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

No. F.DE.15 (1327)/PSB/2023/ 3189-3193 **Dated:** 13/04/23

Order

WHEREAS, **MBS International School (School ID: 1821259), Sector-11, Dwarka, New Delhi -110075** (hereinafter referred to as "**the School**"),run by the Nav Bharti Education Society (hereinafter referred to as the "**Society**"),is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (**hereinafter referred to as "DSEAR, 1973"**). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, 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 schoolswhich have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil

Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fees and other charges, with the objective of preventing profiteering and commercialization of education.

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

> *"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...*
>
> *28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.......*
>
> *.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."*

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

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

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for 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 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 dated 17.03.2023. The school was also provided an opportunity to be heard on 21.03.2023 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.15(189)/ PSB/2021/3406-10 dated 09.09.2021 was 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 DOE and the key suggestions noted for improvement by the school are hereunder:

A. **Financial Suggestion for Improvements**

1. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society.*" Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society." Also, Clause (vii) (c) of Order No F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

   As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilized for the same except in compliance with Rule 177 of DSER, 1973.

   The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted that the school had incurred expenditure on school building totalling to INR 51,64,989 from development fund during FY 2014-2015 to FY 2016-2017. Further, from the financial statements for the FY 2014-2015 to FY 2016-2017, it was noted that school had taken secured loan from Bank of India, other sources and unsecured loan from various parties. During FY 2014-2015 to FY 2016-2017, school had paid INR 2,51,09,944 as repayment of bank loan to Bank of India, INR 2,72,78,496 as repayment of unsecured loan and INR 1,17,20,190 as interest on secured loan, totalling to INR 6,41,08,630. During FY 2017-2018 and FY 2018-2019 also, it was noted that the school has repaid principal amount of loan taken and incurred expenditure of interest on loan.

   From the financial statements of FY 2017-2018 and FY 2018-2019 submitted by the school, it was noted that the school has repaid secured loan of INR 43,93,603 and INR 11,71,052 during FY 2017-2018 and FY 2018-2019 respectively and also incurred interest expense on secured loans of INR 32,46,013 during the above-mentioned years. Therefore, the school had made the repayment of loan and interest expenses totalling to INR 88,10,669 (INR 43,93,603 plus INR 11,71,052 plus INR 32,46,013) during FY 2017-2018 and FY 2018-2019.

   The amount of INR 51,64,989 spent for building from development fund and INR 7,29,19,299 (INR 6,41,08,630 plus INR 88,10,669) were added to the fund position of the school and the school was directed to recover the amount from the Society.

The school represented that the payments of bank loans were borne by the society till the school commenced its operations in 2009. It further submitted that the amount of INR 1,18,00562 capitalized in year 2014-15 includes some expenditures which were of revenue nature such as expenditure related to paints, polish, decoration, electricity bills, security guard salary, repairs etc. The submission of the school has been taken on record and considered except the expenses incurred for TMT bar and steel amounting INR 53,16,658.School submitted that while capitalising building it had capitalised the cost of pumps, equipment, fixtures, furniture, swings, etc. in the cost of building mistakenly amounting INR 55,89,076.School also added that the expenditure of INR 51,64,989 out of development fund was of revenue nature. The school has already rectified its financial statements in FY 2020-21 by making necessary accounting adjustments in the general reserve and development fund account. Further, school submitted that the amount of loan repayment and interest payment for FY 2017-18 and 2018-19 amounting INR 88,10,669 added in the fund position of the school were related to the secured loan taken for buses and interest thereon. It is not related to building in any manner and the department had wrongly considered it as loan for building. The bus loan and interest thereon were out of the surplus from the transport fee and thus, not recoverable from the society. The submissions of the school have been taken on record and considered.

Thus, remaining amount of INR 5,20,35,650is recoverable from the society and the same has been added to the fund position of the school. The school is directed to recover this amount from the society within 30 days from the date of issue of this order.

2. The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted that in FY 2017-18 and 2018-19 the school had incurred repairs and maintenance expenditure amounting INR 66,07,760 and INR 74,45,695. From the ledger account of Building Repair and Maintenance and supporting documents/ invoices provided by the school, it was noted that during FY 2017-2018 and FY 2018-2019 the school had incurred expenditure on purchase of cement. marble, TMT bars, professional charges for RCC, Brick work, Plastering and Finishing Work etc., and it indicate expenditure of developmental nature on building. Further, school has not ensured compliance of Rule 177, as the school was not paying salaries as per the recommendations of 7" Central Pay Commission and it had not secured funds towards retirement benefits of staff i.e. gratuity and leave encashment in group gratuity and group leave encashment schemes of LIC or other insurers.

