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

No. F.DE.15 (144)/PSB/2019 / 1946-1950

Dated: 22/2/2019

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, **Salwan Public School, Kondli Gharouli Complex, Mayur Vihar, Delhi-110096 (School Id: 1002268)** 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 27, 2018. Further, School was also provided opportunity of being heard on July 18, 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.

AND WHEREAS, the reply of the School, documents uploaded on the web portal for fee increase and subsequent documents submitted 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 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account". On review of the financial statement it has been observed that school has utilised development fee for purchases of Library Books and Vehicles during FY 2015-16 and 2016-17, which is not in accordance with the abovementioned clause. Therefore, the school is directed to make necessary adjustment in the development fund account and development utilisation account. The summary of development fund utilised for purchase of library books and vehicles are as under:

Particulars	(Figures in Rs.)	
	FY 2015-16	FY 2016-17
Library Books	2,20,735	1,16,085
Vehicles	13,60,416	-

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Particulars	FY 2015-16	FY 2016-17
Total	15,81,151	1,16,085

II. The assets purchased out of development fee was not shown by the school as utilization of development fund in the FY 2015-16 and 2016-17 resulting overstatement of development fund balance at the end of these financial year. Therefore, the school is directed to make necessary adjustments in development fund account for the amount utilised for purchase of fixed assets. The summary of assets purchased out of the development fund in FY 2015-16 and 2016-17 are as under:

Particulars	Amount
Assets purchased out of Development Fund in FY 2015-16	1,22,99,908
Assets purchased out of Development Fund in FY 2016-17	77,46,892
Total Fixed Assets Purchased	2,00,46,800

III. As per Rule 177(1)(c) of DSEAR, 1973 "the school can assist 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 out of savings only". Further, as per rule 177, the 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 per cent, of such savings.**

However, on review of audited financial statements, it has been noted that the school has provided financial assistant of Rs. 55,43,501 to Salwan Public School, Tronica City, run by the same management in FY 2014-15 to 2016-17 without complying the provisions of Rules 177 i.e. before providing reasonable reserve fund. Therefore, financial assistance provided by the school to other school is directed to be recoverable from the society and accordingly has been included in the calculation of fund availability of the school.

The Summary of financial assistance provided by the school is as under:

Particulars	Amount
Financial assistance provided to sister school during FY 2014-15	50,00,000
Financial assistance provided to sister school during FY 2015-16	44,277
Financial assistance provided to sister school during FY 2016-17	4,99,224
Total	55,43,501

- IV. The school has paid remuneration to Director amounting to Rs.10,65,242, Rs.9,91,000 and Rs.11,50,498 in FY 2014-15, 2015-16 and 2016-17 respectively. Since, this is an honorary post, therefore, the remuneration paid to director has been disallowed and is directed to be recoverable from the society. Accordingly, this amount has been included in the calculation of fund availability of the school.
- V. In respect of earmarked levies, school is required to comply 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely transport fee, science fee and smart class fee from the students but these levies were not charged on 'no profit no loss' basis as the school is earning surpluses on all these levies. Further, fund based accounting has not been followed by the school for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

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

Based on the aforesaid provisions, earmarked Levies are to be collected only from the user students availing the services/ facilities of the school. And if, the services/facilities are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either form the Tuition Fee or from Annual Charges. Therefore, the school is directed not to collect separate levy in the name of the "Smart Class Fee" with the immediate effect.

- VI. 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 incurrance 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 cognisance from the above para, it has been observed that school has not created development utilisation account and therefore has not treated the same as deferred income to the extent of cost of assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged during FY 2014-15. However, in FY 2015-16 and 2016-17, although the school had transferred amount in proportion to the depreciation charged on the assets purchased out of development fund to income and expenditure account but has not created development utilisation account. Therefore, School is directed to make necessary adjustments in the development fund account and development fund utilization account.

VII. As per section 13 of RTE Act, 2009, the school should not charge capitation fee from the students at the time of admission. However, as per the details submitted by the school, it has collected Rs.1,99,20,000 for Institutional Fee from the students at the time of admission in FY 2014-15 to 2016-17. Hence, it is clear that, the school is charging capitation fee in the name of institutional fee from the students which is in contravention of the aforesaid provision. Therefore, the school is directed to stop the collection of Institutional fee from the students with the immediate effect.

