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

No. F.DE.15 (1357) / PSB / 2023/ 3705 - 3710 **Dated:** 26/04/23

ORDER

WHEREAS, **Bal Bhavan International School (School ID-1821230), Sector-12, Dwarka, New Delhi-110075,** (hereinafter referred to as " **the School**"), run by the Lagan Kala Upvan Regd. Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

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

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

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

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

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

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

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

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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

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

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

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

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

AND WHEREAS, accordingly, the DoE vide Order No. F.DE.-15(614)/PSB/2019/3228-33 dated 14.12.2019, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

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

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

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 14.03.2023 to present its justifications/ clarifications on the fee increase proposal and full statement of fees filed under section 17(3) of the DSEA, 1973. Based on the discussion, the school was further asked to submit necessary documents and clarification on various issues noted during personal hearing with the school. During that hearing, the compliance of Order No. F.DE.-15(711)/PSB/2022/4355-4359 dated 07.06.2022 issued for academic session 2019-20 were also discussed and the school's submissions were taken on record.

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

A. Financial Suggestions for Improvement:

1. As per AS-15 on 'Employee Benefits' issued by the Institute of Chartered Accountants of India (ICAI) states that "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

    a) Assets held by a long-term employee benefit fund; and

    b) Qualifying insurance policies

    Para 57 of 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 recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

    The documents submitted by the school were taken on record. A review of the documents submitted by the school revealed that the school has reported liabilities of INR 1,55,86,748 towards gratuity and INR 38,58,993 towards leave encashment in the audited financial statements for FY 2021–22 based on the actuarial valuation report. However, the school has not invested any funds in plan assets in accordance with AS-15 issued by ICAI in response to the liabilities. During the personal hearing, the school explained that due to a paucity of funds, it could not invest any amount in plan assets.

    Gratuity and leave encashment are statutory liabilities that the school is required to pay to the eligible employees at the time of retirement or resignation. However, over the years, the department has noticed that most of the schools have been recording liabilities for retirement benefits in their financial statements without making investments in Plan Asset, either due to paucity of funds or otherwise. Therefore, many of the schools are keeping the retirement benefit unfunded, which is not in the true spirit of the law and also defeats the objectives of maintaining books of accounts as per generally accepted accounting principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgement titled Modern School vs. Union of India and Ors. Therefore, it has been felt that in order to protect the 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 13,88,982 (i.e., 1/14 of (INR 88,29,360 plus INR 42,71,957) has been considered while deriving the fund position of the school, with the direction to the school to invest the aforesaid amount in plan assets in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order.

2. 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 sates "*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 not be used for the purchase of land and construction of the school building. In this regard, it is also important to mention that society was allotted an institutional land at very low cost compared to the price of commercial and as well as residential land of that nearby locality. The reason for allotment of land as such low cost was the 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. In its offer the society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, the DoE had recommended to the land-owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such posh location.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of 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. 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 and run 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 was 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 the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

According to DoE Order No. F.DE.-15(711)/PSB/2022/4355-4359 dated 07.06.2022 issued for the academic session 2019–20 and Order No. F.DE.-15(122)/PSB/2019/1120-1124 dated 14.03.2019 issued for the academic session 2017–18, it was noted that the school had utilized school funds of INR 122,49,534 in FY 2015-16 for an addition to the school building. This expenditure was incurred by the school without complying with the above-mentioned provisions because the school has not yet implemented the recommendation of the 7th CPC completely and has not invested any amount in plan assets towards payment of the retirement benefit payable to the employees. Accordingly, the school was directed to recover INR 122,49,534 from the society, which is still pending for recovery.

Further, on review of the audited financial statements for FY 2019-20 to FY 2021-22, it has been noted that the school has incurred INR 1,85,34,550 on repair and maintenance of the school building (excluding whitewash) during the last 3 FY's. In addition to this the school also proposed additional expenditure on repair and maintenance of building of INR 88,20,000 which seems to be excessive and unjustified. Therefore, the proposed expenditure has not been considered as eligible expenditure while deriving the fund position.

