

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

No. F.DE.15 (1000)/PSB/2022/ 8566-8570

Dated: 25/10/22

Order

WHEREAS, **Bal Bharati Public School (School ID – 1821227), Sector-12 Dwarka, New Delhi-110075** (hereinafter referred to as “**the School**”), run by the Child 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.

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 Delhi School Education Act, 1973 (hereinafter read as “**the Act**”) with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as “**the Rules**”).

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) 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.’*

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

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



AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 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 Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

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

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

AND WHEREAS, in order to 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 DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 16.09.2022. The school was also provided an opportunity to be heard on 22.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on

various issues noted. In the aforesaid personal hearing, compliance of Order No. F.DE.(158)/PSB/2021/2988-92 dated 16.08.2021 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements:

1. Clause 7.24 of Duggal Committee report states *"school should be prohibited from discharging any of the functions, which rightly fall in the domain of the society out of the fees and other charges collected from the students; or where the parents are made to bear, even in part, the financial burden for the creation of facilities including building, on a land which had been given to the society at concessional rates for carrying out a philanthropic activity. One only wonders what is then the contribution of the society that professes to run the school"*.

Further, Clause No. 2 of 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"*. Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.02005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."*

Additionally, Rule 177 of DSER, 1973 states *"Income derived by an unaided 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"*.

Further, 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.

Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should be used for the purchase of land and construction of the school building. In this connection, it is also important to mention that society was allotted an institutional land plot and that the cost of the land was very low compared to the price of



commercial and even residential land in the nearby location. The land was allotted at a very low price because society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. The society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. The DoE had recommended the allotment of land to society on noble grounds; otherwise, society would not have been able to have prime land at a very low price.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of the land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE. And society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the main source (i.e., land) which was required to establish the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause has been included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow all the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The DoE, in its Order No. F.DE.(158)/PSB/2021/2988-92 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, found that the school had incurred capital expenditure of INR 1,89,52,183 for the construction of building, multipurpose hall, and multipurpose stage during the FY 2016-17 to 2017-18. The DoE also noticed that the aforesaid expenditure was incurred by the school without complying with the provision of Rule 177 of DSER, 1973. Accordingly, the school was directed to recover a total of INR 1,89,52,183 from the society.

The representation dated 14.10.2022, submitted by the school in response to the aforesaid findings, was taken on record. The school submitted that INR 1,35,98,813 was incurred on building and multipurpose hall from school funds towards upgradation of the school building and that expenditures were incurred based on advice received from a qualified engineer. whereas the remaining expenditures of INR 53,53,370 were incurred by the school for providing fixtures in the multipurpose hall and various scholastic and co-scholastic activities out of the development fund and activity fund. The school also explained during the personal hearing, that the multipurpose hall is temporary in nature and has been made with the help of asbestos. The cost of the multipurpose hall was INR 74,38,636, which has been capitalized considering the economic life and opinion of the statutory auditor.

In view of the above explanation provided by the school, the above-mentioned recovery of INR 1,89,52,183 has been reduced by INR 1,27,92,006 (INR 53,53,370 plus INR 74,38,636). Therefore, the remaining amount of INR 61,60,177 is still recoverable from the society, which has been included while deriving the fund position of the school with the direction to the school to recover this amount from society 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 provision of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

2. Section 2 (m) of DSEA, 1973 states "*Manager*" in relation to a school, means the person, by whatever name called who is entrusted, either on the date on which this Act comes into force, or



as the case may be, under a scheme of management made U/s 5, with the management of the affairs of that school”.

Further, Rule 59 of DSEAR, 1973 provides regarding appointment and qualification of Manager and Rule 59(2)(i) provides the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee is as under:

(j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided.

(k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties, and responsibilities of the manager.

(l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorized by that committee in this behalf.

(m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school.

(r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager.

Based on the above-mentioned provision, the post of the manager is filled through nomination or election as per the provisions of Rule 59 of DSEAR, 1973. Accordingly, the manager of the school cannot be treated as an employee of the school as he functions on behalf of the managing committee and cannot be paid a salary as per the provisions of the DSEAR, 1973.

The DoE, in its Order No. F.DE (158)/PSB/2021/2988-92 dated 16.08.2021, issued to the school post evaluation of fee hike proposal for academic session 2019–20, found that the school was paying INR 1,30,000 P.M. as a salary and INR 18,000 P.M. as a reimbursement expense towards car maintenance and telephone expenses to the manager of the school. Accordingly, the school was directed to recover INR 53,28,000 from the manager/society towards remuneration paid to the manager in the last three financial years, which is still pending for recovery.

