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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 (420)/PSB/2018/30072-77

Dated: 30/11/18

**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."



Encl

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, **Bharti Public School, SwasthyaVihar, Vikas Marg Delhi - 110092 (School Id: 1003235)** 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 27, 2018. Further, school was also provided an opportunity of being heard on May 23, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, 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 and same cannot be charged/ recovered from the students by the school. As per audited financial statements for the financial year 2014-15, 2015-16 and 2016-17, it has been noted that the school has made additions to the building out of the school funds. Therefore, this amount is to be recovered from the society and accordingly has been added in the fund availability of the school. The details of funds utilized for building are as follows:

(Figures in Rs.)

Particular	2014-15	2015-16	2016-17	Total
Infrastructure development (grouped under Building)	27,30,687	-	28,25,259	55,55,946
School Building	-	41,08,807	7,46,174	48,54,981
Total	27,30,687	41,08,807	35,71,433	1,04,10,927

- II. As per rule 177 of Delhi School Education Rules 1973, savings, if any, from the fees collected by the school may be utilized for assisting any other school of educational institution under the management of the same society or trust and the savings shall be computed after providing for employees' benefits such as pay, allowances, pensions, gratuity and reasonable reserve fund, etc. However, as per audited financial statements for FY 2015-16, it has been noted that, school has created 'Branch Building Construction Fund' amounting to Rs. 4,00,00,000. This fund was created out of the surplus earned during the FY 2015-16 amounting to Rs 1,00,00,000 and out of previous years' reserves amounting to Rs. 3,00,00,000 without complying with the principles laid down under Rule 177 of DSER, 1973.

Further, as explained by the school, during the FY 2016-17, school has utilised fund amounting to Rs.1,01,12,595/- for the purpose of construction of branch school building out of abovementioned fund. It is also noted that there is no addition in the block of building of school under examination by such amount during the said financial year and the school has debited the 'Branch Building Construction Fund' at the time of making payment from bank. It is clear that school funds have been utilised for construction of another school building in contravention of Rule 177 of DSER, 1973. Thus, school is to recover this amount from the society and the same has been considered as part of fund availability with the school.

- III. In respect of earmarked levies, school is required to adhere 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.

However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that the school charged earmarked levies namely transport fee, digital learning fees and science and computer fees from the students but these fees were not charged on 'no profit no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated substantial surplus on account of transportation fee and digital learning fees and incurred deficit under science and computer fees. Thus, the school has not followed fund-based accounting in respect of earmarked levies charged from the students and shall make necessary adjustments in the reserves of the school.

- IV. School has made the provision for gratuity and leave encashment of Rs 1,28,58,170/- and Rs 24,46,169/- respectively as on 31.03.2017 on the basis of actuary report. However, school has not made any investment against these provisions as required by accounting standard 15 as issued by ICAI. Hence, the same has not been deducted from the fund availability of the school.

- V. During the financial year 2016-17, school has transferred Rs. 90,00,000/- from the depreciation reserve fund to solar fund. As per explanation given by the school, it has made the provision of solar energy plant amounting to Rs. 90,00,000/- out of depreciation reserve fund. Since school has not followed para 99 of the Guidance Note -21 "Accounting by Schools" issued by Institute of Chartered Accountants of India (ICAI), therefore the depreciation reserve fund prepared by the school will be treated as free reserve only. Therefore, amount transferred from depreciation reserve fund to solar fund shall also be treated as free reserves available with the school.
- VI. 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 audited financial statements for the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has collected one-time activity charges of Rs 30,000/- from the students at the time of admission in contravention of the aforesaid clause and hence, this amount backed as available fund of school. Therefore, school is directed to stop such collections from the students.

**Other Irregularities:**

- I. The school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, which provides for 25% reservation to children belonging to EWS/DG categories at the entry level. As per returns filed by the school under rule 180, the details are as follows:

Particulars	2014-15	2015-16	2016-17
Total no. of students in school	2337	2256	2264
Total EWS students	279	290	305
% of EWS students to total no. of students	11.94%	12.85%	13.47%

- II. As per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it was noticed that fixed assets purchased out of development fund are shown at gross value while fixed assets purchased out of school fund are shown at written down value in balance sheet. School is required to follow uniform method for accounting and presentation of fixed assets in the financial statements.

**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 year 2017-18 amounting to Rs. 25,04,73,505 out of which cash outflow in the year 2017-18 is estimated to be Rs. 14,32,42,142. This results in net surplus of Rs.10,72,31,363. The details are as follows:



Particulars	Amount (Rs.)
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	60,19,115
Investments as on 31.03.17 as per audited Financial Statements	8,81,27,329
Add: Recoverable from society on account of addition made in the building	1,04,10,927
Add: Recoverable from society on account of amount used for Branch Building	1,01,12,595
Less: Development Fund (Balance as on 31.03.2017)	1,09,995
<b>Total</b>	<b>11,45,59,970</b>
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)	12,64,46,601
Other income for 2016-17 as per audited Financial Statements	94,66,933
<b>Estimated availability of funds for 2017-18</b>	<b>25,04,73,505</b>
Less: Budgeted expenses for the session FY 2017-18 (note 1)	14,32,42,142
<b>Net Surplus</b>	<b>10,72,31,363</b>

**Adjustments:**

**Note 1:** The provision for Gratuity and leave encashment of Rs 95,41,830/- and Rs 52,57,831/- respectively has not been considered in the budget for FY 2017-18, since the same is not supported by actuarial valuation report.

- 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 has been recommended by the team of expert Chartered Accountants that since 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 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 7<sup>th</sup> CPC.

Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

AND WHEREAS, since sufficient funds are available with the school to implement the recommendations of 7th CPC, the school is hereby directed to make equivalent investments against provision for Gratuity and Leave Encashment with LIC (or any other agency) within 90 days of the receipt of this order. And provisions for gratuity and leave encashment should be based on actuarial valuation.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Bharti Public School, SwasthyaVihar, Vikas Marg Delhi - 110092 (School Id: 1003235)** 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/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

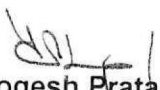
To  
 The Manager/ HoS  
 Bharti Public School,  
 SwasthyaVihar, Vikas Marg Delhi - 110092 (School Id: 1003235)

No. F:DE-15(420)/PSB/2018/30072-77

Dated: 30/11/18

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