School has submitted that the expenditure incurred on repair is on need basis. Merely usage of bricks, marble, stone, tiles cannot be termed as construction of building. The building was constructed in 2009 and regular repairs are required due to saline water issue in Dwarka. Also, the accounting treatment of an expense is not done on the basis of names of components, rather on nature and form of expense. School has submitted that it incurred repair expenditure for various purposes such as boundary wall repairs, grill repair, angel fencing, swings repair, swimming pool closure and flooring, stage repair, green belt levelling in sports ground, basket-ball court repair, overhead tank repairing, sewer line repairs, lab repairs, skating ring and play area, *chawkhat* repair-wood to granite, broken glass repair/ change and reception area repairs, etc.

Therefore, the classification of expenditure done by the school during FY 2017-18 and 2018-19 have been considered as correct. Hence, this observation has been considered as complied and no impact is required to be taken in the fund position.

3. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings."

Also, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others mentioned "Rule 177(1) shows that salaries, allowances and benefits to the employees shall constitute deduction from the income in the first instance. That after such deduction, surplus if any, shall be appropriated towards, pension, gratuity, reserves and other items of appropriations enumerated in rule 177(2) and after such appropriation the balance (savings) shall be utilized to meet capital expenditure of the same school or to set up another school under the same management."

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe school in FY 2018-2019 the school had purchased two cars such as Innova and Eco Sports from school funds and development funds amounting to INR 21,42,456 and INR 10,43,300 respectively. Development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others.

School has submitted that the cars were purchased for use by the school staff and students only for various purposes such as Day to day functioning, catering to emergency duties, medical or otherwise for students and staff, used for the purpose of transportation of the students and their paraphernalia to various places for co-curricular activities, used by the functionaries and staff for going to various departments like DoE, CBSE and other concerned departments.

The explanation of the school not in line with the requirements of DSEA&R, 1973. It has been observed that the school has been purchasing vehicles and submitting proposals for increase of fee from students that translates to constituting capital expenditure as component of the fee structure of school and hence non-compliance of DSEA & R, 1973.Further, the above capital expenditures were incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973.

Accordingly, the amount spent by the school on purchase of cars of INR 31,85,756 (INR 21,42,456 plus INR 10,43,300) from the school fund and development fund is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Further, the school is instructed to ensure compliance of DSEA & R, 1973 before making any purchase of capital asset from the school funds.

4. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India 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." Further, according to para 7.14 of the Accounting Standard 15, "Plan assets comprise:

- assets held by a long-term employee benefit fund; and
- qualifying insurance policies."

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe school had not obtained actuarial valuation of its liability towards gratuity and leave encashment and had not recorded the provision for same in its books of account.

During personal hearing, the school that it has started taking actuarial valuation report for its liabilities towards gratuity and leave encashment and presented provision for gratuity and leave encashment liabilities in the books of accounts on that basis only. The school has created provision for gratuity of INR 41,02,854 and leave encashment of INR 38,367 as on 31.03.2022 in accordance with the actuarial valuation report for FY 2021-22. Further, the school has deposited INR 12,00,000 towards gratuity with LIC on 27.03.2023.

The investment with LIC qualifies as the plan assets within the meaning of AS-15 issued by ICAI. Therefore, total amount invested by the school with the LIC amounting to INR 12,00,000 have been considered while deriving the fund position of the school with the direction to maintain equivalent balance in plan assets to cover its retirement benefit obligations.

5. As per the Directorate's Order No. DE 15/Act/Duggal com/203/ 99/23033/23980 dated 15 Dec 1999. the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe audited financial statements of the school for FY 2018-2019 reflected a net receivable balance of INR 55,95,962 from the society, which has resulted in diversion of school funds to the society. The school was directed to the advance amount of INR 55,95,962 given to the society along with the interest paid of INR 15,66,911 on unsecured loan from the Society within 30 days from the date of that order.

The school has submitted that it has already recovered INR 55,00,000 from the society in FY 2019-20 and submitted the copy of ledger and bank statements. The submission of the school is taken on record and considered.

Thus, the school is directed to recover the balance amount of INR 95,962 (INR 55,95,962 minus INR 55,00,000) and INR 15,66,911 related to interest on unsecured loan from the society within 30 days from the date of this order and the same has been considered as funds available with school.