The representation submitted by the school in response to the Order No. F.DE (158)/PSB/2021/2988-92 dated 16.08.2021 was taken on record. The school, in its response, submitted that a private unaided recognised school is entitled to pay all its employees and staff members, including the manager, salaries commensurate with their qualifications and merits. The contention of the school cannot be held based on the fact that the school's manager cannot be considered an employee of the school.



Therefore, the aforesaid recovery of INR 53,28,000, which is still pending for recovery, has been considered while deriving the fund position of the school with the direction to the school to recover this amount from society/manager within 30 days from the date of issue of this order.

3. Section 13 (1) of the Right to Education Act, 2009 states *"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"*. Further Section 13 (2) states *"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.*

Additionally, 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 02.05.2016 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*, 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 capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged.

In this regard, it is also important to mention here that the school has been allotted land by the land-owning agency only on the recommendation of the DoE. Therefore, the school is bound to follow all the instruction/direction issued by the DoE under the obligation of land allotment letter.

Additionally, Rule 50 of DSER, 1973 states *"the school is not run for profit to any individual, group or association of individual or any other person" and 'the managing committee observes the provisions of the Act and Rules made there under"*.

Based on the provisions mentioned above and the pronouncement of the Hon'ble Supreme Court and High Court. The term 'Capitation' is very wide and extensive, and it cannot be restricted only



to the amount/contribution received at the time of admission only but also includes any kind of collection or donation other than the notified head of fees or collection of unwarranted fee or introduction of new head of fee in the fee structure whether at the time of the admission of the students or otherwise.

In this regard the Directorate vide *Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999* has already specified the head of fees that a recognized private school can collect from the students/parents. Accordingly, the School cannot introduce any new head of fee in its fee structure or collect any unwarranted fee from the students/ parents otherwise than the specified head of fees.

Therefore, any demand of capitation fee or introduction of the new head of fee in the fee structure of the school other than the notified head of fees will be considered as *commercialization of education*, which cannot be permitted at any cost.

Review of the documents submitted by the school revealed that the school has been charging an 'Activity Fee for Orientation Programme' and an "Activity Fee for Skill and Development" other than the permitted heads of fee from students at the time of admission. Accordingly, the school is hereby directed to immediately stop collection of one-time charges from students at the time of admission. Similar findings were noted by the DoE in its previous order issued to the school post evaluation of the fee hike proposal for academic session 2019-20, but the school has not complied with that direction until now.

Section 27 of the DSEA, 1973 states that the manager of the school is responsible for looking after the smooth operations of the school and ensuring compliance with the provisions of the DSEAR, 1973, including the direction of the High Court/Supreme Court and other directions/circulars issued by the DoE from time to time. The manager and principal have been bestowed with the power to ensure the proper functioning of the school and to ensure the admission process is transparent. They are jointly and severally responsible in their personal capacity for the levy and collection of the capitation fee and any other unauthorized fee. Therefore, non-compliance by the school with this direction within the stipulated time frame shall be viewed seriously and necessary action against the school shall be initiated without providing further opportunity to be heard.

4. Rule 177 of DSER, 1973 *"Income derived by an unaided 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.

Further, Clause 8 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 23 of order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 read with Judgment of Hon'ble Supreme Court of India in the matter of Action Committee, Unaided Private School & Ors Vs Directorate of Education, Delhi & Ors in Review Petition (C) No. 1368 of 2004 in Civil Appeal No. 2700 of 2001 that,

"No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution except under the management of same society or trust"

The DoE, in its Order No. F.DE (158)/PSB/2021/2988-92 dated 16.08.2021 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had transferred INR 2,30,00,000 and INR 20,00,000 to BBPS, Ludhiana and BBPS, Manesar respectively in FY 2016-17. The school had reported the above transfer as a "grant in aid" in its audited financial statements. It was also noted that the above transfer was made out of the contingency reserve of the school, resulting in non-compliance with the provisions of Rule 177 of DSER, 1973. As per Rule 177, the school is required to maintain a contingency reserve in order to deal with unforeseen circumstances and events and not to provide assistance to any other institutions or schools.

The representation submitted by the school against DoE Order No. F.DE (158)/PSB/2021/2988-92 dated 16.08.2021 was taken on record. The school explained that even after giving 'Grant in Aid' to the sister units, the school had saved in school funds after meeting all the conditions laid down in Rule 177 of DSER, 1973. The contention of the school cannot be accepted. Given the fact that the school did not have investment in plan assets towards payment of gratuity and leave encashment, and investment in the joint name of the concerned Deputy Director Education and Manager of the school towards salary reserve, Had the investment been in the joint name of the concerned Deputy Director Education and the manager of the school, it would not have been possible for the school to transfer the above-mentioned funds to sister units without the prior permission of the concerned Deputy Director Education.

