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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

DIRECTORATE OF EDUCATION

(PRIVATE SCHOOL BRANCH)

OLD SECRETARIAT, DELHI-110054

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No. F.DE.15 (255)/PSB/2019 /1455-1459

Dated: 29/03/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 7.10.2017 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:-

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"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, **Sneh International School, A-2 Block, New Rajdhani Enclave, Vikas Marg, Delhi-110092 (School Id: 1003247)** 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 April 12, 2018. Further, School was also provided opportunity of being heard on June 18, 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.

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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

1. 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, up-gradation 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 in separately maintained development fund account. However, it has been noted that the School has utilised development fund for additions to building in FY 2014-15 and 2015-16 amounting to Rs. 13,76,305 and Rs.47,83,023 respectively which is in contravention of aforesaid clause 14. Therefore, School is directed to make necessary adjustments in development fund account.

Further, as per clause 2 of public notice dated 04 May, 1997, school not to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the sole property of the society. Therefore, the students should not be burdened by the way of collecting the Building fund or Development Charges. Moreover, as per Rule 177 of DSER, 1973, income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that 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, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. And the aforesaid savings shall be arrived at after providing for the following, namely:

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- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

Based the abovementioned provisions the amount of Rs. 61,59,328 is in contravention of the public notice dated 4 May 1997 and provision of Rule 177 of DSER, 1973. Therefore, this amount has been included in the calculation of fund availability of the school with direction to the school to recover this amount from the society.

II. As per Rule 177 of DSER, 1973 income derived by an unaided schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, school has taken multiple loans for various purposes. The School has submitted that these loans were taken for purchase of vehicles and for meeting capital requirements and other development work in school etc. In the past three financial years the school has paid Rs. 1,61,81,508 out which Rs. 61,59,328 was paid for construction of building (which has already been considered it Point No. I). Therefore, the remaining amount of Rs. 1,00,22,180 has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society. The summary of repayment of loan in the past three financial year is as under:

(Figures in Rs.)

Particulars	Term Loan from Corporation Bank	Loan against FDR	D. R. Dhingra Finance Company	Vehicle Loan from D. R. Dhingra Finance Ltd.
Balance as on 31.03.2014	99,38,583	-	97,72,925	11,90,000
Balance as on 31.03.2015	56,57,899	18,08,746	74,17,139	40,75,000
Net Loan repaid/ (taken) during the year	42,80,684	(18,08,746)	23,55,786	(28,85,000)

2009

Particulars	Term Loan from Corporation Bank	Loan against FDR	D. R. Dhingra Finance Company	Vehicle Loan from D. R. Dhingra Finance Ltd.
Balance as on 31.03.2015	56,57,899	18,08,746	74,17,139	40,75,000
Balance as on 31.03.2016	22,69,047	-	46,82,925	60,48,000
Net Loan repaid/ (taken) during the year	33,88,852	18,08,746	27,34,214	(19,73,000)
Balance as on 31.03.2016	22,69,047	-	46,82,925	60,48,000
Balance as on 31.03.2017	-	-	-	47,20,000
Net Loan repaid/ (taken) during the year	22,69,047	-	46,82,925	13,28,000
Net Loan repaid in three years*	99,38,583	-	97,72,925	(35,30,000)
Total				1,61,81,508
Less: Amount already considered against additions to building				61,59,328
Balance amount recoverable from Society				1,00,22,180

Moreover, the school has paid Rs. 24,19,542, Rs. 23,12,169 and Rs. 10,93,720 towards payment of interest on the aforesaid loan in the FY 2014-15 to 2016-17 respectively which is also not in accordance with the above-mentioned provisions. Therefore, this amount has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society and to make necessary adjustment in General Reserve Fund.

- III. The school has utilised its development fee for purchase of vehicles, library books and function dresses which is in contravention of clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009. Therefore, School is directed to make necessary adjustments in development fund account. The summary of the expenditure incurred by the school is as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
School Bus	55,12,712	51,00,000	-	1,06,12,712
Car for principal	-	8,01,852	-	8,01,852
Eco Car (CNG)	-	4,64,471	-	4,64,471

2016

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Library books	2,09,638	38,648	14,067	2,62,353
Function Dresses	1,89,525	2,31,723	-	4,21,248
Total	59,11,875	66,36,694	14,067	1,25,62,636

Further, as per clause 14 of the Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the development fee shall be collected only if the school is maintaining depreciation reserve fund equivalent to the depreciation charged in the revenue accounts. However, as per audited financial statements of the school for FY 2014-15, 2015-16 and 2016-17, school has not created depreciation reserve fund equivalent to depreciation charged to revenue accounts while the depreciation reserve fund has been created from the development fund account which is not in accordance with the clause 14 of the order dated 11.02.2009. Accordingly, School is directed to make necessary adjustment in the development fund. Further, the school may be instructed maintained depreciation reserve fund account equal to the depreciation charged in the revenue account if the school wish to collect the development fund in future.