VIII. Till FY 2015-16 the school was collecting annual charges in two components which comprised of "annual charge" and "pupil fund". while from the FY 2016-17 the school has merged pupil fund with annual charges without obtaining any prior approval from the directorate of education. Therefore, the school is directed to determine its annual charges and take the appropriate approval from the directorate of education. The details of collection submitted by the school under annual charges and pupil fund are as under:

Particulars	(Figures in Rs.)		
	FY 2014-15	FY 2015-16	FY 2016-17
Annual Charges	82,32,870	86,72,280	2,12,99,859
Pupil Fund	1,16,02,242	1,23,95,938	-
Total amount shown under the head annual charges	1,98,35,112	2,10,68,218	2,12,99,859

Other Irregularities:

I. The school is not complying with the DOE Order No.F.DE.15/Act-1/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE is directed to look in the matter. The

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admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1630	1597	1599
EWS Students	200	217	238
% of EWS students	12.27%	13.59%	14.88%

- II. As per Clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be charged. The caution money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, on review of audited financial statement for the FY 2014-15 to 2016-17, it has been observed that the school refunds only the principal amount of caution money but does not refund the interest earned thereon which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. Therefore, the school is directed to comply clause 18 of the order dated 11.02.2009.
- III. As per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of receipts and payments of ensuing year' submitted with return filled under rule 180(1) of DSER, 1973, for the FY 2017-18 it was noted that school has not considered the un-refunded caution money as receipts. In the absence of availability of information of un-refundable caution money belonging to ex-students which can be treated as income, correct/ actual liability of the school cannot be ascertained. Therefore, the school is directed to comply with the above-mentioned order.
- IV. On review of audited financial statement for the FY 2015-16, it has been observed that, the opening balance of caution money fund was Rs.8,95,445 whereas, in the audited financial statement of FY 2014-15, closing balance of caution money was nil due to reclassification of liability.

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 2017-18 amounting to **Rs.24,75,03,209** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.14,64,04,141**. This results in net balance of Surplus amounting to **Rs.10,10,99,068** for FY 2017-18 after all payments. The details are as follows:

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(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	2,50,745	
Investments as on 31.03.17 as per Audited Financial Statements	13,74,82,199	
Add: Director Remuneration paid during FY 2014-15 to 2016-17	32,06,740	"Refer observation IV of Financial Irregularities"
Add: Amount recoverable from the society for assistance provided to sister school in contravention of rule 177 of DSEAR, 1973.	55,43,501	"Refer observation III of Financial Irregularities"
Less: FDR in the joint name of Manager of Salwan Public School and Secretary of CBSE	5,45,000	
Less: FDR in the joint name of Directorate of Education and Manager of Salwan Public School	18,68,013	
Less: Development Fund received during the FY 2016-17	92,49,500	"Refer Note- 1"
Less: Caution Money balance as on 31-03-2017	10,26,945	
Total	13,37,93,727	
Add: 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)	10,13,57,789	
Add: Other income for FY 2016-17 as per Audited Financial Statements	1,23,51,693	
Estimated availability of funds for FY 2017-18	24,75,03,209	
Less: Budgeted expenses for FY 2017-18 (after making adjustment)	14,64,04,141	"Refer Note- 2"
Net Surplus	10,10,99,068	

Adjustments:

Note- 1: 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 Apr 2010 states "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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs.3,44,29,022 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development

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fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in FY 2016-2017 amounting Rs.92,49,500 from students has not been considered as fund available with the school.

Note- 2 Amount proposed by the school for "Director Remuneration" and "Assistance to school and society" for Rs.11,26,429 and Rs.8,00,000 in FY 2017-18 respectively has not been considered for evaluation of fee increase proposal.

- i. 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 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 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.

AND WHEREAS, it is also noticed that the School has incurred Rs.32,06,740 towards payment of Director's Remuneration and Rs.55,43,501 for providing assistance to sister school. Therefore, the school is directed to recover Rs.87,50,241 from the society. The amount of receipts along with copy of bank statements showing receipt of above mentioned amount should be submitted with DoE, in compliance of the same, within sixty days from the date of the order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

Accordingly, it is hereby conveyed that the proposal of fee increase **Salwan Public School, Kondli Gharouli Complex, Mayur Vihar, Delhi-110096 (School Id: 1002268)** is rejected by the Director of Education. Further, the management of said

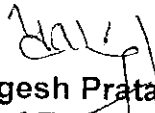
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school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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 rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days 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 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.
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/violations 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 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

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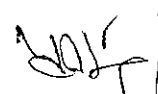
To
The Manager/ HoS
Salwan Public School, Kondli Gharouli Complex,
Mayur Vihar, Delhi-110096 (School Id: 1002268)

No. F.DE.15 (144)/PSB/2019 | 1946-1950

Dated: 22/2/2019

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