

129

1512

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

No. F.DE.15 ( 233 )/PSB/2019 / 1285 - 1289

Dated: 29.3.2019

**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, **National Victor Public School, IP Extension, New Delhi-92 (School Id: 1002270)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 26, 2018. Further, School was also provided opportunity of being heard on July 02, 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. In respect of earmarked levies, school is required to comply with:
  - a. 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;
  - b. Rule 176 of DSER 1973, which provides that 'income derived for specific purpose shall be spent only for such purpose';
  - c. Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

In FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely transport fee and smart class fee from the students but these levies were not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has incurred deficit in respect of all the earmarked levies. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. 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" which is 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 facilities and if, the services are extended to all students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from the Annual Charges. Accordingly, the School is directed not to charge a separate levy in the name of Smart class fee.

- II. As per Section 18 (4) of DSEA, 1973 read with Rule 177, income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed. However, on review of financial statements, it has been noted that the school has purchased luxury car for Rs 16,16,975 in FY 2014-15 which cannot be construed as expenditure incurred by the school for educational purpose. Therefore, the school is directed to recover this expenditure of Rs.16,16,975 from the society and accordingly it has been included in the calculation of fund availability of the school.

### Other Irregularities

- I. The school is charging depreciation as per the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note-21 "Accounting by School".
- II. 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 condition specified in the Land allotment letter which provides for 25% reservation to children belonging to EWS category in admission. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. As per School, the details of number of EWS students and total students in FY 2014-15, FY 2015-16 and FY 2016-17 are as under:

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	3,399	3,497	3,559
Total number of EWS	289	342	409
% of EWS to total number of students	8.50%	9.78%	11.49%

155

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.19,50,71,502** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.18,28,71,079**. This results in net balance of Surplus amounting to **Rs.1,22,00,423** for FY 2017-18 after all payments. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	44,25,941
Investments as on 31.03.17 as per Audited Financial Statements	11,88,267
Less: Fixed Deposit with Bank in the joint name of DDE and Manager, National Victor Public School	11,88,627
Add: Amount recoverable from the society for purchase of luxury Car-Toyota ( <b>Refer Observation No. II of Financial Irregularity</b> )	16,16,975
<b>Total</b>	<b>60,42,556</b>
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)	18,82,81,535
Add: Other income for FY 2016-17 as per Audited Financial Statements	7,47,411
<b>Estimated availability of funds for FY 2017-18</b>	<b>19,50,71,502</b>
Less: Budgeted expenses for FY 2017-18 (after making adjustment) " <b>Refer Note- 1 and 2</b> "	18,28,71,079
<b>Net Surplus</b>	<b>1,22,00,423</b>

#### Adjustments:

**Note -1:** The has not proposed salary arrears in it budget. However, as per SMC minutes of meeting, the school shall implement the recommendation of 7<sup>th</sup> CPC with effect from 01.12.2017, thus, four months' salary arrears have been considered in the above calculation based on the amount presented by school before SMC which comes to Rs.31,22,431 (i.e. Rs.2,10,76,410\*4/27).

**Note-2:** As per the Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". Further, Rule 177 of DSER, 1973, states that the savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school. Based on aforesaid provisions and considering the year of implementation of 7<sup>th</sup> CPC, the amount proposed by the school of Rs.90,00,000 towards capital expenditure has not been considered in 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 7<sup>th</sup> 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 7<sup>th</sup> CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said School.

AND WHEREAS, it is also noted that the School has incurred Rs.16,16,975 for purchase of luxury car (Toyota) in FY 2014-15 which is in contravention of Section 18 (4) of DSEA, 1973. Therefore, the school is directed to recover Rs.16,16,975 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 of **National Victor Public School, IP Extension, New Delhi-92 (School Id: 1002270)** 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 7<sup>th</sup> 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.

1517

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

To  
The Manager/ HoS  
National Victor Public School,  
IP Extension, New Delhi-92 (School Id: 1002270)

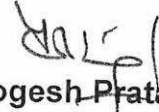
1518

No. F.DE.15 ( 233 )/PSB/2019 / 1285-1289

Dated: 29.3.2019.

**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