

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

No. F.DE.15 (124)/PSB/2022/ 1490-1494

Dated: 14/02/23

Order

WHEREAS, Deep Public School (School ID- 1720146) D-II Vasant Kunj, New Delhi-110070, (hereinafter referred to as "the School"), run by the Shri Kundan Lal Memorial Educational Society (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 21st 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(701)/PSB/2022/4290-4294 dated 07.06.2022 issued for the academic session 2019-20 and order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18 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. As per Clause 8 of order No. DE/15/Act/Duggal.Com/203/99/23033-23980 dated 15.12.1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and Rule 177 of Delhi School Education Rules, 1973 states that "Fees/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from private recognized unaided school fund to the society or the trust or any other institution."

While reviewing the Directorate's Order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18, we observed the following findings:

(a) The school was directed to recover INR 4,07,97,233 vide order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18 from Gyan Deep Public School (i.e. INR 3,81,03,756), Deep International College of Education (i.e. INR 11,450) and Shri Kundan Lal Memorial Education Society (i.e. INR 26,82,027) as it was shown as recoverable balance in audited financial statements for the FY 2016-17.

On review of the documents submitted by the school, it was noted that the name of the school "Gyan Deep Public School" has been changed to "Vardman International School" and from then amount is recoverable from Vardman International School from FY 2017-18 onwards.

Further, on review of the audited financial statements for the FY 2021-22, it was noted that INR 26,82,027 is recovered from Shri Kundan Lal Memorial Education Society, INR 11,450 from Deep International College of Education and INR 1,38,83,620 from Vardman International School.

Therefore, the remaining balance of INR 2,42,20,136 (INR 4,07,97,233 – INR 26,82,027 – INR 11,450 – INR 1,38,83,620) is recoverable from Vardman International School only.

(b) The school incurred interest amounting to INR 1,33,21,130 (INR 1,17,00,000 + INR 16,21,130) from the FY 2013-14 to FY 2016-17 by taking a loan and transferred such funds to the society and other institutions and the same was directed to recover vide order no F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Therefore, the amount recoverable by the school towards transfer of funds to the society and other institution amounting to INR 3,75,41,266 (INR 2,42,20,136 + INR 1,33,21,130) is hereby again considered as fund available with the school to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC with the direction to the school to recover the same from the society within 30 days from the date of issue of this order.

Non-compliance with 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. Clause 2 of Public Notice dated 04.05.1997 states "Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". Moreover, the Hon'ble High Court of Delhi in its Judgement dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition fee

cannot be fixed to recover capital expenditure to be incurred on the properties of the society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this directorate states "Capital Expenditure cannot constitute a component of financial fee structure."

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.*

Based on the aforesaid Public Notice and Judgement of the Hon'ble High Court, the cost relating to construction of Building has to be met by the society, being the property of the society and not from the fund of the school. Further, Rule 177 states that the school is not allowed to make addition to the building if it does not have savings.

Further, 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."

While reviewing the Directorate's Order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18, we observed the following findings:

(a) The school incurred INR 32,13,104 on additions made to the building in FY 2014-15 and the same was directed to recover from the society vide Directorate's Order no. vide order no F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Further, on review of the audited financial statements for the FY 2020-21 and FY 2021-22, it was noted that the school continued making additions to the building amounting to INR 1,09,06,452 in FY 2020-21 and INR 1,48,14,211 in FY 2021-22 respectively which is again the contravention of Rule 177 of DSER,1973.

(b) The school incurred INR 7,61,755 for repayment of loan for purchase of cars in FY 2016-17 and the same was directed to recover from the society vide Directorate's Order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

On review of the documents submitted by the school, it has been noted that the school has purchase one more car and 2 buses on loan taken before FY 2019-20 and has continued the repayment of loan with

interest taken on purchase of vehicles without complying with the requirement of Rule 177 of DSER, 1973. The details of school funds utilised by the school for repayment of loan and interest thereon has been provided below:

S. No	Financial Years	Principal	Interest	Total
1	Till FY 2017-18 vide order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18			7,61,755
2	2019-20	10,25,056	5,19,653	15,44,709
3	2020-21	7,59,164	4,01,057	11,60,221
4	2021-22	17,28,349	3,03,196	20,31,545
Total		35,12,569	12,23,906	54,98,230

Therefore, the amount utilised by the school towards additions to the building and repayment of loan taken for purchase of vehicles amounting to INR 3,44,31,997 (INR 32,13,104 + INR 1,09,06,452 + INR 1,48,14,211 + INR 54,98,230) in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973 is hereby again considered as fund available with the school to meet expenditure towards investment for staff gratuity and leave encashment or to pay salary arrears outstanding on implementation of the recommendations of 7th CPC with the direction to the school to recover the same from the society within 30 days from the date of issue of this order. Further, the school is also directed to make adjustment in general reserve with respect to interest on loan.