Further, the school is directed to ensure compliance with the provisions of DSEA&R, 1973, orders and directions of the Hon'ble Court in this regard and not to give any advance directly to the society or make any payment on behalf of the society (indirect transfers).

6. The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe following discrepanciesafter review of ledger account and supporting documents/invoices of Redox Systems for FY 2017-2018:

Date	**Bill No.**	**ST No./ GST No.**	**Amount (INR)**	**GST Amount (INR)**	**Remarks**
02 May 2017	42	AAGCR959 JSD001	26,450	3,450	Service tax 2017 number mentioned on the invoice but the vendor charged GST in its invoice though GST was applicable with effect from 1 July 2017.
02 May 2017	43	0AAVFRO569G 2ZP	1,34,200	20,484	While the invoice 2017 was raised by Redox system Pvt Limited', but the GST No. and PAN mentioned on the same pertains to partnership firm. Further, the vendor charged GST in its invoice though GST was applicable with effect from 1 July 2017.
09 Oct 17	GST/17-18/053		31,282	4,772	Invoice was raised by the partnership firm in the signature field, name of thecompany 'Redox System Private Limited' wasmentioned.
09 Nov 17	GST/17-18/053		50,000	7,627	
		Total	**2,41,932**	**36,333**	

School has submitted that it does not have authority to stop the payment to vendor on such basis. All the payments were made legitimately to the vendor through banking channel and this amount cannot be recovered from the vendor now.

Since the school is a non-profit organization and is utilizing fees collected from the students, so it become the responsibility of the school to ensure that all the invoices raised on the school are correct in all respect. Since the school failed to do necessary due diligence checks on the vendor (as to who is the contracted party, who is raising invoices and to whom payment is made) and accordingly, the amount of GST paid to the vendor is hereby added in the fund position with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

B. Other Suggestion for Improvements

1. The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe school was asked to provide the fee structure of the school since FY 2015-2016, the school provided details of only tuition fees mentioning that no increase in fees was made since FY 2015-2016, the same was verified from fees receipts also. However, on analysis of the financial statements of the school for FY 2015-2016 to FY 2018-2019, it was noted that there

were variations in various fee heads reflected in the Income and Expenditure accounts of different financial years for which the school failed to provide any explanation/reconciliation.

The school did not provide any clarification/explanation for such variations nor the school provided reconciliation of the fee based on number of students to substantiate that the fees charged students were not increased and the incomes recorded in the Income and Expenditure Accounts were appropriate. During personal hearing, the school explained that it did not increase any fee and provided the fee structure, which indicated that school did not increase fee during the aforementioned financial years.Therefore, the school was directed to provide a comprehensive reconciliation of the fee reported in the Income and Expenditure Account from FY 2015-2016 to FY 2018-2019 based on the number of students and fee structure of school along with its subsequent fee increase proposal.

It is noted that the school has submitted the reconciliation for FY 2015-16 and 2016-17 only. Thus, school is directed to submit fee reconciliation statement for FY 2017-18 and 2018-19 also.

Since the school has to prepare and submit the reconciliation, no adjustment has been reflected in the fund position of the school (enclosed in the later part of this order). The same shall be examined at the time of evaluation of subsequent fee increase proposal of the school.

2. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 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 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 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, the Hon'ble Supreme Court through its 2004 judgement in the case of Modern School Vs Union of India and Others directed all recognized unaided schools of Delhi to maintain the accounts on the principles of accounting applicable to non-business organizations/not-for-profit organizations. Earmarked levies collected from students are a form of restricted funds, since these can be utilized only for the purposes for which these have been collected, and according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, the financial statements should reflect income, expenses, assets and liabilities in respect of such funds separately.
Further, the aforementioned Guidance Note 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).

From the information provided by the school and taken on record, it was noted that the school charges earmarked levies in the form of Transport Fees and Lab/Computer fees from students. However, the school has not maintained separate fund accounts for these earmarked levies. The school has been generating surplus from earmarked levies, which has been utilized for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income, which was also mentioned in Directorate order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021.

The school is directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount separately for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis. The school is also directed not to collect any earmarked levy compulsorily from students and the same should be optional and at the discretion of the students.

3. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 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 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."

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."

