

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

No. F.DE.15 (1248)/PSB/2022/1495-1499

Dated: 14/02/23

Order

WHEREAS, **Tagore Public School (School ID- 1720160), D-Block, Naraina Vihar, New Delhi-110028** (hereinafter referred to as "**the School**"), run by the **Naraina Vihar Tagore Education Society** (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177 (1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and Rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognized school shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorized by the Director in this behalf and also by officers authorized by the Comptroller and Auditor-General of India'*.

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee increase proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fees and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 that in the case

of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

*"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with..."*

*28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....*

*.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."*

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for increase of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for increase of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of the fee increase proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email and the school was also provided an opportunity of being heard on 28.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during personal hearing, the school was further asked to submit necessary documents and clarification on various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE-15(601)/PSB/2022/3534-3538 dated 25.05.2022 issued for academic session 2019-20 were also discussed with the school and school's submissions were taken on record.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase, and subsequent documents submitted by the school as a result of the personal hearing on 28.09.2022, were evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the School are hereunder:

**A. Financial Suggestion for Improvements**

1. Direction no. 2 included in the Public Notice dated 04.05.1997 states *"it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society"*.

Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No.

F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Moreover, Rule 177 of DSER, 1973 states that "*income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And 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 aforementioned provisions, cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds should not be utilized for this purpose.

The school incurred INR 28,43,631 for construction of building from FY 2016-17 to FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE-15(601)/PSB/2022/3534-3538 dated 25.05.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Therefore, the amount utilised by the school towards construction of school building of INR 28,43,631 is hereby again considered as fund available with the school to meet expenditure towards investment for staff gratuity and leave encashment or to pay 7<sup>th</sup> CPC salary arrears.

The school is directed to recover the above-mentioned amount from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee increase proposal for the subsequent academic session.

Further, the expenditure proposed by the school of INR 15,00,000 for installation of solar panel in budget of FY 2022-23 has been excluded from the budgeted expenditure while deriving the fund position of the school.

2. The Hon'ble High Court of Delhi in its judgement dated 30.10.1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

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



assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And 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 4,83,138 for purchase of vehicle in FY 2018-19 and the same was directed to recover from the society vide Directorate's Order no. F.DE-15(601)/PSB/2022/3534-3538 dated 25.05.2022. However, the School has not complied with the above direction and the aforesaid amount is pending for recovery.

Therefore, the amount utilised by the school towards purchase of vehicle INR 4,83,138 is hereby again considered as fund available with the school to meet expenditure towards payment of 7<sup>th</sup> CPC salary arrears and investment for staff gratuity and leave encashment provision.

The school is directed to recover the above-mentioned amount from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee increase proposal for the subsequent academic session.

3. 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, fixtures and equipment." Thus, the development fee/funds should not be utilised for any other purposes other than those specified in Clause 14 of the Order dated 11.02.2009.

On review of the audited financial statements for the FY 2021-22, it has been noted that the school has development fund balance of INR 23,30,147 against which no bank balance available with the school as on 31.03.2022. During the personal hearing, the school explained that due to paucity of funds, the school was left with no other option except to utilize the development funds for payment of salary and salary related cost. In this regard the school was asked to provide the complete details of development funds utilized towards the payment of salary and other expenditure, but the school has not provided these details for verification. In the absence of necessary information, the development funds/ fee which has been used by the school in last two years towards payment of salary and other expenditure has been carried out based on the available documents on record. From the below table it can be seen that the school had sufficient fund to meet establishment expenditure even without using the development funds/fee.

