

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

No. F.DE.15 (236)/PSB/2019/ 1240-1244

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, **Vidya Bal Bhawan public School, Mayur Vihar Phase-III, New Delhi (School Id 1002322)** 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.

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 04, 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 by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. On review of audited financial statements for FY 2014-15 and 2015-16, it has been noted that the Fixed assets purchased out of the Development fund have not been shown on the face of the Balance sheet. In fixed assets schedule, the Fixed assets were shown under the column of additions but not

been added to the Fixed assets. In FY 2014-15 and 2015-16, School has purchased Fixed assets of worth Rs. 45,80,650 and Rs. 73,62,964 respectively out of Development fund. Also, these additions in Fixed assets have directly been adjusted from the Development fund. Due to these adjustments, effect of additions made during the year got nullified. Also, the school was failed to present the fixed assets register for verification of assets available with the School. Moreover, School was not able to prove availability of these fixed assets with it. Thus, amount spent on Fixed assets and not shown in the Financial statements has to be recovered from the Society and the same has been considered in the calculation of availability of fund with School.

II. 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 for specific purpose shall be spent only for such purposes;
- ▶ Judgement of Hon'ble Supreme Court of India in the case of Modern School vs. Union of India & others, which specifies that every non-profit organisation, are required to maintain its account on the basis of fund-based system accounting.

However, on review of audited financial statements it has been observed that school was collecting transportation charges till FY 2014-15 and had stopped collection of transportation charges from FY 2015-16. However, School was still incurring expenditure against transportation service. It has been also noted that the School was not following fund based accounting. Thus, School is directed to follow fund based accounting for earmarked levies.

III. On review of audited financial statements for FY 2016-17, it is noted that School bus was sold to the Ganga Shiksha Samiti for Rs. 7,00,000. This amount is recoverable from the Society and thus, the same has been included in the calculation of availability of the fund.

IV. 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".

4

Taking cognisance from the above para, School should have considered the Development fund utilisation account as deferred income to the extent of cost of assets purchased out of Development fund and have transferred the amount to the credit of Income & Expenditure account in proportion to the depreciation charged from this deferred income account. However, it is noted that School has not created 'Development Fund Utilization Account' for the assets purchased out of the Development fund and thus, has not transferred any amount from this utilisation account to the credit of Income and Expenditure account in proportion of depreciation charged during the year. Thus, the School has not followed aforesaid para 99 of the Guidance Note-21: Accounting by Schools as issued by ICAI and is directed to follow the same.

Other Irregularities

- I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, and S. No. 17 of land allotment letter, the school is required to provide 25% reservation to children belonging to EWS/ DG category but the school has not complied with the said order. The DDE (District) concerned may look into this matter. The details of admission allowed by the school to EWS/ DG student are summarised below:

Particulars	2014-15	2015-16	2016-17
Total Students	1880	2389	2186
EWS Students	223	212	266
% of EWS students	11.86%	8.87%	12.16%

- II. The school has changed its method for charging of depreciation from Straight Line Method (SLM) to written down value method (WDV) with effect from FY 2016-17 without disclosing the impact of the same in the Income and Expenditure account. The School is required to disclose the impact of change in depreciation method in its Notes to Accounts in accordance with Guidance Note 21 – Accounting by Schools as issued by ICAI.

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. **9,13,80,965** out of which cash outflow in the year 2017-18 is estimated to be Rs. **8,63,20,978**. This results in surplus of funds amounting to Rs. **50,59,987**. The details are as follows:

2341

(Figures in Rs)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	9,16,881
Investments as on 31.03.17 as per audited Financial Statements	
Fixed Assets not appearing on the face of the financial statement FY 2015-16	1,19,43,614
Add: Sale proceeds of bus transferred to society (Recoverable from society)	7,00,000
Total	1,35,60,495
Fees for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	7,12,61,516
Other income for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	65,58,954
Estimated availability of funds for 2017-18	9,13,80,965
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment) (Note 1,2 and 3)	8,63,20,978
Net Surplus	50,59,987

Adjustment:**Note 1:**

- (a) The School has budgeted for 'Refund of development fee to students' amounting to Rs. 92,69,752 for FY 2017-18. School has failed to provide any clarification or justification for proposing such expenditure. This expense appears to be related to order of Justice Anil Dev Sign Committee. This expense has not been considered as the current students cannot be burdened for refund of fee to past students.
- (b) The School has budgeted for 'Payment of Arrear Salary as per Anil Dev Committee' amounting to Rs. 24,46,619 for FY 2017-18. School has failed to provide any clarification or justification for proposing such expenditure. This expense has not been considered as the current students cannot be burdened for payment of arrear of salary.

Note 2: School has proposed substantial increase in expenses during the financial year 2017-18 and failed to provide any reasonable justification for that. Thus, the same has not been considered in the above calculation. The details of these expenditures are as follows:

(Figures in Rs.)

Particulars	As per audited Income and Expenditure Account for FY 2016-17	As per budget for FY 2017-18	Increase/ (Decrease)	% Change	Disallowed (in excess of 10%)
Building Repair & Maintenance	47,800	15,00,000	14,52,200	3038%	14,47,420
Printing & Stationery	30,74,572	37,00,000	6,25,428	20%	3,17,971
Discount allowed to students	1,60,850	2,00,000	39,150	24%	23,065
Newspaper & Periodicals	2,80,661	3,50,000	69,339	25%	41,273
Generator set running expenses	50,602	75,000	24,398	48%	19,338
Gardening expenses	2,35,099	3,00,000	64,901	28%	41,391
Function expenses	1,83,385	25,00,000	23,16,615	1263%	22,98,277
Student welfare expenses	3,02,445	3,50,000	47,555	16%	17,311
Total	43,35,414	89,75,000	46,39,586		42,06,045

Note 3: 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 7th CPC, the amount proposed by the school of Rs. 48,00,000 towards capital expenditure has not been considered in 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,

2343

"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.

AND WHEREAS, it is also noticed that the fixed assets purchased out of development fund amounting Rs. 1,19,43,614 have not been shown in the financial statements of the School. Thus, this amount is to be recovered from Society. Also, bus has been sold to the society for Rs. 7,00,000. Total amount to be recovered by the school from society is Rs. 1,26,43,614. 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 issuance of this 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 **Vidya Bal Bhawan public School, Mayur Vihar Phase-III, New Delhi (School Id 1002322)** 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 for the academic session 2017-18 and if, the fee is already increased and charged for


2344

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 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.
4. 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.
5. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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
Vidya Bal Bhawan public School, Mayur Vihar Phase-III, New Delhi (School Id
1002322)

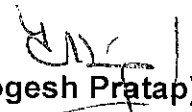
7345

No. No. F.DE.15 (236)/PSB/2019/ 1240... 1244

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