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.

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 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, as per audited financial statements for the FY 2021-22, the school has reported liability

against gratuity amounting to INR 1,68,05,092 which is not in accordance with actuarial valuation report dated 06th Oct 2022 and INR 3,18,129 towards leave encashment on management estimates basis. However, the school has not made any investment in plan assets against provision for gratuity as well as for leave encashment.

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 12,23,087 (i.e., 1/14 of INR 1,71,23,221) 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.

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

4. 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."

Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

- i. In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
- ii. Assets, such as investments, and liabilities belonging to each fund separately;
- iii. Restrictions, if any, on the utilization of each fund balance;



- iv. Restrictions, if any, on the utilisation of specific assets.”
- v. Also, as per para 67(ii) of the Guidance Note-21 “The financial statements should disclose, inter alia, the historical cost of fixed assets.”

Taking the cognisance from the above para, the school needs to create the ‘Development Fund Utilisation Account’ as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to income and expenditure account. If the school follows the accounting treatment specified by para 99 of the guidance note, the depreciation reserve fund would be mere an accounting head and school is not required to invest equivalent for that. However, review of the audited financial statements of FY 2021-22 revealed that the school is not following para 99 of the GN 21 cited above as the school has neither created the deferred income account upon purchase of assets out of the development fund nor has transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets.

Further, on the review of audited financial statements for FY 2021-22 revealed that the school has not maintained separate bank account for development fee collection which is the contravention of aforesaid clause 14 of order dated 11.02.2009.

Therefore, the school is hereby directed to maintain separate bank account equivalent to balance outstanding as on 31.03.2022 in its audited financial statements and also directed to follow para 99 of GN -21 for correct presentation of its financial statements and make necessary rectification entries in its books of accounts. The compliance of the same will be reviewed in the subsequent fee increase proposal.

5. 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.*”

While evaluating the fee increase proposal for the academic session 2022-23, the following has been noted with respect the caution money:

- School has been collecting caution money from the students from FY 2019-20 to FY 2021-22.
- School had not maintained separate bank account for deposit of caution money.
- School had not refunded interest on caution money along with refund of caution money.
- School had not treated un-refunded caution money as income in the next financial year after expiry of 30 days. Instead of this, school has created new head of liability in FY 2019-20 by the name “Unclaimed caution money fund” of the amount which was unrefunded to the students.

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 amount refundable amounting

to INR 4,27,000 as on 31.03.2022 as per the audited financial statements has been considered while deriving the fund position of 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) Earmarked fees, (ii) ID card fees, (iii) School Diary fees, (iv) Science lab fees, (v) Transport fees and (vi) Computer lab 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:

Particulars	Earmarked Fees*	Identity Card Fees*	School Diary fees*	Lab Charges*	Transport Fees*	Computer Fees*
For the year 2019-20						
Fee Collected during the year (A)	88,57,440	1,15,500	1,54,000	2,44,000	54,29,030	46,360
Expenses during the year (B)	54,44,354	6,720	61,321	3,27,867	57,48,598	4,92,923
Difference for the year (A-B)	34,13,086	1,08,780	92,679	(83,867)	(3,19,568)	(4,46,563)
For the year 2020-21						
Fee Collected during the year (A)	-	6,750	10,000	1,98,000	-	-
Expenses during the year (B)	36,75,321	-	1,64,900	2,01,426	11,06,012	3,65,027
Difference for the year (A-B)	(36,75,321)	6,750	(1,54,900)	(3,426)	(11,06,012)	(3,65,027)
For the year 2021-22						
Fee Collected during the year (A)	-	-	-	-	-	-
Expenses during the year (B)	40,01,720	-	11,330	2,18,033	10,58,257	4,04,478
Difference for the year (A-B)	(40,01,720)	-	(11,330)	(2,18,033)	(10,58,257)	(4,04,478)
Total (Surplus)	(42,63,955)	1,15,530	(73,551)	(3,05,326)	(24,83,837)	(12,16,068)

*Science fees and computer fees (collected from XI & XII classes); ID Card fees, School Diary Fees and Earmarked fees (collected from all classes)

Moreover, 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 Earmarked fee, ID card fees and School Diary 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.