Particulars	(Amount in INR)		
	FY 2020-21	FY 2021-22	Total Amount
Salary expense	3,02,11,384	2,96,57,548	5,98,68,932
Payment towards retirement benefit	0.00	0.00	0.00
Total establishment expenditure	3,02,11,384	2,96,57,548	5,98,68,932
Less: Salary arrear as on 31.03.2022 (refer to schedule 9B of AFS 2021-22- negative balance of current account denotes to salary arrears of March 2022)			48,69,091

Particulars	FY 2020-21	FY 2021-22	Total Amount
Total establishment payment (A)			5,49,99,841
Fee received by the school after excluding annual charges and development fund (B)	3,10,37,787	3,34,15,890	6,44,53,677
Surplus Fund (B-A)			94,53,836

In view of the above calculation, it can be seen that the school had enough fund to meet salary cost without utilising development funds/fee. Therefore, the amount of development fee collected by the school nether utilised by the school as per clause 14 of order dated 11.02.2009 nor for payment of salaries.

Therefore, the closing balance of the development fund as on 31.03.2022 of INR 23,30,147 has been considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Further, the school is hereby also directed to utilise development as per clause 14 of order dated 11.02.2009 and maintain proper liquid funds against balance of development fund.

Further, the school has not been maintaining a depreciation reserve fund in accordance with clause 14 of the order dated 11.02.2009. The school has been preparing a consolidated fixed assets schedule for the purchase of assets both from development funds and general funds. In the absence of a separate fixed assets schedule, it is difficult to identify whether particular assets were purchased out of the development funds or general funds. Therefore, the school is hereby directed to maintain a separate fixed assets schedule for the purchase of assets from development funds and general funds. The compliance with directions shall be evaluated while evaluating the fee increase proposal of subsequent year.

4. 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:

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

Further, Para 57 of AS-15 states that "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

An appropriate charge to the income and expenditure account for a year should be made through a provision for 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, the school has calculated liability as on 31<sup>st</sup> March, 2022 amounting to

INR 1,25,37,606 towards gratuity was created in accordance with the actuarial valuation report without making any investment in plan assets. The school claimed that it has investment in the form of Bank FDR against gratuity of INR 6,43,017 which can be utilised for payment of these liability. But the investment made by the school in the form of Bank FDR is not in accordance with AS-15.

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 6,43,017 (i.e.,  $1/13$  of INR 1,25,37,606 = 8,95,543 or 6,43,017 whichever is lower) has been considered while deriving the fund position of the school with the direction to the school to invest the aforesaid amount in plan asset in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. In case the school fails to comply with the above directions, the school shall not be allowed further instalments and the amount so allowed to the school shall be recovered from the society/ school management along with interest while evaluating the fee increase proposal for the subsequent year.

Further, the amount of INR 25,00,000 proposed by the school for retirement benefits in the budgeted expenditure of FY 2022-23 has been excluded from the total expenditure of the school while deriving the fund position of the school.

## **B. Other Suggestion for Improvements**

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 incurrance 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 transport fees and Digital Fees from the students. However, the school has maintained separate fund accounts for these earmarked levies. The surplus/deficit generated by the school from these earmarked levies in last three financial years are as under:

Particulars	Transport Fees	Digital Fees
<b>For the year 2019-20</b>		
Fee Collected during the year (A)	11,60,275	23,78,200
Expenses during the year (B)	11,80,926	24,28,200
<b>Difference for the year (A-B)</b>	<b>(20,651)</b>	<b>(50,000)</b>
<b>For the year 2020-21</b>		
Fee Collected during the year (A)	30,800	64,130
Expenses during the year (B)	3,85,958	6,622
<b>Difference for the year (A-B)</b>	<b>(3,55,158)</b>	<b>57,508</b>
<b>For the year 2021-22</b>		
Fee Collected during the year (A)	-	19,400
Expenses during the year (B)	2,80,342	3,00,000
<b>Difference for the year (A-B)</b>	<b>(2,80,342)</b>	<b>(2,80,600)</b>
<b>Total (Surplus)</b>	<b>(6,56,151)</b>	<b>(2,73,092)</b>

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 Digital fees from all the students loses its character of earmarked levy. Thus, the school is directed based on the nature of the Digital Fees not to charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

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 Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:

a) It is reiterated that annual fee-hike is not mandatory.

b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.

c) If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

The Directorate in its order No. F.DE-15(601)/PSB/2022/3534-3538 dated 25.05.2022 issued for academic session 2019-20, noted that the school had increased the fee in academic session 2017-18 without seeking approval from the DoE. Accordingly, the school was directed to either refund the increased fee to the students or adjust the same against future dues from the students. However, the school has not complied with the above direction.