Further, Para 102 of the aforementioned Guidance Note states "in respect of funds, schools should disclose the following in the schedules/notes to accounts: (a) In respect of each major fund. opening balance. additions during the period, deductions/utilization during the period and balance at the end;(b) Assets, such as investments, and liabilities belonging to each fund separately;(c) Restrictions, if any, on the utilization of each fund balance; (d) Restrictions, if any, on the utilization of specific assets."

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted that the schoolin FY 2018-2019 had purchased car and library books from development fund, which is in contravention of the above-mentioned provisions since development fund can be utilized only towards purchase, upgradation and replacement of furniture, fixture and equipment, which was also upheld by the Hon'ble Supreme Court in its 2004 judgement in the case of Modern School Vs Union of India and Others. Thus, fixed assets such as vehicles and library books must not be reported as part of fixed assets purchased from development fund.

Further, it was noted that while the school transferred an amount equivalent to the purchase cost of the fixed assets purchased from development fund to "Development Fund Utilized against Fixed Assets" account but did not transfer an amount equivalent to the depreciation on assets from the "Development Fund Utilized against Fixed Assets" to the Income and Expenditure Account as income, which is required as per the accounting treatment indicated in the guidance note cited above. Thus, the school had not done the accounting and reporting of development fund and depreciation in accordance with the requirements of Para 99 of Guidance Note 21.

Further, from the financial statements submitted by the school, it was noted that the school was not crediting interest earned on the development fund bank account and fixed deposit to development fund, instead the school treated interest income as revenue receipt. School has submitted that it has started the compliance of para 99 of the guidance note and transfer an amount equivalent to the depreciation charged on fixed assets purchased out of development fund to the income and expenditure account. The financial statements for FY 2020-21 and 2021-22 are reviewed and found that the submission is correct.

The school is directed to ensure compliance with Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 by transferring income earned on investments to development fund account. The school is also directed ensure that development fund is utilized only towards purchase of furniture, fixture and equipment. Further, the school is directed to make necessary rectifications in presentation of vehicle and library books, which must not be reflected in the fixed assets schedule relating to assets procured from development fund.

4. As per Order No. F.DE-15/ACT-IAWPC-4109/PART/13/7905-7913 dated 16 Apr 2016, "*The Director hereby specify that the format of the return and documents to be submitted by schools under rule 180 read with Appendix —II of Delhi School Education Rules. 1973 Shall be as per format specified by the Institute of Chartered Accountants of India, established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note on Accounting by Schools (2005) or as amended from time to time by this Institute.*"

Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered

Accountants of India states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Further, Para 58(i) of the Guidance Note states "*A school should charge depreciation according to the written down value method at rates recommended in Appendix to the Guidance Note.*"

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe schoolwas reporting fixed assets (other than those purchase from development fund) at written down value, which is not in accordance with the disclosure requirements included in the guidance note citied above. Further, in the financial statements of FY 2016-2017 to FY 2018-2019, it was noted that the school did not charge depreciation at the rates specified in Appendix I to the Guidance Note, which was a contravention of the directions issued by this Directorate.

School submitted that it has noted the directions of the department. Thus, will disclose all fixed assets at gross (historic) value on the face of Balance sheet from FY 2022-23 onwards.

Compliance of the same shall be validated during evaluation of subsequent fee increase proposal as may be submitted by the school. The above being a presentation/ disclosure finding, no financial impact is warranted for deriving the fund position of the school.

5. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it Should be returned to the students at the time of leaving the school along with the interest at the bank rate."

Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 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."

Further, Clause 4 Order no .DE/15(150)/Act/2010/4854-69 dated 9 Sep 2010 states "After the expiry of thirty days, the un-refunded caution money belonging to the ex-students Shall be reflected as income for the next financial year & it shall not be shown as liability. Further the income shall also be taken into account while projecting fee structure for ensuing academic year"

The Department vide order No. F.DE.15(189)/ PSB/2021/3406-10 dated 09.09.2021 noted thatthe school was refunding caution money to the students at the time of his/her leaving without interest thereon. Therefore, the school is directed to refund caution money to students at the time of leaving together with interest thereon. Thus, caution money outstanding in the books of accounts as on 31.03.2022 amounting INR 7,05,848 is reduced while calculating fund position of the school.

