

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
Old Secretariat, Delhi-110054

No.F.DE.15(134)/ACT-1/2016/9093

Dated: 26/05/16

To,

The Managing Committee/Manager,
G.D. Salwan Public School,
Rajendra Nagar,
New Delhi-110060.

Subject:- Complaint against G.D. Salwan Public School, Rajendra Nagar, N.D.-60.

Sir/Madam,

Please refer to your reply dated 07.05.2016 in response to this Directorate's Order No. DE. 15(134)/ACT-1/2016/8085-8092 dated 21.04.2016.

On perusal of your reply, it is found that you have raised such legal issues which have already been settled by Hon'ble Supreme Court in Modern School's Judgment in Civil Appeal No.2699 of 2001. The said judgment have also been relied upon by the Hon'ble High Court of Delhi in Justice for all and others v. GNCTD and others, decided on 19.01.2016. While issuing directions on 19.01.2016, Hon'ble Court has directed the Director of Education to ensure compliance of the condition of letter of allotment, executed by Delhi Development Authority in favour of private unaided recognized schools, regarding prior sanction of the Director (Education) before any increase in fee by such schools. The Hon'ble High Court in the writ petition 4109/2013 titled Justice for all V/s GNCTD and others has directed as under:

".....the respondent No.1/DoE shall ensure compliance of term, if any, in the matter of allotment regarding the increase of fees by all the recognized unaided schools which are allotted land by DDA. The respondent no.2/DDA shall also take appropriate steps in accordance with law in case of violation of such stipulation in the letter of allotment by the unaided schools".

Further, the Hon'ble High Court while issuing the aforesaid direction has observed that the issue regarding liability of Private Unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No.2699 of 2001 titled Modern School V/s Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:

".....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....."

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 schools....."

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

In respect of fixation of fee for Nursery classes, the school has relied upon the circular of this Directorate dated 24.07.2007 & 29.11.2007 to claim that only pre-school or pre primary classes are the part of the school. The Nursery classes are not registered or recognized by the Directorate.

The claim of the school in respect of Nursery appears to be in contrast with the condition of letter of allotment for seeking prior approval of Director for increase in fee/tuition fee. The said condition does not differentiate between the different classes or schools. In case, the school is running Nursery classes on the premises allotted by the Government on the condition of obtaining prior approval before increase in fee, this condition shall be applicable to all classes running on the said premises.

The school has also raised an issue regarding pendency of a petition before the Hon'ble High Court in WPC 6499 of 2014 wherein clarification has been sought by Hon'ble Court to clarify as to how and in what manner it will provide uniform, books and writing material to the children pertaining to EWS/DG category. The school has submitted that the Directorate should not insist upon giving any directions to the school for providing free uniform, books and writing material to the students of EWS/DG category.

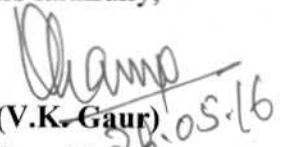
In this regard, it is examined that as per Rule 8 of the Delhi RTE Rules, a child studying in unaided is also entitled for free text books, writing material and uniform. As per explanation to this Rule, it is the responsibility of the school to provide free entitlements to a child admitted in such school. The re-imburement in this regard, is made by the Government in accordance with the provisions of Rule 11 of these Rules. Therefore, unless and until, these provisions are stayed/declare void by the Courts, the schools are under obligation to comply with these provisions. Pendency of a matter before Hon'ble High Court cannot be a ground to defy the statutory rules.

As regard, charging of late fee, unless and until a statutory provision is declared void, the school is bound to follow the statutory provision. Therefore, any late fee charged should be in accordance with Rule 166 of the DSEAR, 1973.

It is un-necessary to explain the legal position already settled by the Hon'ble Supreme Court. As regard, pendency of review petition against the Judgment dated 19.01.2016 of Hon'ble High Court in Justice of all case, since no stay has been granted against the said Judgment; it has to be implemented by all the parties including your school.

You are therefore, once again directed to ensure compliance of this Directorate's directions given vide order dated 28.04.2016, failing which this Directorate will be forced to take action under relevant provisions of the Act.

Yours faithfully,


(V.K. Gaur)

Dy. Education Officer (Act-I)