Therefore, the school is hereby again directed to comply with the above-mentioned direction and submit the compliance report within 30 days from the date of the issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee increase proposal for the subsequent academic session.

3. 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 "Activity fee" from the students of the nursery class at the time of admission 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 Digital Fees from the students of all classes losses 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.

- 4. On review of the audited financial statement for the FY 2019-20 to FY 2021-22, it has been noted that the school has not prepared Fixed Asset Register (FAR). The fixed asset register normally includes basic details such as asset description, date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of assets and documenting complete details of assets at one place.

Therefore, the school is directed to prepare and submit the fixed assets register at the earliest. The same shall be verified at the time of evaluation of the fee proposal of the school for the next academic session.

- 5. Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India "*Where the fund is meant for meeting capital expenditure, upon incurrance of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund*

account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.”

However, on review of audited financial statements of the School from FY 2019-20 to 2021-22, it has been noted that the school does not follow the accounting practice suggested in the guidance note cited above and do not maintain any deferred income account. Accordingly, school is hereby directed to follow para 99 of GN-21 for correct presentation of its financial statements and make necessary rectification entries in the development fund account, development fund utilization account and general fund account. Non-compliance of the above direction shall be reviewed seriously at the time of evaluation of proposal for enhancement of fee for subsequent year.

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

On review of the audited financial statements for the FY 2019-20 to 2021-22, it has been noted that incomes are recorded on cash basis while expenses are being recoded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). The same was also discussed with the school at the time of personal hearing and the school accepted this fact. It also raises serious concern over reliability on financial records submitted by the school to the Directorate for fee increase evaluation propose.

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.

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

- i. The total funds available for the FY 2022-23 is INR **4,14,95,639** out of which the expected expenditures of the school would be INR **4,64,05,728** resulting in net deficit of INR **49,10,089** for the FY 2022-23. The detailed calculation is as under:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement of FY 2021-22 (Refer Note 1 Below)	12,92,613
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 (Refer Note 2 Below)	34,38,080
<b>Liquid fund as on 31.03.2022</b>	<b>47,30,693</b>

Particulars	Amount (INR)
Add: Recovery from society for construction of building (Refer Financial suggestion No. 1)	28,43,631
Add: Recovery from Society for purchase of vehicle in contravention of Rule 176 and 177 of DSER 1973 (Refer Financial Suggestion No. 2)	4,83,138
Add: Recovery from society of amount of development fund utilised in contravention of clause 14 of order dated 11.02.2009 (Refer Financial Suggestion No. 3)	23,30,147
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note 3 Below)	3,38,60,895
Add: Other income for FY 2021-22 as per audited Financial Statements (On the assumption that income accrued during FY 2021-22 will at least accrue in FY 2022-23]	3,90,152
<b>Total available funds for FY 2022-23</b>	<b>4,46,38,656</b>
Less: FDR deposited with High court as on 31.03.2022 (Refer Note 2 Below)	25,00,000
Less: Depreciation reserve fund as on 31/03/2022 (Refer Note 4 below)	-
Less: Development Fund (Refer Financial Suggestion No. 3)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 4)	6,43,017
<b>Estimated Available Funds for FY 2022-23 - (A)</b>	<b>4,14,95,639</b>
Less: Budgeted expenses for the session 2022-23 (Refer Note 5 & 6 below)	4,64,05,728
Less: Salary arrears as per 7th CPC (Refer Note 7 Below)	-
<b>Estimated Budgeted Expenses for FY 2022-23 - (B)</b>	<b>4,64,05,728</b>
<b>Estimated Deficit (A-B)</b>	<b>49,10,089</b>

**Note 1:** As per bank reconciliation of ICICI bank vide account no. 033505003687, closing balance of bank was INR. 9,84,916. However, to get the fee increase for the FY 2022-23, the school shown the balance of bank as negative amounting to INR 48,69,091 by issuing the cheques of the expenses which are yet to be paid by the school. Hence, closing balance as per bank reconciliation amounting to INR 9,84,916 has been considered while calculating the fund position of the school.