Moreover, 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, School should have considered the Development fund utilisation account as a deferred income to the extent of cost of assets purchased out of Development fund and should have transferred the amount to the credit of Income & Expenditure account in proportion to the depreciation charged from deferred income account. However, it has been noted that School has not created 'Development Fund Utilization Account' for the assets purchased out of the Development fund. Further, it has also been noted that on purchase of assets out of the development fund, the school transferred equal amount to general fund reserve account resulting into overstatement of General Reserve Fund balance at end of the year. Thus, the School is not complying to aforesaid para 99 of the Guidance Note-21: Accounting by Schools as issued by ICAI.

The School may be instructed to follow GN – 21 while creating depreciation reserve fund account.

IV. As per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been noted that there is a deposit made to Ghaziabad Development Authority of Rs. 2,00,000 which has been shown 'loans and advances' in the financial statements. However, the school has not clarified for which this amount has been deposited with the Authority. Therefore, it has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society.

- V. 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 v. Union of 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 in the name of Transport fee, Activity, smart class & IT fees, Magazine fee and Mid-day meal fee from the students but these fees were not charged on 'no profit no loss' basis. School is earning surpluses from transportation fee and mid-day meal fees and incurring deficits from Activity, smart class & IT fees and Magazine fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, School is directed to follow fund based accounting.

VI. On review of audited financial statements, it has been noted that the School is not presenting utilisation of development fund in the financial statements in the proper manner. During discussion, the school has submitted that till FY 2013-14, the presentation of utilisation of development fund account was not in accordance with GN-21 Accounting by Schools issued by ICAI and therefore, necessary correction entry was made in FY 2014-15. However, it is noted that school has arbitrarily adjusted development fund account with Rs. 13,81,149 by transferring this amount to 'Vaish Education Foundation Account' and has not disclosed the same in notes to accounts. Further, the school failed to clarify the basis of this adjustment. Thus, the school may be instructed to submit the

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clarification and prepare its financial statements in accordance with GN-21 Accounting by Schools issued by ICAI.

Further, during FY 2014-15 to FY 2016-17, school has transferred amount equivalent to the cost of assets purchased out of development fund to general fund which results into overstatement of general fund. Thus, the amount transferred by the school of Rs. 91,21,955, Rs. 1,62,32,354 and Rs. 28,43,830 in FY 2014-15, 2015-16 and 2016-17 respectively is not in accordance with para 99 of Guidance Note 21 on "Accounting by school" issued by ICAI. Accordingly, School is directed to make necessary adjustment in general fund account with the instruction to the school to comply with GN 21.

VII. As per audited financial statements for FY 2015-16 school has utilized development fund for capital expenditure amounting to Rs. 1,62,32,354. These capital expenditures were met out of the development fee receipts for the year and out of the funds transferred from general fund. However, it is noted that no balance was available in the general fund as well as in the development fund in the beginning of the year. Thus, the financial statements of the school are not presented in accordance with the generally accepted accounting principles. During the discussion, school has accepted that this is an accounting issue and will correct the same from the next year onward. The details of development fund and general fund during FY 2015-16 as per school are as follow:

(Figures in Rs.)

Particulars	Development Fund	General Fund
Opening Balance as on 01.04.2015	1,92,675	18,42,830
Add: Receipts during the year	22,54,038	-
Add: Interest during the year	2,415	-
Add: Amount transferred from General Fund	1,38,81,888	-
Add: Development Fund utilized for Capital Expenditure	-	1,62,32,354
Add: Excess of Income over expenditure	-	37,45,231
Sub-total	1,63,31,016	2,18,20,415
Less: Transferred to Development Fund	-	1,38,81,888
Less: Utilized for Capital Expenditure during the year	1,62,32,354	-

Particulars	Development Fund	General Fund
Less: Bank Charges	445	-
Closing Balance as on 31.03.2016	98,217	79,38,527

VIII. As per school, it has started to prepare the fixed assets register from FY 2013-14 onward. On review of fixed assets registers for FY 2013-14, 2014-15, 2015-16 and 2016-17, following points were noted:

- a. Fixed assets register for each financial year has been prepared separately. In the fixed assets register for FY 2013-14, opening balance of the fixed assets were not mentioned and only fixed assets purchased during the year were recorded.
- b. In the fixed assets register for FY 2014-15, 2015-16 and 2016-17, only quantitative details are carried forward.
- c. On sample basis, fixed assets register for FY 2015-16 were reviewed against the invoices for purchase of fixed assets for the year. In some cases, value of purchase as per fixed assets register and value as per fixed assets schedule are not tallying for each of the assets reviewed.
- d. The fixed assets register was not maintained properly and complete details of assets such as units, value and location, etc., are not mentioned in the register. School has submitted that the register is not updated.
- e. Also, no physical verification of the fixed assets has been carried out during the period of evaluation.

