

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

No. F.DE.15 (1124)/PSB/2022/ 521-525

Dated: 16/01/23

Order

WHEREAS, **Red Roses Public School (School ID - 1923340), D-Block, Saket, New Delhi - 110017** (hereinafter referred to as "**the School**"), run by the Shri R. R. Mehta Educational Trust (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as "**the Act**") with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as "**the Rules**").

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

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

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

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

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

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



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

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

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

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

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

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

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

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

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 25.08.2022. The school was also provided an opportunity to be heard on 15.09.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on

various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/(628)/PSB/2018/30557-30561 dated 14.12.2018 issued for FY 2017-18 were also discussed with the school and the school's submissions were taken on record

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

A. Financial Suggestion for Improvements

1. Clause No. 2 of Public Notice dated 04.05.1997 states "*It is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 titled Delhi Abibhavak Mahasangh concluded states "*the tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Also, 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. 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.

The DoE in its Order No.DE 15/ (628)/PSB/2018/30557-30561 dated 14.12.2018 issued to the school post evaluation of fee hike proposal for academic session 2017-18, noted that the school had incurred capital expenditure on construction of building amounting to INR 35,90,326 in FY 2015-16 and INR 2,29,000 in FY 2016-17. The aforesaid expenditure was incurred without complying with the aforesaid mentioned provisions. Therefore, the school was directed to recover INR 38,19,326 i.e. (INR 35,90,326 plus INR 2,29,000) from society which is still pending for recovery.

The documents submitted by the school, post personal hearing were taken on record. The school submitted that *"INR 32,75,316 was incurred for compounding fees for the deviations of the school building for completion certificate. For the said purpose INR 2,26,360 was paid to architect for preparing the architectural drawings. The above expenditures are not of construction nature which directly relates to school responsibility. Further, INR 3,17,650 was paid by school for preparation of architectural drawing for construction of additional floor permitted against revised FAR from 120 to 150."*

The claim of the school is not correct because, from the reply submitted by the school, it can be seen that the above expenditure was incurred in relation to the construction of the school building. Any payment by the school towards obtaining the completion certificate and preparing the drawing for the construction of an additional floor is also part of the school building and needs to be capitalized under the school building heading. All of these expenses must be borne by the society and are thus the property of the society; the school fund or fee should not be used for this purpose. As a result, the school's claim that the above expenditure is allowable is incorrect and not sustainable.

In view of the above, the total expenditure incurred by the school amounting to INR 38,19,326 (INR 35,90,326 plus INR 2,29,000) on construction of the school building is recoverable from the society being the responsibility of the society. Accordingly, INR 38,19,326 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 this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without providing further opportunity to be heard to the school.

2. 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.*"

Section 18(4) of DSEA, 1973 states "*Income derived by unaided school by way of fees shall be utilized only for such educational purpose as may be prescribed*". And Rule 176 of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

The DoE in its Order No. DE 15/ (628)/PSB/2018/30557-30561 dated 14.12.2018 issued to the school post evaluation of fee hike proposal for academic session 2017-18, noted that the school had incurred capital expenditure on purchase of buses for INR 19,92,577 in FY 2016-17. It was further noted that the school incurred the aforesaid expenditure without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 19,92,577 from society which is still pending for recovery.

The documents submitted by the school, post personal hearing were taken on record. The school submitted in its reply that "*necessary rectification entries have been passed in the books of accounts and by which utilization of development fund has been removed. Also, savings on account of transport fees and expenses lying in general fund may be considered for utilization towards purchase of new bus*".

In this regard, it is argued that the school cannot use the development fund or school funds to purchase a bus unless there is a savings determined by the school in accordance with Rule 177 of the DSER, 1973. Further, as per clause 14 of the order dated 11.02.2009, development can only be utilized for the purchase, upgrade, and replacement of furniture, fixtures, and equipment and not for any other purposes. Therefore, the claim of the school that it has passed the necessary rectification in the books of account and now it has changed the sources of funds used for the purchase of the school bus, i.e., out of the school funds and transport fee is not correct. It is also important to note that without maintaining fund-based accounting for transportation and other earmarked levies, the school cannot claim that it has utilized surplus from the transportation facility and school funds for the purchase of the aforementioned bus.

Further, the school does not have any savings in the school fund given the facts that it has not implemented the recommendation of the 7th CPC and has not invested in plan assets an amount equivalent to the liability for retirement benefits. Thus, the school cannot purchase the bus out of the school fund or development fund to provide the facility for the particular group of students and can shift the financial burden on all the students who don't even use such a facility, which is not sustainable.

Therefore, the total amount of INR 19,92,577 utilized by the school for purchase of bus as per the previous year order is still recoverable from the society and has been included in the fund position with 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 this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.



3. Clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"no amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution."*

From a review of the audited financial statements for FY 2021-22, it was noted that the school has reported INR 22,69,026 as a receivable balance from Inter Branch Receivable (Trust). This was discussed with the school during the personal hearing, and the school explained that this was given to the trust to meet their operational need, which is recoverable from them.

In view of the above, INR 22,69,026 that is receivable from the trust has been included while determining the fund position of the school, with the direction to the school to recover this amount within 30 days from the date of issue of this order and restrain itself from transferring school funds to the trust in the future.

4. Rule 59 of DSEAR, 1973 'Scheme of management of recognized school' states *"Regarding appointment and qualification of Manager 59(2)(i), the educational and other qualifications of the manager and his duties and responsibilities; the position of the manager viz-a-viz the managing committee:*

- (j) no employee of an aided school (other than the head of school) shall be appointed as the manager, the head of school may be appointed the manager of a school, whether aided or unaided.
- (k) appointment of the manager; the terms and conditions of his appointment; removal of the manager; filling up of casual vacancy in the office of the manager, duties, and responsibilities of the manager.
- (l) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorized by that committee in this behalf.
- (m) that the administration and academic work of the school shall be attended to by the head of school, and except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school.
- (r) manager shall not be at the same time the manager of any other school and a person shall not be at the same time the chairman of the managing committee and the manager.

As per clause 8 of the order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause No. 23 of order no- F.DE/15(56)/Act/ 2009/778 dated 11.02.2009, *"no amount whatsoever shall be transferred from the recognized unaided fund/ school fund to a society or trust or any other institution"*. This was upheld by the Hon'ble Supreme Court in the matter of Modern School Vs. Union of India & Others.

The DoE in its Order No.DE 15/(628)/PSB/2018/30557-30561 dated 14.12.2018 issued to the school post evaluation of fee hike proposal for academic session 2017-18, noted that the school had paid honorarium of INR 61,65,000 during FY 2013-14 to FY 2017-18 to the director of the school which was not in accordance with above mentioned provisions. Details of year wise payment made to the director of the school is provided below.



Financial Year	Amount INR
2013-14	90,000
2014-15	15,75,000
2015-16	18,00,000
2016-17	18,00,000
2017-18	9,00,000
Total	61,65,000

The aforesaid expenditure was incurred without complying with the aforesaid provisions of DSER, 1973. Therefore, the school was directed to recover INR 61,65,000 from society which is still pending for recovery. Post personal hearing the school submitted that *"the aforesaid honorarium amount was paid to her for providing services to school. And she has also filled her income tax return"*.

As per the above provision, the post of the director and manager is the honorary post, and they cannot be treated as an employee of the school. Therefore, no amount whatsoever can be paid to them out the school funds. Thus, the claim of the school that the aforesaid payment was made to the director was honorarium and for the proving the service to the school is not correct.

Therefore, the above amount of INR 61,65,000 paid by the school to the director as a honorarium without complying with above mentioned provisions has been considered as fund available with the school in calculating the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. Non-compliance with the above direction shall be viewed seriously in accordance with the provisions of Section 24(4) of the DSEA, 1973 while evaluating the fee hike proposal for the subsequent academic session.

5. Para 7.14 of AS-15 *"Employee Benefit"* issued by the Institute of Chartered Accountants of India (ICAI) states 'Plan Assets as:
- assets held by a long-term employee benefit fund; and
 - qualifying insurance policies."