Therefore, the recovery of INR 2,50,00,000 as per the previous years' order is remain stand recoverable from the society. Accordingly, it has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

5. As per Para 49 of 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, para 57 states *“An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date”*. Also, para 7 of the Accounting Standard defines Plan Assets as under:

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

From review of the audited financial statements of FY 2021-22 and the documents/records submitted by the school post personal hearing, it has been noted that the school has reported a total liability of INR 8,08,07,249 towards retirement benefits in the audited financial statements based on the value determined by the actuary and has invested INR 6,09,84,347 with LIC. The investment with LIC is qualified as a plan asset within the meaning of AS-15. Therefore, a total investment in plan assets of INR 6,09,84,347 has been considered while deriving the fund position of the school, with the direction to the school to invest the remaining amount in plan assets within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements:

1. As per 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 Rs. 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, as per 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.”*

Based on the discussion with the school during the personal hearing, it has been noted that the school refunds the principal amount only to the students at the time of their leaving from the school, which is not in accordance with the above-mentioned provisions. Therefore, the school is hereby directed to ensure the refund of the caution money along with interest thereon. Accordingly, the outstanding balance of caution money as on 31.03.2022 of INR 6,81,500 has been considered while deriving the fund position of the school.

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 are **INR 23,94,25,958** out of which expected expenditures of the school would be **INR 25,35,10,726** resulting in net deficit of **INR 1,40,84,768** for the FY 2022-23. The detailed calculation is provided below:

Particulars	Amount (INR)
Cash & Bank as on 31.03.22 as per Audited Financial Statement of FY 2021-22 (Refer Note No. 1 Below)	79,54,816
Investments as on 31.03.22 as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	16,11,47,341
Liquid fund as on 31.03.22	16,91,02,157
Add: Recovery from the society for construction of building out of school funds (Refer Financial Suggestion No. 1)	61,60,177
Add: Recovery from the society for payment made to the manager of the school (Refer Financial Suggestion No. 2)	53,28,000
Add: Amount transferred to the sister concern Schools without complying with Rule 177 of DSER 1973 (Refer Financial Suggestion No. 4)	2,50,00,000
Add: Fees as per Audited Financial Statements of FY 2021-22 (Refer Note No. 1 Below)	15,03,90,478
Add: Other Income (Refer Note No. 2 Below)	94,48,799
Add: Additional income on account of discount as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	49,13,941
Less: Income from transport and activities as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 below)	35,19,000
Total Available Funds for FY 2022-23	36,68,24,552
Less: FDR in joint name with DoE and manager of the school	28,10,465
Less: Development fund balance as per Audited Financial Statements of FY 2021-22	3,31,53,384
Less: Caution money as per Audited Financial Statements of FY 2021-22	6,81,500
Less: ATL grant balance as per Audited Financial Statements of FY 2021-22	1,84,073
Less: Salary reserve fund as Audited Financial Statements of FY 2021-22 (Refer Note No. 3 Below)	2,95,84,865
Less: Depreciation reserve fund as per Audited Financial Statements of FY 2021-22 (Refer Note No. 4 Below)	-
Less: Investment with LIC towards retirement benefits as per Audited Financial Statements of FY 2021-22 (Refer Financial Suggestion No. 5)	6,09,84,307
Estimated Available Funds for FY 2022-23	23,94,25,958
Less: Budgeted expenses for the session 2022-23 (Refer Note No. 5 & 6 Below)	20,62,79,870
Less: Salary arrears towards implementation as per Audited Financial Statements of FY 2021-22 (Refer Note No. 7 Below)	4,72,30,856
Estimated Deficit	1,40,84,768

Note 1: Cash, bank and invest related to the transport funds and activity fund have been excluded from the above calculation.

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, has issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed the management of all the private schools not to collect any fee except the tuition fee, irrespective of the fact whether running on 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 the Single Bench of the Hon'ble High Court of Delhi and the interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of the Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners' private unaided recognised 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 a 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 of the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month's fee or refunded to the parents.
- (ii) The amount so payable by the concerned students shall be paid in six equal monthly instalments w.e.f. 10.06.2021.