In view of the above, school is directed to carry out the physical verification of its fixed assets duly certified by a Chartered Accountant firm and submit the same at the time of submission of fee increase proposal of the school for next academic session.

Other Irregularities

- I. As per Order No. F.DE. /15(27)/Act-I/2015/29150-29158 dated 23.02.2015 no school shall, while admitting a child, collect any capitation fee. However, the school is charging activity charges of Rs. 30,000 per annum at the time of admission in addition to annual chares and therefore, activity charges collected at the time of admission is in the nature of capitation fee. The school is directed to stop the collection of this fee from next academic session.

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II. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and condition mentioned at S. No. 18 in the land allotment letter which provides for 25% reservation to children belonging to EWS category. The DDE (District) may look into this matter. As per school, the details of EWS students and total students in FY 2014-15, FY 2015-16 and FY 2016-17 are as follows:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1444	1559	1647
EWS Students	226	244	264
% of EWS students	16%	16%	16%

III. The following observations were noted in relation to caution money:

a. The school has shown the un-refunded caution money as liability. However, as per clause 4 of order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (which remains un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. Further, school has not provided details of number of students left the school in the FY 2014-15 to FY 2016-17 and hence, financial impact of the same could be ascertained. School is directed to comply with the directions of DoE in this regard.

b. As per school, it refunds caution money only to students who makes an application for refund of caution money and not to all the students leaving the school during the year. Further, the school has not refunded interest on caution money to students leaving the school. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the caution money collected shall be kept deposited in a schedule bank in the name of the concerned school and shall be returned to the student at the time of his/ her leaving the school along with bank interest thereon irrespective of whether or not he/ she requests for a refund.

IV. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). School should follow the depreciation rates as prescribed the Guidance Note-21 "Accounting by Schools".

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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. 13,55,53,333 out of which cash outflow in the FY 2017-18 is estimated to be Rs. 13,98,68,732. This results in deficit of Rs. 43,15,399. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	68,17,882
Investments as on 31.03.17 as per audited Financial Statements	19,74,935
Add: Additions to building in contravention of Clause 2 of Public notice dated May 4th, 1997 is recoverable from Society	61,59,328
Add: Interest paid on loan during FY 2014-15 to 2016-17	58,25,431
Add: Repayment of term loan during FY 2014-15 to 2016-17	1,00,22,180
Add: Amount deposit to GDA is to be recovered from Society	2,00,000
Less: Term Deposit in name of school and Secretary CBSE	82,965
Less: Term Deposit in name of manager of school and Secretary CBSE	89,157
Less: Term Deposit in name of Director of Education and Secretary CBSE	21,749
Less: Term Deposit in name of Dy. Director of Education and Secretary CBSE	12,75,466
Less: Development fund as on 31.03.2017	11,19,913
Less: Caution Money	9,83,873
Less: Amount deposited with LIC for Gratuity and Leave Encashment	76,00,000
Total	1,98,26,633
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)	11,51,96,040
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)	5,30,659
Estimated availability of funds for 2017-18	13,55,53,333
Less: Budgeted expenses for the session 2017-18	13,98,68,732
Estimated Deficit	43,15,399

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves.

In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 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 though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural finding noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may 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 it appropriate to allow the increase in tuition fee by 10% from 01 April, 2019.

AND WHEREAS, it is also noticed that the school funds have been utilized for construction of building amounting Rs. 61,59,328 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. School funds have been utilised for repayment of loan and interest thereon amounting Rs. 58,25,431 and Rs. 1,00,22,180 respectively. Also, Rs. 200,000 was being paid to GDA for land allotment. These payments are in contravention of Rule 177 of DSER, 1973. Total amount to be recovered by the school from society is Rs. 2,22,06,939. 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 for academic session 2017-18 of **Sneh International School, A-2 Block, New Rajdhani Enclave, Vikas Marg, Delhi-110092 (School Id: 1003247)** has been accepted by the Director of

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Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 10%.

Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate order dated 25.08.2017.
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 and others. 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.

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

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To

The Manager/ HoS

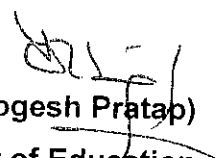
Sneh International School, A-2 Block, New Rajdhani Enclave, Vikas Marg, Delhi-110092 (School Id: 1003247)

No. F.DE.15 (255) /PSB/2019 /1455 - 1459

Dated: 29/3/2019

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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