Further, the para 57 of the AS-15 states *"an enterprise should determine the present value of defined benefit obligations and the fair value 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."*

Review of the audited financial statements of FY 2021-22 revealed that the school has not recorded liability for retirement benefits in accordance with the actuarial valuation report. As per the actuarial valuation report the total liability for retirement benefits were INR 3,60,61,850 (INR 2,48,04,737 for gratuity plus INR 1,12,57,113 for leave encashment).

Against the total liability for retirement benefits, the school has invested INR 1,17,83,818 with LIC. As investment with the LIC qualify as plan asset within the meaning of AS-15. Therefore, amount invested by the school with LIC has been considered while deriving the fund position of the school with the direction to the school to invest the remaining amount in plan assets within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

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

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

- a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

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

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

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

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

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

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No.F.DE, /15(56)/Act/2009/778 dated 11.02.2009, indicated the following types of fees that a recognised private unaided school can collect from the students/ parents:

- a. Registration Fee
- b. Admission Fee:
- c. Caution Money
- d. Tuition Fee



- e. Annual Charges
- f. Earmarked Levies
- g. Development Fee

Based on the provisions mentioned above, charging of '*smart class fees, P2C, subject fees Magazine,*' from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form. Accordingly, the collection of smart class fees, P2C, subject fees Magazine indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non-compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

2. 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.



3. *Section 18(5) of the DSEA, 1973 states "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 returns shall be audited by such authority as may be prescribed".*

Further, Rule 180 (1) of DSER, 1973 states "every recognized private school shall submit returns and documents in accordance with Appendix-II".

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, DoE specified vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, the format of returns and other documents required to be submitted by the private unaided recognized schools. The aforesaid order also specified format for the financial statements to be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

Based on the aforesaid provisions, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. The documents submitted by the school for evaluation of the fee hike proposal were taken on record. Review of the audited financial statements and Independent Auditors Report for FY 2021-22 the following was noted:

- a. The Independent Audit Report was not issued in the format prescribed by Standard on Auditing 700 (SA-700), as defined by the Institute of Chartered Accountants of India (ICAI). Because the majority of the content of the Independent Auditors' Report was missing, such as the auditors' and management's responsibilities.
- b. In the audit report the auditor has not given reference to "Receipt & Payment Account." Although, the same has been attested by the auditors, raising a doubt as to whether receipt & payment audit has been carried out or not.

In light of the foregoing, the school is hereby directed to strengthen its process for preparation and presentation of financial statements in accordance with the above-mentioned provisions. However, the audited financial statements submitted by the school have been considered for the evaluation of the fee hike proposal of the school.

4. Para 99 of Guidance Note-21 'Accounting by school' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "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".

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the

depreciation charged to revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an accounting head and school do not require creation of equivalent investments against the depreciation reserve.

However, the audited financial statements of the school revealed that the school has not been following para 99 of the GN 21. Because upon incurrence of the capital expenditure out of the development fund, the school has created development fund utilisation account but has not transferred any amount from deferred income to the credit of income and expenditure account.

Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account

5. 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	1,831
EWS Students	366
% of EWS students	19.99%

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

- i. The total funds available for the FY 2022-23 amounting to **INR 14,26,96,305** out of which cash outflow for the FY 2022-23 is estimated to be **INR 11,44,64,258**. This results in surplus of **INR 2,82,32,047** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statements of FY 2021-22	82,93,334
Investments as on 31.03.2022 as per Audited Financial Statements of FY 2021-22 (Refer Note 1 below)	7,60,41,589
Liquid Fund as on 31.03.2022	8,43,34,923
Add: Recovery from Society for expenditure incurred on building construction (Refer Financial Suggestion No. 1)	38,19,326
Add: Recovery from society for school bus purchased (Refer Financial Suggestion No. 2)	19,92,577
Add: Advance given to the Society as per Audited Financial statements of FY 2021-22 (Refer Financial Suggestion No. 3)	22,69,026