The school is also 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 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	132	120	144
Total Strength	893	795	646
% Of EWS students to total strength	15%	15%	22%

3. 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)	893	795	646
Number of Teachers (B)	55	37	41
Students to teacher ratio(A/B)	16.24	21.49	15.76

In view of the above calculation, it has been observed that there is one teacher on every 16 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.

4. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1),-*

a. receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.

b. subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.

And section 2(b) of the Right to Education Act, 2009 states "*capitation fee*" means any kind of donation or contribution or payment other than the fee notified by the school.

Further, the Supreme Court in its Judgement dated 02 May 2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that "*though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,*"

Further, the Hon'ble High Court in LPA 196/2004 in the matter of '*Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009*' states "*no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged*".

Further, The Directorate of Education, vide Order No. DE15/ 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, indicated the following types of fee that a recognised private unaided school can collect from the students/ parents:

- a. **Registration Fee:** Registration fee INR 25 per student prior to admission, shall be charged.
- b. **Admission Fee:** No admission fee of more than 200/- per student, at the time of the admission shall be charged. The admission fee shall not be charged again from any student who is once given admission as long as he remains on the rolls of the school. Further, Clause 4 of the Public notice dated 04.05.1997 states "*admission fee can be charged only at the nominal rate but not exceeding INR 200 in any case. It should not be made a regular practice. Once a student is admitted in the school, he should not be asked to pay admission fee again at middle or secondary or senior secondary stage*".
- c. **Caution Money:** No Caution Money/ Security Deposit of more than INR 500 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 he/she requests for a refund. Thus, it is not an income of the school, but a deposit/ liability which is to be refunded at the time of students leaving the school.
- d. **Tuition Fee:** It is required to be determined so as to cover the standard cost of the establishment including provisions for DA, bonus etc. and all terminal benefits, as also the expenditure of revenue nature concerning curricular activities. No fee shall be charged in excess of the amount so determined.
- e. **Annual Charges:** Annual charges are expected to cover all revenue expenditure not included in tuition fee and overhead and expenditure on playgrounds, sports equipment, cultural and other co-curricular activities as distinct from curricular activities of the school.

- f. **Earmarked Levies:** Earmarked levies are required to be charged from the user students only. Earmarked levies for the services rendered are to be charged on no profit no loss basis in respect of facilities provided to the user students involving additional expenditure in the provision of the same.
- g. **Development Fee:** It is to be treated as capital receipts and utilized towards purchase, upgradation and replacement of furniture, fixture and equipment.

Based on the provisions mentioned above, charging of "Other Charges" from the students at the time of admission in the range of INR 16,830 to INR 31,460 is nothing but is in the nature of capitation fee only. Additionally, not only the charging of one-time fee at the time of admission is tantamount to capitation fee but also charging unwarranted fee under different heads or introduction of any new head in the fee structure other than the prescribed heads of fee and accumulation of surplus funds out of it is prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of one-time fees from the students at the time of admission indicates that the school is engaged in profiteering and commercialization of education. Also, charging of fees in the name of Earmarked fee, ID card fees and School Diary fees from the students of all classes loses the character of earmarked levies is also another form of charging capitation fee and involvement in the profiteering and commercialization of the education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible for looking after the smooth operation of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the compliance of directions of the Hon'ble High Court and Supreme Court as well as the orders/circulars issued by the Directorate of Education from time to time in this regard. The manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently, jointly as well as in their personal capacity, be responsible for the levy and collection of capitation fees and any other unauthorised fees collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect. The school is also directed to submit compliance with this direction within 30 days from the date of issue of this order. Noncompliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

5. Part IV of Appendix III- 'Instructions for preparing Income and Expenditure Account' of Guidance Note 21 issued by the Institute of Chartered Accountants of India specifies that "Any item under which income or expense exceeds 1 per cent of the total fee receipts of the school or INR 5,000, whichever is higher, should be shown as a separate and distinct item against an appropriate account head in the Income and Expenditure Account.

On review of the audited financial statements for the FY 2019-20 to FY 2021-22, the school has merged other head of income with tuition fees by the name of "Tuition fees and other fees". Further, the school has not provided break up of fees constituted under the head "Tuition fees and other fees" reported in the audited income and expenditure account.