In addition to above, the above amount of INR 122,49,534 which is still pending for recovery 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 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.

3. Section 18(4) of the DSEA, 1973 states "Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed.

Whereas Rule 176 and Rule 177 of the DSER, 1973 states "Fees/funds collected from the parents/students shall be utilized strictly in accordance with the aforesaid rules. Further, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

On review of the audited financial statements for FY 2019-20 to FY 2021-22, it has been noted that the school has paid high interest cost during these financial years. The school was asked to submit the relevant details for the same. While reviewing the documents and other information shared by the school, it has been noted that a 'loan against property' of INR 2.5 Crore was taken from Axis bank in the name of Mr. Kunal Gupta and the name of the school was also mentioned as one of the co-borrowers. Further, the loan amount was shifted in the books of accounts of the school and the same was completely utilized in the FY 2020-21. The detail of such usage is given below:

Particulars	Amount (INR)
Repayment of Loan	48,70,048
DDA and MCD taxes	43,02,529
PF paid	11,34,748
Other payments made by the school	1,42,83,620
Total	**2,45,90,945**

Further, the school neither submitted 'fund utilization certificate' from its auditor nor provide complete details of its utilization. Therefore, it seems that the management of the school diverted these funds out of the school for other purposes and shifted the burden of the same on the school.

Therefore, the school is hereby directed to recover EMI paid till 31.03.2022 of INR 61,31,849 i.e., (INR 3,60,697 * 17 months) out of school funds from Nov' 2020 to March'2022 from the society/management within 30 days from the date of issue of this order. Further, no repayment of such loan has to be made out of school fund. The compliance of the same will be reviewed at the time of subsequent fee hike proposal.

4. Section 18(4) of the DSEA, 1973 states "Income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed.

Whereas Rule 176 and Rule 177 of the DSER, 1973 states "Fees/funds collected from the parents/students shall be utilized strictly in accordance with the aforesaid rules. Further, clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

The DoE Order No. F.DE.-15(711)/PSB/2022/4355-4359 dated 07.06.2022 issued for the academic session 2019–20, noted that the school incurred INR 10,55,418 on purchase of Car (Honda City) by taking loan from the bank and incurred financial charges and interest expense on the same leaving the closing balance of INR5,75,007 as on 31.03.2019. Since this capital expenditure was incurred out of the school fund without complying with the requirements of aforesaid provisions. The school was directed to recover INR 5,18,200 from the society.

The school in its response submitted that the above recover was done during FY 2021-22 and copy of bank statement also attached to reflect the same. However, on review of the audited financial statements for FY 2021-22, it has been noted that the above recovery neither routed through income and expenditure account nor from General Fund balance. Hence, it seems that the school created some sort of temporary arrangement of funds for the school. Therefore, the above recovery has not been considered while deriving the fund position and the school is hereby directed to route its recovery either from income and expenditure account or from General Fund account maintained in the financial statements of the school.

Therefore, the amount of INR 5,18,200 which is still pending for recovery has been considered as fund available with the school while deriving the fund position. The school is hereby directed to recover this amount from the society within 30 days from the date of issue of this order.

5. Clause 15 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures, and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a depreciation reserve fund, equivalent to the deprecation 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."*

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

Based on the above provisions, the amount utilized out of development fund for purchase of fixed assets should have been treated as deferred revenue fund. Further, an amount equivalent to depreciation charged on the fixed assets need to be credited to Income & Expenditure Account as amount apportioned from the deferred revenue fund. But the school is not following appropriate accounting treatment of development fund in accordance with the guidance note. As the school has not treated development fund utilization account as deferred income equivalent to depreciation charged i.e., the school has not credited income and expenditure with the equivalent amount of deprecation charged from the development fund utilization account. The school has not maintained separate bank account/ investments for Development Fund collected. And the school has not reported development fees as a separate head in its Receipt and Payment Account on account of which the amount collected as development fees from students is not identifiable.

Moreover, the school has followed unsuitable financial practices and improper accounting procedures resulting in unacceptable situation of negative closing balance of development fund, at the same time not following the requirements of the guidance note-21 issued by The Institute of Chartered Accountants of India.

The DoE Order No. F.DE.-15(711)/PSB/2022/4355-4359 dated 07.06.2022 issued for the academic session 2019–20, noted that the school had utilized its development fund in excess of the balance available with the school in contravention of above-mentioned provisions. Therefore, the school was directed to recover INR 4,81,465 from the society which is still pending for recovery.

The school in its response submitted that the above recover was done during FY 2021-22 and copy of bank statement also attached to reflect the same. However, on review of the audited financial statements for FY 2021-22, it has been noted that the above recovery neither routed through income and expenditure account nor from General Fund balance. Hence, it seems that the school created some sort of temporary arrangement of funds for the school. Therefore, the above recovery has not been considered while deriving the fund position and the school is hereby directed to route its recovery either from income and expenditure account or from General Fund account maintained in the financial statements of the school.

Therefore, the amount of INR 4,81,465 which is still pending for recovery has been considered as fund available with the school while deriving the fund position. The school is hereby directed to recover this amount from the society within 30 days from the date of issue of this order.

6. Rule 177 of DSER, 1973 *states "(1) 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 managing committee for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*

   1) *award of the scholarships to students,*
   2) *establishment of any other recognized school, or*
   3) *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.*

   (2) The savings referred to in sub-rule (1) 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 development nature,*
   c. *the expansion of the school building or for the expansion or construction of any building or establishment of hostel or 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 DoE Order No. F.DE.-15(711)/PSB/2022/4355-4359 dated 07.06.2022 issued for the academic session 2019–20, noted that the school had paid INR 6,20,000 as scholarship to students during FY 2017-18 without complying with the above-mentioned provisions. In is also pertinent to mentioned here that the school neither paid salary as per 7th CPC nor invested any funds in plan assets to secure its retirement benefit obligations. Therefore, the school was directed to recover this amount from the society which is still pending for recovery.

The school in its response submitted that the above recover was done during FY 2021-22 and copy of bank statement also attached to reflect the same. However, on review of the audited financial statements for FY 2021-22, it has been noted that the above recovery neither routed through income and expenditure account nor from General Fund balance. Hence, it seems that the school created some sort of temporary arrangement of funds for the school. Therefore, the above recovery has not been considered while deriving the fund position and the school is hereby directed to route its recovery either from income and expenditure account or from General Fund account maintained in the financial statements of the school.

Therefore, the amount of INR 6,20,000 utilized for payment of scholarships which is still pending for recovery has been considered as fund available with the school while deriving the fund position. The school is hereby directed to recover this amount from the society within 30 days from the date of issue of this order.

B. Other Suggestions for Improvement:

1. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:

   - No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
   - Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
   - Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

   Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

2. 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, Income & Expenditure Account and Receipt & Payment account every year.*"

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

   a. *"the financial statement of the schools should be prepared on accrual basis.*

   b. *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…………..*

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

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

3. 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.*"

Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and overheads and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

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

Para No. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11.02.2009 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.*"

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*"

Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from the students are a form of the restricted funds, which, according to the 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.

The aforementioned Guidance Note-21 also lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

The review of the audited financial statements from 2019-20 revealed that the school has been collecting earmarked levies in the name of transport fee, smart class fee, mid-day meal, student activity and science lab fee. It has also been noted that school has not been following fund-based accounting as the school has incurred deficit/surplus from these earmarked levies.

Thus, the earmarked levies are to be collected only from the user students availing of the service/facility. In other words, if any, service/facility is extended to all the students. A separate charge should not be levied for those services/facilities. Because the same would get covered either under the tuition fee (expenses on curricular activities) or under the annual charges (expenses other than those covered under tuition fee). The charging of unwarranted fee or any other amount/fee under different heads other than the prescribed heads of fee and the accumulation of surplus fund therefrom is prima-facie considered a collection of capitation fee in other manner and form. As the school has been charging smart class fee from students of all classes which losses the character of earmarked levy.

However, the analysis of the financial statements of the school revealed that the school has smartly included all these earmarked levies in its fee structure in order to generate extra funds without considering the requirement and income and expenditure for each type of levy. Therefore, based on the nature the Smart Class fees should not be charged from the students as these may get covered either from the tuition fee or annual charges collected from the students.

4. Para 58(i) of Guidance Note-21 'Accounting by schools' issued by the Institute of Chartered Accountants of India (ICAI) states *"A school should charge depreciation according to written down value method at rates recommended in appendix 1 to the Guidance note"*. During personal hearing the school explained that the books of accounts are maintained in accordance with the Income Tax Act 1961 and the rates of depreciation prescribed there under are used.

   Therefore, the school is directed to make necessary adjustments and ensure that depreciation is charged on fixed assets at the rate prescribing in Appendix 1 to Guidance Note-21. The above being a procedural finding, no financial impact is warranted for deriving fund position of the school.

5. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is a requirement that keeping in the view the involvement of public funds, schools are required to disclose the transactions made in respect of related parties.

   From review of the audited financial statements of 2021-22, it has been noted that the school has not made any disclosure in its audited financial statements related to related parties disclosure. In the absence of such details, the purpose and genuineness of transactions entered between the related parties cannot be determined. Therefore, the School is hereby directed to include such details in audited financial statements of the subsequent year.

6. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	2,883
EWS Students*	620
% of EWS students	21.50%

**Included EWS and other non-fee-paying students.*

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

i. The total funds available with the school for FY 2022-23 amounting to **INR 16,32,72,479** out of which estimated expenditures for the FY 2022-23 is to be **INR 18,20,25,047.** This results in net deficit amounting to INR **1,87,52,568** for the FY 2022-23 after making all payments. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement for FY 2021-22	78,59,319
Investments as on 31.03.2022 as per Audited Financial Statement for FY 2021-22	52,67,372
Liquid fund as on 31.03.2022	**1,31,26,691**
Add: Amount recoverable from society for construction of building **(Refer Financial Suggestion No. 2)**	1,22,49,534
Add: Recovery from Society for loan taken in individual name and shifted the burden of the same on the school **(Refer Financial Suggestion No. 3)**	61,31,849
Add: Amount recoverable from society for payment for repayment of loan of cars **(Refer Financial Suggestion No. 4)**	5,18,200
Add: Amount recoverable from society for excess utilization of development fund **(Refer Financial Suggestion No. 5)**	4,81,465
Add: Amount recoverable from society for scholarship paid **(Refer Financial Suggestion No. 6)**	6,20,000
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note No. 1 Below)**	13,96,42,113
Add: Other income for FY 2021-22 as per audited Financial Statements **(Refer Note No. 1 Below)**	32,93,483
Add: Additional income towards annual and development fee **(Refer Note No. 2 Below)**	50,80,930
Less: Arrears of annual charges and development fund for FY 2020-21 received in FY 2021-22 (as submitted by the school)	1,93,88,122
Add: Impact of Fee Hike of FY 2019-20 *(10%)* **(Refer Note No. 3 Below)**	81,85,697
Total available funds for FY 2022-23	**16,99,41,840**
Less: FDR in joint name of CBSE, DoE & Manager	1,82,031
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022	50,85,341
Less: Atal Lab Grant Balance as per Audited Financial Statements of FY 31.03.2022	13,007
Less: Investment made with LIC against provision made for retirement benefits **(Refer Financial Suggestion No. 2)**	13,88,982