6. As per the land allotment letter issued by the Delhi Development Authority to the Society in respect of the land allotted for the school, it shall ensure that percentage of freeship from the tuition fees, as laid down under rules by the Delhi Admn. from time to time, is strictly complied. The school shall ensure admission to the students belonging to weaker sections to the extent of 25% and grant freeship to them. From the breakup of students provided by the school, it had admitted students under Economically Weaker Section (EWS) Category as under:

Particulars	FY 2021-22
Total No. of Students	1875
No. of EWS Students	229
% of EWS Students to Total Students	12%

During the personal hearing the school mentioned that it takes admission under EWS category on the basis of list of admissions provided by the Directorate, it has not complied with the requirements of land allotment and should thus take comprehensive measures (including enhancement of EWS seats) to abide by the conditions of the land allotment letter issued by the Delhi Development Authority.

7. Appendix II to Rule 180(1) of DSER, 1973, the school is required to submit final accounts i.e., receipts and payment account, income and expenditure account and balance sheet of the preceding year duly audited by a Chartered Accountant by 31st July.

Standard on Auditing (SA) 700 (Revised) – 'Forming an Opinion and Reporting on Financial Statements' notified by the Institute of Chartered Accountants of India include formats for issuing audit opinions on the financial statements by practicing Chartered Accountants.

Also, para 47 of SA 700 states "*The auditor's report shall be dated not earlier than the date on which the auditor has obtained sufficient appropriate audit evidence on which to base the auditor's opinion on the financial statements, including evidence that:*

i. *All the statements that comprise the financial statements, including the related notes, have been prepared; and*
ii. *Those with the recognized authority have asserted that they have taken responsibility for those financial statements.*"

However, the audited financial statements submitted by the school FY 2019-20 and FY 2020-21 did not include the following information:

- Receipt and Payment Account

Further, the auditors' report format as issued by the school's auditor do not comply with auditors' report format laid down in SA 700.

The School is further directed to ensure that the audit opinions issued on the final accounts by the practicing Chartered Accountantcomply with the requirements enunciated by their regulatory body i.e. The Institute of Chartered Accountants of India including compliance with SA 700.

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

i. The total funds available for the FY 2022-23 is INR**18,80,76,566**out of which the expected expenditures of the school would be INR **20,47,59,842**resulting in deficit of INR **1,66,83,276**for the FY 2022-23. The detailed calculation is as under:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.22 as per Audited Financial Statements	11,96,766
Investments as on 31.03.22 as per Audited Financial Statements **(Refer Note 1 Below)**	9,43,428
Liquid Funds as on 31.03.2022	**21,40,194**
Add: Amount recoverable from society towards repayment of loan and interest thereon **(Refer Financial Suggestion No. 1)**	5,20,35,650
Add: Amount recoverable from society towards expenditure on purchase of cars **(Refer Financial Suggestion No. 3)**	31,85,756
Add: Amount receivable from society against amount recoverable from society **(Refer Financial Suggestion No. 5)**	95,962
Add: Amount receivable from society against amount recoverable from society towards finance cost incurred **(Refer Financial Suggestion No. 5)**	15,66,911
Add: Amount recoverable from society towards discrepancies in invoices **(Refer Financial Suggestion No. 6)**	36,333
Add: Fees for FY 2021-22 as per Audited Financial Statements **(Refer Note 2 &4 Below)**	13,85,51,912
Add: Other income for FY 2021-22 as per Audited Financial Statements **(Refer Note 4 Below)**	1,20,766
Add: Additional income of annual charges and development fund **(Refer Note No. 2 Below)**	56,68,254
Total Available Funds for FY 2022-23	**20,34,01,738**
Less: Gratuity with LIC **(Refer Financial Suggestion No. 4)**	12,00,000
Less: Development fund balance as on 31.03.2022	1,24,75,896
Less: Caution Money as on 31.03.2022 **(Refer Other suggestion for improvement No. 5)**	7,05,848
Less: FDR in the name of Manager & CBSE and FDR in the name of Manager and DOE as on 31.03.2022 with accrued interest **(Refer Note 1 Below)**	9,43,428
Net Available Funds for FY 2022-23 - (A)	**18,80,76,566**
Less: Budgeted expenses for the session 2022-23 **(Refer Note 5 Below)**	16,80,37,241
Less: Salary arrears of 7th CPC **(Refer Note 6 Below)**	3,67,22,601
Total Estimated Expenditure for FY 2022-23 - (B)	**20,47,59,842**
Net Deficit (A-B)	**1,66,83,276**

Note 1: The detail of fixed deposit held by the school as per the audited financial statements is provided below:

Particulars	As per AFS of FY 2021-22	Remarks
FDR in the name of Manager & CBSE and FDR in the name of Manager and DOE as on 31.03.2022 with accrued interest	9,43,428	Deducted as not available for utilization.

