

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

No. F.DE.15 (630)/PSB/2018 | 30537-30541

Dated: 14.12.2018

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

4

as 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, **Bharti Public School, Kondli, Mayur Vihar Phase- III (School Id: 1002357)** 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 August 01, 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 2 of public notice dated 04.05.1997, construction of building is the responsibility of the society, who has established the school to raise such funds from their own sources or donations from the other association because the immovable property of the school becomes the sole property of the society". Accordingly, the expenditure incurred on construction of building should have been borne by the society and not by the school. Thus, the amount of expenditure incurred by the school 98,89,430 (Rs.24,15,138 , Rs.43,96,863 and Rs.30,77,429 during FY 2014-15, 2015-16 and 2016-17 respectively) for construction of building is in contravention of the aforesaid clause 2 of public notice dated 4th May, 1997 and accordingly school is directed to recover the same from the society.
Further, in the financial statement of FY 2016-17 Rs.2,94,00,00 reflecting under 'Building Fund' which was created by the school out of the surplus of the school i.e. Rs.2,90,00,000 from the 2015-16 & Rs.4,00,000 from the FY 2016-17. Since, this fund was created out of the surplus of the school. Therefore, it is freely available with the school and the school is directed to consider this as part of the general reserve.
- II. 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 incurrence 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 treated the designated fund account 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. Therefore, school is directed to follow Guidance Note-21.

- III. As per section 13 of RTE Act, 2009, the school should not charge any capitation fee from the students at the time of admission. However, the school has charging Rs.30,000 from student at the time of admission in the name of the Activity fee in FY 2014-15 to 2016-17 which is in contravention of section 13 of RTE Act, 2009. Therefore, school is directed to stop the collection of such fee with immediate effect.
- IV. As per Rule 172 (2) every contribution or other charges collected from the student by recognised school whether aided or not, shall be collected in its own name and a proper receipts shall be granted by the school for every collection so made by it. However, on review of the financial statement it has been observed that the school had donated to Smile Foundation Rs.21,000 , Rs.5,00,000 & Rs.1,51,732 in FY 2014-15, 2015-16 and 2016-17 respectively and charged to income and expenditure account. Further, during discussion, the school had clarified that this amount was collected from the student as voluntary contribution and then donated to Smile foundation which is in contravention of Rule 172 of the DSER, 1973. As per the DSEAR, 1973 any amount collected by the school should be utilised for imparting better education to the students and not for any other purposes or donation. Therefore, the same is recoverable from the management of the school and accordingly has been included in the calculation of fund availability of the school. Also, the school is directed to make necessary adjustment in the General Reserve balance.
- V. In FY 2014-15, the opening balance of Depreciation Reserve Fund of Rs.31,00,000 General Reserve and created a fresh provision for depreciation reserve account with the amount of depreciation charges by the school for the FY 2014-15 resulting understatement of depreciation reserve account. The practice followed by the school is not as per the generally accepted accounting principles. Therefore, the school is directed to make necessary adjustments in the depreciation reserve fund account and society account.
- VI. 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 from collections 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school was charging digital learning fee, activity fee, transport fee and science fee as earmarked levies from the students but the same were not charged on 'no profit no loss' basis as school is earning surplus in respect of 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.

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 comprise 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 recommendation, the school should stop the collection of digital learning fee and activity fee.

- VII. The school had provided provision Rs. 1,26,00,000 for salary reserve equivalent to 4 months' of salary from FY 2014-15 to 2016-17 and has invested Rs. 1,23,70,358 against these provisions. However, this investment was not in the name Joint name of Manager of the school and DY. Director of Education and therefore it has not been considered for evaluation of fee increase proposal.

Other Irregularities

- I. 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 condition specified in the allotment letter of land, which provides for 25% reservation to children belonging to EWS.DG category. The admission allowed by the school under EWS/DG category in FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

Particulars	FY 2015-16	FY 2016-17
Total Students	1,547	1,598
EWS Students	214	228
% of EWS students	13.83%	14.27%

Note- The above numbers have been taken from the fee reconciliation statement submitted by the school for the FY 2015-16 and 2016-17. The fee reconciliation statement for the FY 2014-15 was not provided by the school.

