and has not prepared separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve. Further, the school is directed not to utilize depreciation reserve for the purchase of any asset, since it's only a notional reserve for proper accounting of fixed assets.

B. Other Suggestions for Improvement:

1. Clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the Institute of Chartered Accountants of India (ICAI) states that keeping in the view of the involvement of public funds, schools are required to disclose the transactions made with respect of related parties. Further, as per AS -18 *"If there have been transactions between related parties, during the existence of a related party relationship, the reporting enterprise should disclose the following:*
   - *(i) The name of the transacting related party.*
   - *(ii) A description of the relationship between the parties.*
   - *(iii) A description of the nature of transactions.*
   - *(iv) Volume of the transactions either as an amount or as an appropriate proportion.*
   - *(v) Any other elements of the related party transactions necessary for an understanding of the financial statements.*
   - *(vi) The amounts or appropriate proportions of outstanding items pertaining to related parties at the balance sheet date and provisions for doubtful debts due from such parties at that date; and*
   - *(vii) Amounts written off or written back in the period in respect of debts due from or to 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 with respect to related parties transaction. However, based on the information provided by the school post personal hearing, it has been noted that in FY 2019-20 & 2021-22 the school received printing services, desktop, calendars, VVS coloring books, envelops and letter heads amounting to INR 11,99,323 from 'Thomson Press (India) Limited' a related entity having its registered office at F-26, Connaught Place, New Delhi.

2. Para 58(i) of Guidance Note-21 'Accounting by schools' issued by the Institute of Chartered Accountants of India (ICAI) states *"A school should charge depreciation according to written down value method at rates recommended in appendix 1 to the Guidance note"*. It has been noted that the School has been charging rate of depreciation as per the rate specified under the Income Tax Rule not as per rate prescribed in the Appendix-I of the Guidance note-21. 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.

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

i. The total funds available with the school for FY 2022-23 amounting to **INR 35,37,67,963** out of which estimated expenditures for the FY 2022-23 is to be **INR 39,01,67,018.** This results in net deficit amounting to INR **3,63,99,055** for the FY 2022-23 after making all payments. The details are as follows:

Particulars	Amount (in INR)
Cash and Bank Balances as on 31.03.22 as per audited Financial Statements of FY 2021-22	1,14,08,701
Investments as on 31.03.22 as per projected Financial Statements of FY 2021-22 **(Refer Note No. 1 Below)**	6,38,71,377
Liquid Funds Available with the School as on 31 March 2022	**7,52,80,078**
Add: Amount recoverable from Society/ member of the managing committee towards salary paid to him **(Refer Financial Suggestion No. 2)**	3,15,74,902
Add: Fees as per Audited Financial Statements of FY 2021-22 **(Refer Note No. 2 below)**	24,91,97,575
Add: Other Income as per Audited Financial Statements of FY 2021-22 **(Refer Note 3 below)**	34,72,730
Gross Available Funds for FY 2022-23	**35,95,25,285**
Less: FDR in the Joint Name of DoE/ CBSE and manager of the School as per Audited Financial Statements of FY 2021-22	11,42,500
Less: FDR against Caution Money as per Audited Financial Statements of FY 2021-22	6,32,496
Less: Staff Retirement Benefits **(Refer Financial Suggestion No. 1)**	39,82,326
Less: Development Fund **(Refer Financial Suggestion No. 3)**	-
Less: Depreciation Reserve Fund **(Refer Note No. 4 below)**	-
Net Available Funds for FY 2022-23	**35,37,67,963**
Less: Budgeted Expenditures for FY 2022-23 including Salary Arrears for 7th CPC **(Refer Note 5 below)**	39,01,67,018
Estimated Deficit	**3,63,99,055**

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

Particulars	Amount (in INR)	Remarks
FDR towards gratuity	1,16,90,113	Not considered as plan asset Refer Financial Suggestion No. 1.
FDR in the joint name of DoE/CBSE and Manager	11,42,500	Deducted while calculating available funds of the School.
FDR against Caution Money	6,32,496	Deducted while calculating available funds of the School.

Particulars	Amount (in INR)	Remarks
FDR lien with Sun Resource	20,99,125	The lien period has been expired. Therefore, necessary steps should be taken receive back this amount.
Other FDR with School	4,83,07,143	Available with the school for utilization.
Total	**6,38,71,377**	

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.

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 tuition fee, annual charges in it audited financial statements of FY 2021-22. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee and annual charges 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	13,22,22,722	15,55,56,144	Tuition fee of FY 2021-22 has been increased by INR 2,33,33,422.
Annual Charges	6,23,09,047	7,33,04,761	Annual charge of FY 2021-22 has been increased by INR 1,09,95,714.
Development fund	-	-	The school has not proposed expenditure toward capital

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
			expenditure. Therefore, neither capital income nor capital expenditure has been considered in the above calculation.

Note 3: Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

Further clause 21 of the aforesaid order states "*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.*"

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*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.*"

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

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

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

From the information provided by the school, it has been noted that the school had collected INR 1,34,32,282 as earmarked levies and incurred expenditures of INR 1,34,10,027 resulting net earnings of INR 22,355 during the FY 2021-22. As the school has been maintaining proper fund-based accounting with respect to earmarked levies. Therefore, earmarked income of INR 1,34,32,282 has been excluded while deriving the fund position of the school.

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 fee and 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 proposed by the school has been considered while deriving the fund position of the school excerpt the following.

Heads	Amount (INR)	Reasons
Depreciation	82,18,572	Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered.
Math Prog	3,00,000	The school has proposed these expenditures towards earmarked levies. Since, earmarked income has not been considered in the above calculation. Therefore, these expenditures have also been excluded from the above calculation.
Sports Camp	6,00,000	
Activities	9,00,000	

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

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

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

AND WHEREAS, it is noticed that the school has paid INR 3,15,74,902 to the member of the management committee in contravention of the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of 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 6^{th} 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 14% 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 **Vasant Valley School (School ID-1720124), Sector-C, Vasant Kunj, New Delhi** 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 14% 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.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Vasant Valley School (School ID-1720124),
Sector-C, Vasant Kunj, New Delhi,

No. F.DE.15 (974)/PSB/2022/7963-7967

Dated: 03/10/22

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

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi