

122

122

1451

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

No. F.DE.15 (19)/PSB/2019 / 907-911

Dated: 22/01/2019

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the 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. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"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 Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172, 173, 175 and 177 of Delhi School Education Rules 1973, Directorate of Education

①

1452

has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Modern Montessori School, Rishabh Vihar, Delhi - 110092 (School Id: 1001161)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

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 expert Chartered Accountants at HQ level who have evaluated the fee 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 this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were called from the school vide email dated March 24, 2018. However, school has not submitted any documents/ clarifications. Further, school was provided opportunity to appear for discussion on July 12, 2018 along with submission of necessary records and explanations but neither the school turned up for discussion nor any communication was received for adjournment of hearing. Further, school was sent a letter on August 06, 2018 by post to cooperate with the department in evaluation of fee increase proposal yet again no response received from the school. Therefore, it can be concluded that the school do not have any documents /explanations to offer in respect of their fee increase proposal.

AND WHEREAS, the documents uploaded on the web portal for fee increase by the school were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. As per Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the 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. However, on review of the audited financial statements of the school, the following have been observed:
 - a. During FY 2014-15, 2015-16 and 2016-17, school has transferred Rs. 3,00,000, Rs. 1,50,000 and Rs. 1,50,000 respectively from Development Fund to Depreciation Reserve Fund. Also, in FY 2015-16, Rs. 3,46,736 was transferred from Capital Fund to Depreciation Reserve Fund. Thus, it is clear that the school has not created Depreciation Reserve Fund in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is directed to create Depreciation Reserve Fund in accordance with

1453

the aforesaid clause if the school wants to collect development fee in future.

- b. During FY 2014-15, 2015-16 and 2016-17, in addition to the development fee received during the respective years, Rs. 1,57,583, Rs. 2,13,203 and Rs. 36,358 were transferred from Capital Fund to Development Fund. Further, on review of financial statements, it has been noted that the development fund together with the amounts transferred from capital fund to development fund were utilised for repayment of car loan in contravention of aforesaid clause. Therefore, school is directed to make necessary adjustments to Development Fund and Capital Fund.

- II. As per Para 99 of Guidance note on "Accounting by School" issued by 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.

It is noted that in FY 2014-15, 2015-16 and 2016-17, instead of creating development fund utilised account, the school has transferred the whole amounts utilised for purchase of assets out of development fund to Capital Fund resulting in overstatement of Capital Fund balance. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Note- 21 issued by ICAI. Further, the school is directed to make adjustment to Capital Fund for the amounts utilised for purchase of assets out of development fund. The details of amount adjusted are as under.

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Development Fund utilised	22,05,329	27,14,586	25,48,380	74,68,295

- III. As per Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12. 1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 states that "Fees/funds collected from the parents/students shall be utilised strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from Private Recognized Unaided School Fund to the society or the trust or any other institution."

On review of financial statements, it is noted that Rs. 94,76,163 was recoverable from society as on 31.03.2016, out of which Rs. 2,50,000 was received in FY 2016-17 and the balance has been written off from Capital Fund as non-recoverable which is in contravention clause 8 of the order dated 15.12.1999. Therefore, the school is directed to make adjustment against Capital Fund and recover Rs. 92,26,163 (Rs. 94,76,163- 2,50,000) from the society.

Other Irregularities:

- I. Despite of the reminder sent to the school on July 12, 2018 to provide additional documents and appear for the discussion, no response was received from the school. Further, letter was also sent to school on 06 August, 2018 to appear for the discussion on the appointed date mentioned in the letter. But neither the school submitted the required documents/explanations nor appeared for discussion. Therefore, it can be concluded that the school do not have any further documents/explanations to offer in respect of their fee increase proposal. The lists of documents/ explanations which was asked from the school are as under:
 - a. Original fee receipts issued during the financial year 2014-15, 2015-16 and 2016-17 for each class (at least 2 students)
 - b. Copy of fee collection registers for the financial year 2014-15, 2015-16 and 2016-17
 - c. Item-wise details/breakup/justification for the proposed increase (or decrease) for all revenue expenditure and capital expenditures as per budgeted statement for session 2017-18 against actual expenditure incurred during 2016-17 along with relevant documents to substantiate its claim
 - d. Copy of salary payment register (or Pay bill register) for two months before implementation of 7th CPC and two months after implementation of 7th CPC alongwith proof of disbursements of salaries and arrears
 - e. Copy of TDS return and PF return for the financial year 2016-17
 - f. Details of secured loan taken from Canara Bank is required from school (nature of loan, source of repayment, purpose for taking loan etc.)
 - g. Details and documents of car/ buses, date and cost of purchase, source of financing
 - h. School needs to submit the detailed calculation of fee collected during the year 2014-15, 2015-16 and 2016-17 (i.e. number of student as per EWS scheme/ other students, fee structure, computation of fee for the year 2016-17 etc.)
 - i. Details of return filled with district under rule 180 for the year 2016-17 is to be submit by school.
 - j. Justification on non-preparing the financial statements in accordance with Appendix-II of order dated 16.04.2016.
 - k. Whether the school has filed statement of fees by 31st March for the years 2015-16 and 2016-17 before the commencement of the academic session under section 17(3) of the Act. If yes, please provide the details.
 - l. Whether school is collecting donation in any name from the students at the time of admission? If yes, please provide the details.
 - m. Is there any complaint of parents against school in relation to fee hike? If yes, whether the same has been duly disposed of?
 - n. Copy of society ledger from FY 2014-15, 2015-16 and 2016-17.
 - o. Detailed calculation of 7th cpc arrears in soft.
 - p. Detailed calculation of late fee/fine collected during the year 2014-15, 2015-16 and 2016-17.

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

- i. The total funds available for the year 2017-18 amounting to Rs. 5,17,64,055 out of which cash outflow in the year 2017-18 is estimated

y.

(4)

to be Rs. 3,39,62,865. This results in net surplus of amounting to Rs. 1,78,01,190. The details are as follows:

Particulars	(Figures in Rs.) Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	49,90,090
Investments as on 31.03.17 as per audited Financial Statements	62,33,766
Add: Recoverable from society against advance	92,26,163
Less: Development Fund as on 31.03.2017	1,00,473
Total	2,03,49,546
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	3,06,66,805
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	7,47,704
Estimated availability of funds for FY 2017-18	5,17,64,055
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 & 2	3,39,62,865
Net Surplus	1,78,01,190

Note 1: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

Particulars	As per audited Income and Expenditure Account for FY 2016-17	As per budget submitted by school for FY 2017-18	Net Increase/ (Decrease)	% Change	Disallowance
Education expenses	1,39,152	5,00,000	3,60,848	259%	3,46,933
Function & festival expenses	2,63,745	6,00,000	3,36,255	127%	3,09,881
Garden and Ground	2,30,335	5,00,000	2,69,665	117%	2,46,632
Building Repairs	17,42,282	26,25,000	8,82,718	51%	7,08,490
Total	23,75,514	42,25,000	18,49,486	78%	16,11,935

5

1956

Note-2: The school has proposed capital expenditure amounting to Rs. 12,00,000 for building in budget 2017-18 which has been disallowed in the evaluation of fee increase proposal.

- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 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 expert Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Modern Montessori School, Rishabh Vihar, Delhi - 110092 (School Id: 1001161)** is rejected by the Director of Education. 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 in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.
3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

W

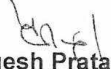
6

1457

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise 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.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

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


(Yogesh Pratap)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

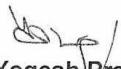
To
The Manager/ HoS
Modern Montessori School,
Rishabh Vihar
Delhi - 110092, (School Id: 1001161)

No. F.DE.15 (19)/PSB/2019 | 907 - 911

Dated: 22/01/2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


(Yogesh Pratap)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

(7)