Particulars	Amount (INR)
Less Depreciation reserve fund as on 31.03.2022 **(Refer Note No. 4 Below)**	-
Estimated Available Funds for FY 2022-23	**16,32,72,479**
Less: Budgeted Expenditure as provided by the school **(Refer Note No. 5 and 6 Below)**	14,91,65,000
Less: Salary arrears **(Refer Note No. 7 Below)**	3,28,60,047
Estimated Deficit	**1,87,52,568**

Note 1: Fee and income as per audited financial statements of FY 2021-22 has been considered assuming that income accrued in FY 2021-22 will be at least accrue in FY 2022-23.

Note 2: The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

1. To collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

2. The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

3. The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

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

Particulars	Income as per AFS of FY 2021-22	Income Considered in the Above Table	Remarks
Tuition Fee	9,13,57,651	9,13,57,651	
Annual Charges	1,73,99,065 (after adj. of arrear of FY 20-21)	2,04,69,488	The school recorded 85% of the income. Therefore, this has been grossed up.
Development fund	1,13,92,874 (after adj. of arrear of FY 20-21)	1,34,03,381	

Note 3: Calculation of impact of increase allowed in fee hike order of FY 2019-20

Particulars	Amount (INR)
Total Fees For FY 2018-19 (Excluding Other Income)	10,91,42,620
Fees Hike Rate applicable from 01st July, 2022 as per Order of FY 2018-19	10.00%
Amount of Fees Hike for 9 months (01.07.2022 to 31.03.2023)	**81,85,697**

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided school. The first category of fee comprised of "*Registration fee and all one Time Charges*' levied at the time of admissions such as admission charges and caution money. The second category of fee comprises '*Tuition Fee'* which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of '*Annual Charges*' to cover all expenditure not included in the second category and the fourth category consist of all '*Earmarked Levies'* for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has already been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund. Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.

- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme Court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states *"where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."*

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, the depreciation reserve fund as reported by the school in its audited financial statements for the FY 2021-22 has not been considered while deriving the fund position of the school.

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

Heads	**Proposed Amount (INR)**	**Amount Disallowed**	**Reasons**
Impact of 7th CPC and salary arrears	9,60,00,000	9,60,00,000	Considered separately while calculating the fund position.
Interest on loan	25,30,000	25,30,000	Refer Financial Suggestion No. 3
Repair and Maintenance-Building	88,20,000	88,20,000	Refer Financial Suggestion No. 2
Ground maintenance	25,50,000	25,50,000	School has already spent INR 53,77,171 during last 3 FY on Ground maintenance which seems to be excessive. Hence, no further expenditure has been considered as eligible expenditure.
Classroom infrastructure	35,00,000	35,00,000	This expense shall be borne by Society as per DSER'1973. Hence, not considered as eligible expenditure while deriving fund position.

Note 6: While evaluating the fee hike 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: The Salary arrears for FY 2020-21 and FY 2021-22 of INR 3,28,60,047 as submitted by the school has been considered while deriving the fund position.

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

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

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

AND WHEREAS, it is noticed that the school has incurred expenditure of INR 2,00,01,048 towards addition to the building, repayment of loan, scholarship, etc. without complying with Rule 177 of DSER'1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

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

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 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 14% to be effective from 01 April 2023.

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

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

Accordingly, it is hereby conveyed that the proposal for fee hike of , **Bal Bhavan International School (School ID-1821230), 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 14% to be effective from 01 April, 2023.

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.

Nandini

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

To
The Manager/ HoS,
Bal Bhavan International School (School ID-1821230),
Sector-12, Dwarka,
New Delhi-110075,

No. F.DE.15 (1957)/PSB/2023 / 3705 - 3710 Dated: 26/04/23

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (South West-B) to ensure the compliance of the above order by the School Management.
4. DE's nominee concerned.
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

Nandini

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