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

No. F.DE.15 (1246)/PSB/2023/ 1505-1509 Dated: 14/02/23

Order

WHEREAS, **Bhatnagar International School (School ID- 1720145) Sector-B Pocket-10 Vasant Kunj, New Delhi-110070,** (hereinafter referred to as **"the School"**), run by the **Virender Bhatnagar Sansthan** (hereinafter referred to as the "**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, every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such statement is required to indicate 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 to 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 recognised 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 recognised 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 authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, 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 fee 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 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"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/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on 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 fee increase for the academic session **2022-23**. Accordingly, this order dispenses the proposal for fee increase submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, in the process of examination of fee increase proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 14th December 2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. During that hearing, the compliance of order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20 was also discussed and the school submission 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 thoroughly by the team of Chartered Accountants. After evaluation of fee increase proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:

A. Financial Suggestions for Improvement

1. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10.02.2005 issued by this directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   Additionally, Rule 177 of DSER, 1973 states that *income derived by an unaided private recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which* *the first mentioned school is run. The aforesaid savings shall be arrived at after providing for the following, namely:*

a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
b) *The needed expansion of the school or any expenditure of a developmental nature.*
c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
d) *Co-curricular activities of the students.*
e) *Reasonable reserve fund, not being less than ten percent, of such savings.*

The school incurred INR 2,52,34,219 for purchase of buses from FY 2014-15 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The compliance report submitted by the school against order dated 08.10.2021 were taken on record. The school submitted that "The school acquires buses for facilitating transportation to its teachers, students and staff. These buses not only transport children from their home to school but also assist in ferrying the children, teachers and staff for various other school related activities. We therefore submit that the buses are an integral part of the school operation and education."

The above contention of the school cannot be accepted considering the fact that the school has incurred expenditure in contravention of Rule 177 as the school should first utilize school funds towards employee benefits rather than incurring expenditure of development nature. Also, the school has partially implemented the recommendations of 7th CPC and has not invested fully in plan assets for payment leave encashment and gratuity. Therefore, the amount utilised by the school towards purchase of buses of INR 2,52,34,219 is hereby considered as fund available while calculating fund position of the school with the direction to recover the same from the society within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

2. The Director of the school is not entitled to any payment whatsoever from the school funds, being not a position prescribed under Recruitment Rules. Further, As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, "*no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or trust or any other institution*". This was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs. Union of India & Others.

While reviewing the Directorate's Order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20, we observed the following findings:

(a) The school paid remuneration to Director amounting to INR 72,60,000 from FY 2014-15 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

The compliance report submitted by the school against order dated 08.10.2021 were taken on record. The school submitted that "Our founder member and Director, Mrs. Mamta Virendra Bhatnagar, has been playing a significant role in the operation of the school, in contributing her valuable time for the growth and progress of the school in specific and education sector at large. In lieu of her concerted time and effort, an honorary fee was paid to her till the financial year 2018-19, which was in the capacity of professional guidance towards functioning and growth of the school."

The contention of the school is not correct. The school fails to understand that neither such post is available in recruitment rules nor the school can transfer funds to the members of society in any manner.

Therefore, the remuneration paid by the school to the director amounting to INR 72,60,000 is once again considered as fund available while calculating the fund position of the school with the direction to recover the same from the Director/Society within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

(b) The school was directed to recover the amount from the society which was reflected in audited financial statements for the FY 2017-18 as receivable from the society amounting to INR 4,45,860 vide Directorate's Order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20. However, the School has complied with the above direction and recovered the aforesaid amount from the society on 31.03.2022 vide cheque no. 000046.

Hence, INR 4,45,860 has not been considered as recoverable amount from society while calculating the fund position of the school.

3. As per 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:

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

Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"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 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.

On review of the audited financial statements for the FY 2021-22 and documents submitted by the school post personal hearing, it has been noted that the requirement of AS-15 is not applicable to the school as it has employed less than 50 staff in a year. Further, the school has reported liability amounting to INR 3,22,92,356 against gratuity and INR 86,56,763 towards leave encashment based on arithmetic calculations.

Moreover, it has also been noted that the school has made investment in the form of fixed deposits against gratuity amounting to INR 2,40,64,561 and against leave encashment amounting to INR 95,13,943. But during personal hearing, the school stated that all FD's related to gratuity and leave encashment has been released from the bank and made the investment in LIC against gratuity and leave encashment in accordance with AS-15 amounting to INR 3,20,00,000 vide dated 10.12.2022 after finalization of balance sheet for the FY 2021-22.

Hence, by taking a liberal stand for the school, the investment made against gratuity and leave encashment in accordance with AS-15 amounting to INR 3,20,00,000 has been considered while calculating the fund position of the school with the direction to invest amount equivalent to liability outstanding as on 31.03.2022 in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order.

Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

B. Other Suggestions for improvement

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

Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 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."*

Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 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."*

Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"Earmarked levies shall be charged from the user student only."*

Rule 176 states *"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."*

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 at 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 form of restricted funds, which, according to Guidance Note-21 '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 Guidance Note-21 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 and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of (i) Computer fee (ii) Cooling/Air Conditioner Maintenance fees (iii) Fashion Studies Fee (iv) Physical Education Fees (v) Science Fees (vi) Special Activity Fee (vii) Tech Method Fee (viii) Transport Fees from the students but has not maintained fund-based accounting. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

(Figures in INR)

Particulars	Computer Fee*	Cooling Fee*	Fashion Studies Fee*	Physical Education Fee*	Science Fee*	Special Activity Fee*	Tech Method Fee*	Transport Fee
For the year 2019-20								
Fee Collected during the year (A)	4,90,800	16,26,400	38,300	2,14,200	3,20,000	77,700	33,02,480	2,41,25,580
Expenses during the year (B)	5,19,775	16,74,532	41,352	2,24,002	3,34,589	90,740	33,15,670	2,48,48,627
Difference for the year (A-B)	**(28,975)**	**(48,132)**	**(3,052)**	**(9,802)**	**(14,589)**	**(13,040)**	**(13,190)**	**(7,23,047)**
For the year 2020-21**								
Fee Collected during the year (A)	-	-	-	-	-	-	-	-
Expenses during the year (B)	-	-	-	-	-	-	-	-
Difference for the year (A-B)	-	-	-	-	-	-	-	-
For the year 2021-22**								
Fee Collected during the year (A)	-	-	-	-	-	-	-	-
Expenses during the year (B)	-	-	-	-	-	-	-	-
Difference for the year (A-B)	-	-	-	-	-	-	-	-
Total (Surplus)	**(28,975)**	**(48,132)**	**(3,052)**	**(9,802)**	**(14,589)**	**(13,040)**	**(13,190)**	**(7,23,047)**

* Air Cond. Maintenance/Cooling fees, Tech Method (Collected from all classes), Science fee, Computer fees, Physical Education fees, Fashion Studies fees (Collected from XI & XII classes only)
**The school has not collected any earmarked levies nor incurred any expenses in relation to earmarked levies as per documents submitted by the school.

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of Air Cond. Maintenance/Cooling fees, Tech Method fees from all the students loses its character of earmarked levy. Thus, the school is directed not to charge such fee as earmarked levy with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

Therefore, the school is again directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must 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 in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

2. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to students belonging to weaker section. However, as per the information provided by the school for the FY 2019-20 to FY 2021-22, it has been noted that the school was not complying with the abovementioned DOE's Order and condition mentioned in the land allotment letter which provides for granting of free ship to the extent of 25% to the children belonging to EWS category. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	**FY 2019-20**	**FY 2020-21**	**FY 2021-22**
EWS	186	223	278
Total Strength	1530	1556	1607
% Of EWS students to total strength	**12%**	**14%**	**17%**

Similar point was also noted in Directorate order no. F.DE.15(205)/PSB/2021/3466-3470 dated 10.09.2021 issued for the academic session 2019-20. As the school has not complied with the direction issued in the previous year order, therefore the school is again directed to comply with the directions included in orders above.

3. Clause 24 of DoE Order dated 11.02.2009 states "*Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, P&L Account and Receipt & Payment account every year.*"

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

1. "*the financial statement of the School should be prepared on accrual basis.*

2. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School's Balance sheet……….*

3. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed….* ".

Review of the audited financial statements for the FY 2019-20 to FY 2021-22 revealed that the school has been recording income and expenses are being recoded on cash basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year.

4. As per Right to Education act, the pupil teacher ratio for primary classes and upper primary classes should be 30:1 and 35:1 respectively. Also, as per the affiliation bye-laws prescribed by Central Board of Secondary Education (CBSE), the student's teacher ratio should not exceed 30:1 excluding principal, physical education teacher and counsellor to teach various subjects. However, based on the information submitted by the school relating to total students and number of teachers following ratios have been derived:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
Total Number of Students (A)	1530	1556	1607
Number of Teachers (B)	66	59	59
Students to teacher ratio(A/B)	**23.18**	**26.37**	**27.24**

In view of the above calculation, it has been observed that there is one teacher on every 27 students which is higher than the standard prescribed by the CBSE and mentioned in the RTE Act. It seems that there is overstaffing of teaching staff in the school. Therefore, the school management is required to look into this aspect and try to establish an equilibrium, without compromising the standard of education, between the standard prescribed by the CBSE and the existing student teacher ratio.