Similar observation was noted in Directorate's order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18. Therefore, the school is once again directed to ensure that all subsequent financial statements are prepared in accordance with the requirements of Guidance Note 21 issued by the ICAI.

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 10,49,15,458 out of which cash outflow in the FY 2022-23 is estimated to be INR 5,49,67,000. This results in surplus of INR 4,99,48,458 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	11,96,330
Investments as on 31.03.22 as per Audited Financial Statements (Refer Note 1 Below)	5,63,690
Total Liquid Fund available as on 31.03.2022	17,60,020
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 2 & 3 Below)	3,28,27,614
Add: Other income for FY 2021-22 as per Audited Financial Statements (Refer Note 3 Below)	5,68,038
Net available funds for FY 2022-23	3,51,55,672
Add: Amount recoverable from Society and School/ institutes under management of society (Refer Financial Suggestion No. 1)	3,75,41,266
Add: Amount recoverable from Society for additions made to building and repayment of loan taken for purchase of vehicles (Refer Financial Suggestion No. 2)	3,44,31,997
Less: Investment in LIC against Gratuity and leave encashment (Refer Financial Suggestion No. 3)	12,23,087
Less: Development Fund as on 31.03.2022 (Refer Financial Suggestion No. 4)	-
Less: Caution money as on 31.03.2022 (Refer Financial Suggestion No. 5)	4,27,000
Less: FDR held jointly in the name of DDE as on 31.03.2022 (Refer Note 1 Below)	5,63,390
Estimated availability of funds for FY 2022-23	10,49,15,458
Less: Budgeted expenses for the session 2022-23 (Refer Note 4 Below)	5,49,67,000
Less: Salary Arrears as per 7th CPC (Refer Note 5 Below)	-
Net Surplus	4,99,48,458

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 in the joint name of DDE	5,63,390	Same has been deducted while calculating the fund position of the school.
Total	5,63,390	

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:

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	2,57,99,880	2,57,99,880	As per fee reconciliation submitted by the school for the FY 2021-22.
Annual Charges	19,13,665	22,51,370	As per fee reconciliation submitted by the school for the FY 2021-22, annual charges and development fees has been grossed up to 100%.
Development fees	32,88,715	38,69,076	
Total	3,10,02,260	3,19,20,326	

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

Note 4: 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
Transportation Charges	5,00,000	5,00,000	Neither income nor expense has been
Insurance Charges	4,00,000	4,00,000	

Heads	Budgeted expenditure in FY 2022-23	Amount Disallowed	Remarks
Interest on Vehicle Loan	1,30,000	1,30,000	considered on the assumption that earmarked levies are collected on no profit no loss basis
Vehicle Charges	20,00,000	20,00,000	
Interest on Car Loan	2,30,000	2,30,000	
Transportation Charges	5,00,000	5,00,000	
Oil and Fuel Charges	8,00,000	8,00,000	
Depreciation	15,50,000	15,50,000	
Total	61,10,000	61,10,000	

Note 5: During the personal hearing, the school explained that the salaries are paid as per 7th CPC and implemented the recommendations w.e.f. September, 2019. The school has submitted the 7th CPC salary arrears for the period April 2016 to August 2019 amounting to INR 1,47,10,472.

However, the school was allowed 7th CPC salary arrears for the period January 2016 to March 2018 vide order no. F.DE.15(284)/PSB/2019/1515-1519 dated 04.04.2019 issued for the academic session 2017-18 amounting to INR 97,75,822. Also, after the implementation of recommendations of 7th CPC by the school, it has not provided any arrears for the period April 2016 to August 2019 in its audited financial statements for the FY 2021-22.

Hence, no 7th CPC salary arrears 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 **Deep Public School (School ID-1720146) D-II 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 Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

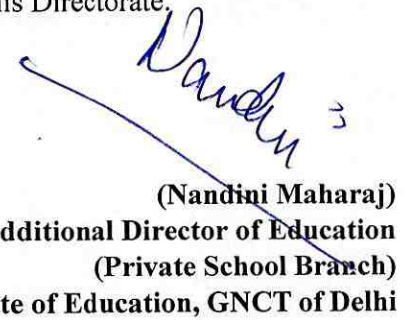
To:
The Manager/ HoS
Deep Public School, D-II Vasant Kunj,
School ID- 1720146
New Delhi- 110070

No. F.DE.15(149)/PSB/2022/ 1490-1494

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