Particulars	Amount (INR)
Add: Recovery from Society for payment of Honorarium to Director (Refer Financial Suggestion No. 3)	61,65,000
Add: Fee as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 Below)	6,96,72,650
Add: Other income as per Audited Financial Statements of FY 2021-22 (Refer Note No. 2 below)	65,67,982
Add: Additional income of annual charges and development fees (Refer Note No. 2 below)	19,58,701
Total Available Funds for FY 2022-23	17,67,80,185
Less: FDR in the Joint Name of School Manager and CBSE as per Audited Financial Statements of FY 2021-22	45,87,427
Less: Deposit made with High court as on 31.03.2022	88,57,772
Less: Caution Money as on 31.03.2022	10,28,577
Less: Development Fund (Refer Note No. 3 Below)	78,26,286
Less: Investment with LIC for Gratuity and Leave Encashment as per Audited Financial Statements of FY 2021-22 (Refer Financial Suggestion No. 5)	1,17,83,818
Less: Depreciation reserve fund (Refer Note No. 4 Below)	-
Net Available Funds for FY 2022-23	14,26,96,305
Less: Budgeted Expenditure for FY 2022-23 (Refer Note No. 5 & 6 Below)	8,75,53,510
Less: Salary Arrears (Refer Note No. 7 Below)	2,69,10,748
Estimated Surplus	2,82,32,047

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

S. No	Particulars	Amount INR	Remarks
1	FDR in Joint name of Manager and DDE	45,87,427	Considered separately.
2	FDR in Joint name of High Court	88,57,772	Considered separately.
3	FDR against Development fund	13,08,330	Considered separately.
4		95,45,436	
5		97,64,913	
6		97,60,834	
7		11,08,813	
8		31,44,758	
		69,35,683	
9		16,89,820	
10	Caution Money	10,28,577	Considered separately.
11	FDR in the School Name	3,49,346	Part of the funds position as it is available with the school for utilization.
12	FDR in the School Name	27,01,216	
13	FDR in the School Name	22,43,192	
14	FDR in the School Name	3,14,000	
15	FDR in the School Name - gratuity	9,17,654	
16	Investment in LIC	1,17,83,818	Considered separately.
	Total	7,60,41,589	

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 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 government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, 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 commercialisation, directed to the management of all the petitioners private unaided recognised schools through its order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021:

- (i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing 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 for 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 after deducting the income of FY 2020-21 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	5,78,61,822	5,78,61,822	
Annual Charges	44,46,963	52,31,721	The school recorded 85% of these income as per DoE order. Therefore, it has been grossed up in order to determine the normal income of the school.
Development fund	66,52,343	78,26,286	

Note 3: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding

15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16.04.2010 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." Over the number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 4,32,58,587 in its audited financial statements of FY 2021-22. However, while evaluating the fund position the development fund fees received in academic session 2021-22 amounting to INR 78,26,286 has been considered.

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 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 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 has not been considered while deriving the fund position of the School.

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

Particulars	Expenditure as per Budgeted of FY 2022-23	Disallowed	Remarks
Transportation expenses - In respect of vehicles owned by school	51,54,858	9,18,709	Amount proposed by the school is quite high in comparison to expenditure incurred by the school during FY 2019-20, 2020-21 and 2021-22. Therefore, amount of INR 9,18,709 has not been considered while deriving the fund position of the school.
Transportation expenses - In respect of vehicles not owned by school	40,85,685	40,85,685	The school has introduced new head of expenditure without providing propose justification.

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: Salary arrears of INR 2,69,10,748 for FY 2020-21 and 2021-22 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 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 16.04.2010 states that,

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

AND WHEREAS, in the light of 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 available with the School to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be rejected.

AND WHEREAS, it is noticed that the school has incurred INR 1,42,45,929 in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, 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 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 **Red Roses Public School (School ID - 1923340), D-Block, Saket, New Delhi - 110017** 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 rejected by the Director (Education) with the above conclusion and suggestions

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

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
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
Red Roses Public School (School ID - 1923340),
D-Block, Saket, New Delhi - 110017

No. F.DE.15 (1121)/PSB/2022 / 521-525

Dated: 16/01/23

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) 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