**Note 2:** The detail of fixed deposits held by the school as per the audited financial statements of FY 2021-22 is provided below:

Particulars	Amount (in INR)	Remarks
FDR with ICICI Bank	6,43,017	Gratuity Fund Investment
FDR with UBI	2,95,063	
Bank Guarantee	25,00,000	Guarantee for JADSC
<b>Total</b>	<b>34,38,080</b>	

**Note 3:** The school has recorded it's income on cash basis therefore, the following income has been considered:

Particulars	Income as per AFS 2021-22	Income considered for FY 2022-23	Remarks
Tuition Fee	3,33,87,965	3,33,87,965	Income reported in audited financial statements for the
Annual Charges	2,51,100	2,51,100	

Particulars	Income as per AFS 2021-22	Income considered for FY 2022-23	Remarks
Development Fees	2,21,830	2,21,830	FY 2021-22 is taken as a base for income in FY 2022-23 considering the same shall at least accrue to the school in FY 2022-23.
<b>Total</b>	<b>3,38,60,895</b>	<b>3,38,60,895</b>	

**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 amount budgeted by the school has been considered while deriving the fund position of the school for the FY 2022-23 has been considered except in respect of the following heads, the school has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2021-22 or the school proposed new head of expenditure for which the school has not offered satisfactory explanation/ Justification. Therefore, the aforesaid expenditure in excess of 10% over the previous year and/or new head of expenditure have not been considered while deriving the fee increase proposal of the school.

Head of Expenditure	FY 2022-23	Amount Disallowed (INR)	Remarks
Salaries and wages of the teaching and non-teaching staff	4,25,00,000	98,76,697	Restricted under 110% of the expenses incurred in FY 2021-22
Gratuity and Leave encashment provision	25,00,000	25,00,000	Refer financial suggestion No.2
School Maintenance	23,50,000	13,08,477	Restricted to 110% of expense of FY 2019-20
Printing Expense	10,00,000	5,00,097	
Vehicle expense	16,30,000	16,30,000	No income and expense have been considered.
Smart Class Education Expense	35,00,000	35,00,000	New Head of Expense
Solar Plant	15,00,000	15,00,000	Refer Financial Suggestion No. 1
<b>Total</b>	<b>5,49,80,000</b>	<b>2,08,15,271</b>	

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

**Note 7:** Post hearing, the school has provided 7<sup>th</sup> CPC salary arrears of 58 employees for the period 01.01.2016 to 31.03.2022 and as per staff statement of the school, there are only 24 employees working in the school. Further, the 7<sup>th</sup> CPC salary provided by the school found to be excessive and unreasonable. Hence, while calculating the fund position of the school, 7<sup>th</sup> CPC salary arrears of 24 employees has not been considered while calculating the fund position of the school.

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

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial and other suggestions that the sufficient funds are not available with the school to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has incurred INR 56,56,916 in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, it is relevant to mention that Covid-19 pandemic had a widespread impact on the entire society as well as on general economy. Further, charging of any arrears on account of fee for several months from the parents is not advisable not only because of additional sudden burden fall upon the parents/students but also as per the experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 15% to be effective from 1<sup>st</sup> October 2022.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other suggestion noted during the above evaluation process and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for fee increase of **Tagore Public School (School ID- 1720160), D-Block, Naraina Vihar, New Delhi-110028** is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 15% to be effective from 1<sup>st</sup> October 2022.

Further, the management of said school is hereby directed under section 24(3) of DSEA 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time



Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority.

*Nandini*

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

To  
The Manager/ HoS  
Tagore Public School  
(School ID- 1720160),  
D-Block, Naraina Vihar,  
New Delhi-110028

No. F.DE.15 (1248 )/PSB/2022 /1495-1499

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