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

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

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

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

(iii) The above arrangement 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 Amount (INR)	Income Considered in the Above Table Amount (INR)	Remarks
Tuition Fee	10,63,26,292	10,63,26,292	
Annual Charges	1,94,99,185	2,29,40,218	The school recorded 85% of the income. Therefore, this has been grossed up.
Development fund	1,26,20,920	1,48,48,141	
Total	13,84,46,397 (A)	14,41,14,651(B)	
Difference (B-A)		**56,68,254**	

Note 3: 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 feeand 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 decisionofHon'bleSupreme Courtinthecaseof 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 4: All the fees and other income as per audited financial statements for the FY 2021-22 has been considered with the assumption that the amount received in FY 2021-22 will at least accrue during FY 2022-23.

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

Head of Expenditure	2022-23 (in INR)	Amount disallowed (in INR)	Remarks
Salary - Teaching staff	4,96,56,000	59,57,459.00	Restricted to 130% of the salaries paid in 2022-23
Salary reserve	-	60,93,627.00	The school has not made any investment in the joint name of the Manager, School and the DDE, Distt. against the salary reserve and thus, the same has not been considered.
Repairs and Maintenance – Building	1,10,21,000	33,06,300.00	The budgeted expenditure allowed to the extent of seventy percent only.
Transportation Expenses	1,77,80,000	1,77,80,000	Neither income nor expenditure related to transport facility have been considered.
Total	**7,84,57,000**	**3,31,37,386**	

Note 6: In accordance with Section 10(1) of Delhi School Education Act 1973, scales of pay and allowance, medical facilities, pension gratuity, provident fund, and other prescribed benefits of the employees of a recognized private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority.

Further, Directorate of Education has adopted the Central Civil Serviced (Revised Pay) Rules, 2016 vide Circular No 30-3(17)/(12)/VII pay Comm./2016/11006-11016 dated 19.08.2016 and No. 30-3 (17)/(12)/VII pay Comm./Coord./2016/12659-12689 dated 14.10.2016 for employees of Government Schools.

Further, in exercise of the powers conferred under clause (xviii) of Rule 50 of the Delhi School Education Rules, 1973, vide Competent Authority order No DE.15 (318)/PDB/2016/18117, dated 25.08.2017, the managing committees of all Private unaided Recognized Schools have already been directed to implement central Civil Services (Revised Pay) Rule, 2016 in respect of the regular employees of the corresponding status with effect from 01.01.2016 (for the purpose of pay fixation and arrears). Further, guidelines/detailed instructions for implementation of *7th* CPC recommendations in Private Un-aided Recognized Schools of Delhi has been issued vide DOE order dated 17.10.2017.

As per school's reply during hearing, it was held that the school has started implementation of *7th* CPC partially from 01st July 2022. Further, it has submitted that the salary arrears as per 7th CPC for the period April 2016 to March 2022 amounting to INR 3,67,22,601 are to be paid and the same has been considered while calculating the fund position of the school with the direction to the school to implement the recommendations of 7th CPC in full within 30 days from the date of issue of this order. A strict action against the school would be initiated u/s 24(3) of DSEA, 1973 for non-compliance with the direction cited above.

Note 7: 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.

ii. In view of the above examination, it is evident that the school does not have 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 the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate the proposal of the school for session 2022-23 have been evaluated and certain financial suggestions have been 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).

AND WHEREAS, it is noticed that the school has incurred INR 5,69,20,612in contravention of Rule 177 and other provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEA&R, 1973 without providing any further opportunity of being heard.

AND WHEREAS, the fee proposal of the school 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 sufficient funds are not available with the school for meeting financial implication for the academic session 2022-23.

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 **MBS International School (School ID: 1821259), Sector-11, Dwarka, New Delhi -110075**filled by the schoolin 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 allowed to increase the fee by 12% for session 2022-23 to be effective from 01.10.2022.

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

1. To increase the fee only by the prescribed percentage from the specified date i.e., 01.10.2022.

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)
AdditionalDirector of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
MBS International School (School ID: 1821259),
Sector-11, Dwarka, New Delhi -110075,

No. F.DE.15 (1327)/PSB/2023 / 3189-3193 Dated: 13/04/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (South West-B) 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