

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

No. F.DE.15 (206)/PSB/2019 /1140-1144

Dated: 25/03/2019

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, **Evergreen Public School, Vasundhara Enclave, Delhi- 96 (School Id: 1002346)** 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 26, 2018. Further, School was also provided opportunity of being heard on June 25, 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 the explanation provided by the school during discussion, it has not collected "Development Fee" w.e.f. FY 2014-15 because as per clause 14 of the order dated 11.02.2009, the Development Fund can be utilised only for supplementing the resources for purchase, up gradation and replacement of furniture, fixture and equipment. On review of the fee structure of the school it has been noted that in order to avoid the compliance of clause 14 of the order dated 11.02.2009, the school has merged its fee structure into one single head i.e. "Fees" so that the school can utilise fee received from the students freely. Thus, the claim of the school for non-collection of development fee is not correct because the school has just changed the nomenclature of its fee structure without effecting the total collection of fee. Thus, the school is directed not to club the portion of development fee with other fee.
- II. 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

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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.

However, it has been noted that the opening balance of development fund account as on 01.04.2014 amounting to Rs. 34,51,789 was utilised by the school for purchase of bus and library books which is in contravention of aforesaid clause 14 of order dated 11.02.2009. Therefore, the school is directed to make necessary in the General fund and Development Fund account. The details of utilisation of development fund are as follows:

(Figures in Rs.)	
Particulars	Amount
Bus	16,55,000
Library books	51,158
Total	17,06,158

- III. 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.

However, on review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely Transport fee, Newspaper charges and Computer/ IP Charges but these fees are not charged on 'no profit no loss' basis as the school has earned surplus from Newspaper charges and incurred deficit on Transport fee and Computer/ IP Charges. Further, the school is not following fund based accounting in respect of earmarked levies. Therefore, the school is directed to adjust the surplus/ deficit incurred on these earmarked levies in General Fund.

- IV. The school has paid remuneration to Director amounting to Rs. 6,86,118, Rs. 7,27,172 and Rs.13,01,124 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 recoverable from the society. Accordingly, this amount has been included in the calculation of fund availability of the school. The details of salary paid to director academics are as under:

(Figures in Rs.)	
Particulars	Amount
FY 2014-15	6,86,118
FY 2015-16	7,27,172
FY 2016-17	13,01,124
Total	27,14,414

- V. As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided

that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses.

However, during FY 2014-15, the school has purchased bus of Rs. 16,55,000 before meeting employee benefits as required by Rule 177 of DSER, 1973. Therefore, the amount spent by school on purchase of bus has been included in the funds availability of the school and accordingly the school is directed to recover the same from the society.

Further, the school has taken loan from HDFC Bank for purchase of buses in FY 2013-14 and has paid Rs. 10,24,454 towards principal and Rs. 2,47,458 towards interest thereon which is in contravention of above mentioned provisions. Therefore, Rs. 12,71,912 has been included in the funds availability of the school with the direction to recover the said amount from the society. Further, the school is directed to make necessary adjustment for the amount of interest in the General fund account.

Other Irregularities

- I. 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 of the school for FY 2014-15, 2015-16 and 2016-17, it is observed that the school is collecting one-time of Rs. 10,000 in the name of "Activity charges" from the new student. This collection of fee from the students at the time of admission tantamount as capitation fee. Therefore, the school is directed to stop collection of such onetime charges from the students with immediate effect.
- II. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total students	1,824	1,924	1,947
Total number of EWS	263	295	308
% of EWS to total number of students	14%	15%	16%

- III. As per Rule 180 (1) of DSER, 1973, every unaided recognised private school shall submit returns and documents in accordance with Appendix-II. Further as per Appendix-II, school is to submit the final accounts i.e. receipts and payments accounts, income and expenditure account and balance sheet (duly audited by the Chartered Accountants). Thus, the School is directed to prepare and submit the aforesaid statements as part of its annual return. However, it is noted that the school has not prepared and submitted the complete set of financial statements

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during FY 2014-15 and 2015-16 as it has not prepared the Receipts and Payments Account for FY 2014-15, and 2015-16.

- IV. 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. And 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 has increased the Tuition fees of class I, XI and XII in FY 2016-17 without obtaining prior approval from Directorate of Education in contravention of the aforesaid order. 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.
- V. 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 recognized in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. The school has not provided for gratuity and leave encashment 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.

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.10,41,83,921 out of which cash outflow in the FY 2017-18 is estimated to be Rs.9,84,36,881. This results in net balance of Surplus amounting to Rs.57,47,041 for FY 2017-18 after all payments. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank Balances as on 31.03.2017 as per audited Financial Statements	1,35,91,586
Add: Investments as on 31.03.2017 as per audited Financial Statements	25,14,429
Add: Recoverable from society against salary paid to Director Academics during FY 2014-15, 2015-16 and 2016-17 (Refer point IV of section 2.1 Financial irregularities)	27,14,414
Add: Recoverable from society against purchase of bus in FY 2014-15	16,55,000
Add: Recoverable from society against payment of loan and interest thereon	12,71,912
Less: Caution money as on 31.03.2017	4,82,994
Total	2,12,64,347

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Particulars	Amount
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)	8,24,17,748
Add: 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)	5,01,826
Estimated availability of funds for FY 2016-17	10,41,83,921
Less: Budgeted expenses for FY 2017-18 (after making adjustment) "Refer Note- 1 and 2"	9,84,36,881
Net Surplus	57,47,041

Note 1: Under the following heads, the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in FY 2016-17 for which the school has neither provided any reasons for such unusual increase nor provided any explanation/ justification.

Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net increase	% Change	Disallowed
Security Charges	9,08,925	14,96,760	5,87,835	65%	4,96,943
House Keeping expenses	50,51,490	60,36,168	9,84,678	19%	4,79,529
Total	59,60,415	75,32,928	15,72,513	26%	9,76,472

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 7th CPC, the amount proposed by the school of Rs.30,00,000 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,

"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 noted that the School has incurred Rs.16,55,000 for purchase of bus in FY 2014-15 and paid Rs.27,14,414 to the director of the school in FY 2014-15 to 2016-17. Further, the school has repaid the loan along with the interest thereon for Rs. 12,71,912. Hence, the aforesaid amount incurred by the school is in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs.56,41,326 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 **Evergreen Public School, Vasundhara Enclave, Delhi- 96 (School Id: 1002346)** 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:

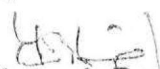
1. Not to increase any fee in pursuance to the proposal submitted by School on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the 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 charge fee as per the existing fee structure of the school
4. 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).

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5. 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.
6. 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.
7. 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

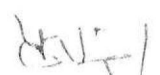
To
The Manager/ HoS
Evergreen Public School,
Vasundhara Enclave, Delhi- 96 (School Id: 1002346)

No. F.DE.15 (206)/PSB/2019 / 1140-1144

Dated: 25/03/2019

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