From review of the audited financial statements of FY 2021-22, it has been noted that the school has collected its annual charge and development fee after providing a discount of INR 49,13,941. Therefore, income collected by the school during the FY 2021-22 with respect to annual charges and development fees has been grossed up in order to make comparative income with the FY 2022-23. The school has reported this figure in its audited financial statements as well.

Further, while deriving the fund position of the school, the income and expenditure both towards transport and activity have not been considered. Therefore, the income of INR 39,19,000 has also not been considered while deriving the fund position of the school

Note 3: As per clause 10 of Form-II of Right of Children to Free and Compulsory Education Act 2009, schools are required to maintain liquidity equivalent to 3 months' salary and this amount should be invested in the joint name of the Dy. Director (Education) and manager of the school. Generally, it is done in the form of FDR in any scheduled bank. As per the details provided by the school, it has invested an amount of INR 2,95,84,865 in the joint name of the Deputy Director Education and manager of the school in FY 2022-23 has been considered while deriving the fund position.

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 fees is comprised of "*registration fee and all one-time charges*" levied at the time of admission, such as admission charges and caution money. The second category of fee comprises the '*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 libraries, laboratories, science, and computers up to class X and the 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 should consist of all '*Earmarked Levies*' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fees, 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 fee head has already been defined, and the use of development fees or any other fee heads for investments against the depreciation reserve fund is not mentioned anywhere. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Clause 14 of 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, upgrade, and replacement of furniture, fixtures, and equipment. The development fee, if required to be charged, shall be treated as a 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 the 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 the charging of development fee, as per the above provisions and the decision of the Hon'ble Supreme Court in the case of Modern School Vs. Union of India & Ors., 2004(5) SCC 583. despite the fact that clause 7 of the preceding directive does not require the keeping of any investments in a 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 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*".

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is merely 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 the 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 FY 2021-22 has not been considered while deriving the fund position of the school.

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



Heads	Amount (INR)	Reasons
Expenditure related to transport	5,14,029	Neither income nor expenditure has been considered in the above calculation.
Retainership fee	16,50,000	The school has proposed new head for retainership fee has not been considered.

Note 6: While evaluating fee hike proposals, the department considers how much liquid funds would require the school for a particular session for smooth operation of the school without compromising on the quality of education. Thus, while deriving the fund position of the school, all legitimate expenditures of revenue as well as capital in accordance with the provisions of DESAR, 1973 and the pronouncement of court judgement have been considered. Therefore, the balance of other current assets and other current liabilities has not been considered. Because it is obvious that current assets, loans and advances, and current liabilities are cyclical in nature, and this has already been considered in the form of the school's budgeted income and expenditure in previous years. Thus, current assets, loans and advances, and current liabilities will always be reflected in the audited financial statements of the school at the end of each financial year.

Note 7: Salary towards implementation of the 7th CPC as per the audited financial statement has been considered while deriving 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 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 the above evaluation, which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders, and circulars issued from time to time by this directorate, it was recommended by the team of chartered accountants, along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that 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, the school has incurred capital expenditure for the construction of a school building amounting to INR 61,60,177 in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. The school has transferred INR 2,50,00,000 to sister units without complying with requirement of Rule 177 of DSER 1973 and Clause 8 of the order dated 15.12.1999. Furthermore, the school paid the manager of the school INR 53,28,000 in violation of the provisions of DSEA & R, 1973. Accordingly, the school is directed to recover the aforesaid amounts within 30 days from the date of issue of this order. Noncompliance with this directive will be taken seriously in accordance with the provisions of the DSEAR, 1973, with no further opportunity to be heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. The school is hereby further directed that the additional income received on account of the increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of this order.

AND WHEREAS, it is relevant to mention that charging of any arrears on account of fees for several months from the parents is not advisable, not only because of the additional sudden burden falling upon the parents/students but also, as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases, as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 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 10% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of chartered accountants along with relevant materials were put before the Director of Education for consideration, who, after considering all the material on the record, and after considering the provisions of Section 17 (3), 18(5), and 24(1) of the DSEA, 1973, read with Rules 172, 173, 175 and 177 of the DSER, 1973, has found that funds are not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employees' benefits, the fee hike is required to the School.

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

Accordingly, it is hereby conveyed that the proposal for fee hike of **Bal Bharati Public School (School ID – 1821227), Sector-12 Dwarka, New Delhi-110075** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 10% to be effective from 1 October, 2022.

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

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



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

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



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

To
The Manager/ HoS
Bal Bharati Public School (School ID – 1821227),
Sector-12 Dwarka, New Delhi-110075

No. F.DE.15 (1006)/PSB/2022/8566-8570

Dated: 25/10/22

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



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