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 amounting to INR **15,94,47,830** out of which cash outflow in the FY 2022-23 is estimated to be INR **12,55,05,956.** This results in surplus of INR **3,39,41,874** for FY 2022-23 after 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	6,24,203
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	5,70,95,000
Total Liquid Fund available as on 31.03.2022	**5,77,19,203**
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 & 3 Below)**	10,11,77,950
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 3 Below)**	65,08,545
Net available funds for FY 2022-23	**16,54,05,698**
Add: Amount recoverable from the society towards purchase of buses during FY 2014-15 to FY 2018-19 **(Refer Financial Suggestion No. 1)**	2,52,34,219
Add: Amount recoverable from Society towards remuneration paid to director **(Refer Financial Suggestion No. 2)**	72,60,000
Add: Amount recoverable from Society towards amount receivable **(Refer Financial Suggestion No. 2)**	-
Less: Investment in LIC against Gratuity and leave encashment **(Refer Financial Suggestion No. 3)**	3,20,00,000
Less: Development Fund as on 31.03.2022	56,25,227
Less: Depreciation Reserve Fund as on 31.03.2022 **(Refer Note 4 Below)**	-
Less: FDR held jointly in the name of DDE as on 31.03.2022 **(Refer Note 1 Below)**	8,26,860
Estimated availability of funds for FY 2022-23	**15,94,47,830**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 5 Below)**	11,69,16,862
Less: Salary Arrears as per 7th CPC **(Refer Note 6 Below)**	85,89,094
Net Surplus	**3,39,41,874**

Note 1: The detail of fixed deposits held by the school as per the audited financial statements for the FY 2021-22 are provided below:

Particulars	Amount (in INR)	Remarks
FDR against Gratuity Fund	2,40,64,561	Refer Financial Suggestion No. 3
FDR against Leave Encashment	95,13,943	
FDR against DDE	8,26,860	FDR's are in the DDE hence the same has been considered while calculating the fund position of the school
FDR against Depreciation Reserve Fund	2,26,89,636	Refer Note 4 Below
Total	**5,70,95,000**	

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 is also applicable with respect to collection of fees for the FY 2021-22.

On review of the audited financial statements for the FY 2021-22 and based on the further information provided by the school, it has been noted that the school has reported 100% of the tuition fees and 85% of annual charges and development fees in its audited financial statements for the FY 2021-22 on receipts basis. Therefore, the income collected by the school during the FY 2021-22 with respect to tuition fee, annual charges and development fees has been grossed up on accrual basis to make comparative income with the FY 2022-23. The detailed calculation has been provided below:

Table A

Particulars	Income as per Audited Financial Statements for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Tuition Fee	8,14,25,336	8,16,62,460	As per fee reconciliation for the FY 2021-22 submitted by the school.

Particulars	Income as per Audited Financial Statements for the FY 2021-22	Income Considered while deriving the fund position for the FY 2022-23	Remarks
Annual Charges	60,31,483	72,82,000	As per fee reconciliation submitted by the school for the FY 2021-22, Annual charges and Development fees of FY 2021-22 has been grossed up to 100% as the school had collected these after allowing 15% rebate and concessions to few students.
Development fees	1,00,84,315	1,21,95,240	
Total	**9,75,41,134**	**10,11,39,700**	

Note 3: All the other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23 except transfer from development fund amounting to INR 88,56,961.

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 except following:

Heads	Budgeted expenditure in FY 2022-23	Amount Disallowed	Remarks
Arrears of 7th CPC (Jan 2016 to March 2021)	4,65,71,188	4,65,71,188	Refer Note 6 Below (7th CPC Salary arrears has been considered separately)
Salary to Teaching, Non - Teaching Staff and Others	9,18,83,462	4,04,57,109	Salary expense has been restricted to 110% of the expense incurred in FY 2021-22.
Transport Operation Exp Helper	1,05,00,000	1,05,00,000	Neither income nor expense has been considered on the assumption that earmarked levies are collected on no profit no loss basis
Transport Expenses in respect of vehicles owned by the school	79,50,000	79,50,000	
Repair & Maintenance Transport	28,03,378	28,03,378	
Total	**15,97,08,028**	**10,82,81,675**	

Note 6: The school has implemented 7th CPC w.e.f 1st April 2021. Further, the school has submitted 7th CPC salary arrears of the period Jan 2016 to March 2021 amounting to INR 4,65,71,188.

On review of the audited financial statements for the FY 2021-22, the school has not recognized 7th CPC salary arrears of the above - mentioned period in its books even after implementation of recommendations of 7th CPC which indicates the intention of the school to pay earlier period arrears to the teachers.

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However, 7th CPC salary arrears of the period April 2020 to March 2021 amounting to 85,89,094 has been considered while calculating the fund position of the school.

ii. The school has sufficient funds to carry on its operation for the academic session 2022-23 on the existing fee structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16.04.2010 that,

> *"All Schools must, first of all, explore and exhaust the possibility of utilising 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 utilised 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 that along with certain financial and other suggestions, that the sufficient funds are 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 rejected.

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 the school has sufficient funds for meeting financial implication for the academic session 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Bhatnagar International School (School ID- 1720145) Sector-B Pocket-10 Vasant Kunj, New Delhi-110070** is rejected by the Director of Education. Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account for the academic session 2022-23 and if the fee is already increased and charged for the academic session 2022-23, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

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
Bhatnagar International School
School ID- 1720145
Sector-B Pocket-10 Vasant Kunj,
New Delhi-110070

No. F.DE.15 (1246)/PSB/2023/ 1505-1509 Dated: 14/02/23

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 West A) 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.

Nandini

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