Hence, the school is directed to follow the provisions of order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 along with the conditions specified in the land allotment letter.

- 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 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, on review of Audited Financial Statements for the FY 2014-15, 2015-16 and 2016-17, it has been observed that, the school has not transferred the interest income generated from the investment made out of development fee to the development fund account which is in contravention of the aforesaid clause. Therefore, school is directed to follow the abovementioned clause.
- III. During FY 2016-17, school has purchased fixed assets out of development fund for Rs.82,65,975, whereas, as per receipts and payments account, the amount paid for purchase of fixed assets was Rs.37,52,503 only. During the discussion the school was asked to provide the reason for such difference but the school failed to give any explanation on the same. It may also be noted that there was no closing creditor's appearing in the financial statement on account of such addition. Thus in the absence of details information nothing can be commented on this.
- IV. The amount of depreciation as per the fixed assets schedule was Rs. 46,28,095 and as per the Income and Expenditure was Rs.46,24,167 resulting difference of Rs.3,928 has been noted in FY 2016-17. During discussion, school has submitted that this difference was on account of some clerical mistake which the school will take care of in future.
- V. In the financial statements the fixed assets is reflecting under categories i.e. assets purchased out of development fund and other than development fund. The fixed assets purchased out of development fund were at gross value whereas other fixed assets were shown at written down value in the 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. **13,79,33,030** out of which cash outflow in the year 2017-18 is estimated to be Rs.**9,91,54,339**. This results in net surplus of amounting to **Rs.3,87,78,691**. The details are as follows:

(Figures in Rs.)		
Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	-40,55,806	
Investments as on 31.03.17 as per Audited Financial Statements	4,90,32,228	

Particulars	Amount	Remarks
Add: Amount recoverable from the society for construction of building during FY 2014-15 to 2016-17	98,89,430	
Add: School fund donated during FY 2014-15 to 2016-17, therefore, recoverable from the management	6,72,732	
Less: Development Fund balance as on 31-03-2017"	10,14,807	
Total	5,45,23,777	
Add: Fees for FY 2016-17 as per Audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	7,77,83,023	
Add: Other income for FY 2016-17 as per Audited Financial Statements	56,26,230	
Estimated availability of funds for FY 2017-18	13,79,33,030	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	9,91,54,339	"Refer note- 1 & 2"
Net Surplus	3,87,78,691	

Adjustments:

Note-1: As sufficient funds are available, the school is hereby directed to create 3 month salary reserve in accordance with provisions of Right to Education Act, 2009, and to submit FDRs in the joint name of Manager of the School and Deputy Director (Education) within 90 of receipt of this order. Accordingly, the amount proposed by the school for month salary reserve amounting Rs.41,00,000 has been considered for evaluation of fee increase proposal.

Note- 2: Details of Establishment Expenditures disallowed

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase/ (Decrease)	% Change	Amount disallowed	Remarks
Gratuity Provision*	18,50,855	97,13,301	78,62,446	425%	87,92,168	See calculation below

*Calculation

Particulars	Amount
Gratuity Provision proposed by the school for FY 2017-18	97,13,301
Gratuity provision to be recognised as per Actuary Valuation Report	9,21,133
Difference disallowed	87,92,168

- 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.

AND WHEREAS, it is also noticed that the school has incurred capital expenditure of Rs.98,89,430 for construction of Building. Therefore, the school is directed to recover Rs.98,89,430 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 issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

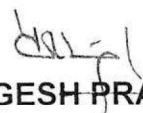
Accordingly, it is hereby conveyed that the proposal of fee increase of **Bharti Public School, Kondli, Mayur Vihar Phase- III (School Id: 1002357)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the 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

Bharti Public School,

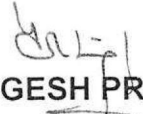
Kondli, Mayur Vihar Phase- III (School Id: 1002357)

No. F.DE.15 (630)/PSB/2018 / 30537-30541

Dated: 14.12.2018

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

No. F.DE.15 (653)/PSB/2018 | 30728 - 30732

Dated: 19/12/2018

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-1

(Private School Branch)

Directorate of Education, GNCT of Delhi