

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

No. F.DE.15 (97)/PSB/2019/1453 - 1457

Dated: 7/2/2019

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

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, **Guru Harkrishan Public School, Hargobind Enclave, Delhi - 110092 (School Id: 1001185)** 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 also called from the school vide email dated March 24, 2018. Further, school was also provided opportunity of being heard on June 28, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and clarifications on various issues noted. However, the school has not submitted any clarifications/ documents after the discussion held with the school on June 28, 2018 despite of issuing repetitive reminders to the school.

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

Financial Irregularities

- I. In respect of earmarked levies, school is required to adhere with:
 - Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
 - Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
 - Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school has charged earmarked levies namely transport fee, computer fee, activity fee, science fee, I card & health camps and physical education fees but these fees are not charged on 'no profit no loss' basis as the school is earning surplus from these levies. The school has not provided details of expenditure incurred against above mentioned earmarked levies. Therefore, the school is directed to make adjustment to general reserve for the surplus earned on this earmarked levy.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprised of "registration fee and all One Time Charges" levied at the time of admission

4

such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover 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 forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, school is directed to stop separate collection in the name of computer fee, activity fee, I card & health camps and physical education fees.

- II. 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. Following observations were noted:

- a. The school has treated development fee as revenue receipt in the FY 2014-15, 2015-16 and 2016-17 in contravention of aforesaid clause. Therefore, the school is directed to make adjustment to general reserve and create development fund with the amount received in the respective financial years.

The details of development fee received during the financial years 2014-15, 2015-16, 2016-17 is as under;

(Figures in Rs.)	
Development Fee Collected	Amount
FY 2014-15	86,44,810
FY 2015-16	93,60,415
FY 2016-17	1,07,21,070
Total	2,87,26,295

- b. The school is not maintaining Depreciation Reserve Fund as required by clause 14 of the order dated 11.02.2009 in all the previous financial years. Therefore, the school is directed to comply with clause 14 of the order dated 11.02.2009 if it wish to collect Development Fee in future.

- III. As per Rule 173 of DSER, 1973 "Every school fund shall be kept deposited in a nationalized bank or a scheduled bank or any post office in the name of the school. And such fund may be approved by the Administrator or any other officer authorized by him in this behalf, may be kept in the form of Government securities. Provided that in the case of unaided minority school, the proportion of such fund which may be kept in the form of Government securities or as cash in hand shall be determined by the managing committee of the school. However, the school was collecting the fees from the students in its own bank account till FY 2015-16 and from FY 2016-17, the school has changed its fee collection procedure. And thus, all 12 schools which run under the same management namely Guru Harkrishan Public School (New Delhi) started collecting fee from the students in a single bank account- CFA Head office account. And then every school prepare and submit its monthly budget for expenditure to the head office and then the required amount is being transferred to the individual bank account of the school. This indicates that there is no direct control of the school over the funds which may cause hindrance in meeting its day to day activities. The available amount as on 31 March, 2017 in Centralized Fee Account (CFA-Head office) was 8,96,48,622. Therefore, the school is directed to recover the above said amount from society.
- IV. As per the audited financial statements of FY 2016-17, the following amounts recoverable by the school from the same management. Therefore, the school is directed to recover Rs. 5,22,08,125 for amounts transferred to below mentioned institutions run under the same management.

(Figures in Rs.)

Particulars	Amount Recoverable as per FS
DSGMC	12,14,786
GHPS other branches	2,24,00,000
GHIIMT	2,85,93,339
Total	5,22,08,125

Other Irregularities:

- I. As per rule 180 of the Delhi School Education Rules, 1973 every unaided recognised private school shall prepare and submit financial statements in accordance with Appendix II of said rules. However, the school has not prepared its financial statements as per annexure II of rule 180 of DSER, 1973 for the financial year 2016-17.
- II. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to determine and provide for statutory liability towards

Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.

III. In respect of caution money the following has been observed:

- a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving from the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon.
- b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number of students left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined.

IV. As per sub-section (1) of section 13 of Right to Education Act, 2009, no school or person shall while admitting a child, collect any capitation fee. On review of fee structure for FY 2016-17, it has been observed that the school is collecting one time charge of Rs. 10,000 in the name of "Student welfare fund" at the time of admission from the new student. This type of collection from the students by the school clearly tantamount as capitation fee. Therefore, the school is directed to stop collection of such onetime charges from the student.

V. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. Accordingly, the Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016. However, on review of the fee receipts provided by the school it has been observed that the school had increased the fee in all heads in FY 2016-17 without obtaining prior approval from Directorate of Education. Therefore, the school is directed to roll back the increase fee or adjust the excess amount collected by the school against the fee receivable from the students.

VI. Based on the discussion held with the school on 28 June, 2018 at the premises of Directorate of Education, the school was asked to provide the following details by 4th of July, 2018 which the school has not submitted till date despite of sending repetitive reminders on 18th July, 2018, 23rd July, 2018, 30th July, 2018 and 8th August, 2018. Thus, it can be concluded that school do not have any further documents/explanations to offer in respect of their fee increase proposal and its proposal for fee increase has been evaluated based on the available documents on records. The lists of documents/explanation which the school not provided/ submitted are as under:

- a. Copy of fee collection registers for the financial year 2014-15, 2015-16 and 2016-17
- b. 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 FY 2016-17 along with relevant documents to substantiate its claim
- c. Statement of surplus or deficit in respect of each earmarked levies showing collection of fee under these heads and relevant expenditure incurred
- d. Audited Receipt and Payment account for the FY 2014-15, 2015-16 and 2016-17.
- e. Details of secured loan taken for purchasing of bus indicating nature of loan, source of repayment and interest thereon.
- f. Copy of the return filled with district under rule 180 for the FY 2016-17
- g. Justification for non-preparing the financial statements in accordance with Appendix-II of order dated 16.04.2016.
- h. Whether the school has filed statement of fees for the FY 2015-16 and 2016-17 as per section 17(3) of the Act or not.
- i. Reconciliation Statement of Fee as per Financial Statement for F.Y. 2014-15, 2015-16, 2016-17 and students strength (fees as per Financial Statement is equal to number of fee paying students X fee per student per month X 12 months). This calculation should be done for each head of fee charged by the school and any difference therein should be properly explained.
- j. Soft copy of working of 7 CPC arrears.
- k. Details of outstanding VI CPC as reflected in the audited financial statement of FY 2016-17.
- l. Provisional trial balance including provisional financial statement for FY 2017-18.
- m. Ledger of society for the FY 2014-15, 2015-16 and 2016-17.
- n. Details of amount recoverable which is reflecting in the financial statement of FY 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. **32,52,41,293** out of which cash outflow in the year 2017-18 is estimated to be Rs. **16,33,18,556**. This results in net surplus of amounting to Rs. **16,19,22,737**. The details are as follows:

Particulars	Figures (Rs.)
	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	23,23,807
Investments as on 31.03.17 as per audited Financial Statements	-
Add: Recoverable from Head office common fee collection account	8,96,48,622
Add: Recoverable from other schools to whom funds have been transferred	5,22,08,125

Particulars	Amount
Less: Balance of caution money as on 31.03.2017	(25,22,131)
Total	14,16,58,423
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)	18,24,20,924
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)	11,61,946
Estimated availability of funds for FY 2017-18	32,52,41,293
Less: Budgeted expenses for the session 2017-18 (after making adjustment)- Refer Note 1	16,33,18,556
Net Surplus	16,19,22,737

Note 1: The school has proposed provision for gratuity amounting to Rs. 5,43,556 in budget for FY 2017-18 on the basis of management estimates. Since, the school has sufficient surplus, therefore, the school is directed to provide provision and earmarked investment as per AS-15 within the stipulated time mentioned in the order.

- 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

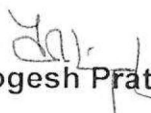
recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Guru Harkrishan Public School, Hargobind Enclave, Delhi - 110092 (School Id: 1001185)** 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).
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

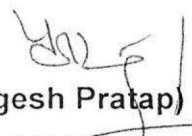
To
The Manager/ HoS
Guru Harkrishan Public School,
Hargobind Enclave
Delhi – 110092, (School Id: 1001185)

No. F.DE.15 (07)/PSB/2019/1453-1457

Dated: 7/2/2019

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