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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 ( 90 )/PSB/2019 /1438-1442

Dated: 7/2/2019

**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

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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, **Gyandeep Vaidya Bhawan Secondary School, Block C- 10, Yamuna Vihar, Delhi- 110053 (School Id: 1104309)** 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 opportunity of being heard on July 06, 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. Clause 2 of the Public Notice dated 04.05.1997 states that it is the responsibility of the society who has established the school to raise funds from their own sources or donation from the other associations because the immovable property of the school becomes the sole property of the society. Also, Rule 177 of DSEA&R, 1973 states that income derived by the unaided recognised school 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 fee collected by such school may be utilised for meeting capital or contingent expenditure of the school.

However, on review of financial statements of the school, it has been observed that the school has incurred Rs.41,51,516 and Rs.6,90,144 for upgradation of building in FY 2015-16 and FY 2016-17 respectively which was capitalised under the head of building in the financial statement of the school before providing for gratuity and leave encashment. Thus, the amount spent by the school for upgradation of Building is in contravention of Rule 177 of DSEA&R, 1973 as well as clause 2 of the Public Notice dated 04.05.1997. Hence, Rs.48,41,660 is added to the fund availability and accordingly, the school is directed to recover the same from the Society.

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- II. On review of financial statements of the school, it has been noted that school has paid honorarium to the Manager of the School for Rs.6,90,000 and Rs.7,77,000 in FY 2015-16 and 2016-17 respectively. Since these payments are made towards honorary post therefore, the same are not allowed and the school is directed to recover Rs.14,67,000 from the Society.
- 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 & 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 namely Activity fee, Exam fee, IT charges and Transport fee from the students but these levies were not charged on 'no profit no loss' basis as the school has either earned surplus or incurred deficit from these levies. During the period under evaluation, the school has generated surplus on account of Activity fee, Exam fee, and IT fee and incurred loss under Transport fee. Further, the school is not following the fund-based accounting in respect of 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.

Moreover, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises 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 provisions, earmarked are to be collected only from the user students availing the facilities and if, the services are extended to other Students of the school, a separate charge should not be levied by the school as it would get covered either form the Tuition Fee or from Annual Charges. Accordingly, school should not charge a separate levy in the name of "Exam fee". Further, the school is collecting IT Fee from all the students, therefore, the school is required to stop collection of IT fee from the students of class I to X.

- IV. As per section 13 of RTE Act, 2009, the school should not charge capitation fee from the students at the time of admission, contravention of which shall be punishable with fine which may extend to ten times of the capitation fee charged. However, it has been observed that, in FY 2016-17, the school has collected 'Development charges' of Rs.3200, Rs.3500 and Rs.5000 from the student of class Ist to V, VI to X and XI & XII respectively at the time of admission. Therefore, the school is directed to stop collection of capitation fee with immediate effect and comply with Section 13 of RTE Act, 2009.
- V. 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 it has been observed that the school had increased IT Charges from Rs.200 to Rs.300 for Class XII in FY 2016-17. Also, the school has introduced a new head of charges namely "Activity Charges" of Rs.200 from the students of Class I without obtaining prior approval from Directorate of Education in contravention of the order issued by Directorate of Education. The school may be show cause under section 24(4) of DSEA, 1973 why it has increased the fee in contravention of Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016.
- VI. 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 recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. However, the school has not provided any amount towards the gratuity and leave encashment in its financial statement during the FY 2014-15 to 2016-17. The School has explained during discussion that it is recognising the expenditure for gratuity and leave encashment on actual payment basis. Therefore, the school is directed to recognise the amount of gratuity and leave encashment as required by AS-15.

#### 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 land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE is directed to look into the matter. The admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	921	971	985

Particulars	FY2014-15	FY2015-16	FY2016-17
Total number of EWS	86	88	90
% of EWS to total number of students	9.34%	9.06%	9.14%

- II. The school is charging depreciation at the rates prescribed under the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note.

**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. 4,18,75,197** out of which cash outflow in the year 2017-18 is estimated to be **Rs. 2,85,12,395**. This results in surplus of funds amounting to **Rs. 1,33,62,802**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Financial Statements	36,50,387
Investments as on 31.03.17 as per Financial Statements	33,07,978
Add: Amount recoverable from the society for additions made in building during FY 2015-16 and 2016-17	48,41,660
Add: Amount recoverable from the society honorarium paid to Manager in FY 2015-16 and 2016-17	14,67,000
<b>Total</b>	<b>1,32,67,025</b>
Add: Fees for FY 2016-17 as per Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	2,78,13,820
Add: Other income for FY 2016-17 as per Financial Statements	7,94,352
<b>Estimated availability of funds for the FY 2017-18</b>	<b>4,18,75,197</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) (Refer Note- 1)	2,85,12,395
<b>Net Surplus</b>	<b>1,33,62,802</b>

**Note- 1:** As per the minutes of SMC, it was unanimously passed and resolved that the school will implement the 7<sup>th</sup> CPC w.e.f. 1 April 2018. The school has neither collected any arrear fees from the students nor will pay arrears salary to the staff. The school is claiming that it is paying the salary as per 6<sup>th</sup> CPC but has not paid the 6<sup>th</sup> CPC arrears as of now. Further, as per the JADSC, recommendation the school has already increased the salary as per order dated 11.02.2009, therefore, Rs.30,00,000 proposed by the school for payment of shortfall of 6<sup>th</sup> CPC has not been considered in the evaluation of fee.

- 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 utilizing 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 utilized 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 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, it is also noticed that the school has incurred Rs.48,41,660 for construction of building and Rs.14,67,000 for payment of honorarium to the Manager of the school. Therefore, the school is directed to recover **Rs.63,08,660** 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.

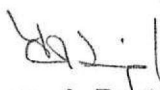
Accordingly, it is hereby conveyed that the proposal of fee increase of **Gyandeep Vaidya Bhawan Secondary School, Block C- 10, Yamuna Vihar, Delhi- 110053 (School Id: 1104309)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of 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 7<sup>th</sup> 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 rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days 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 issues with the prior approval of the Competent Authority.

  
 (Yogesh Pratap)  
 Deputy Director of Education  
 (Private School Branch)  
 Directorate of Education, GNCT of Delhi

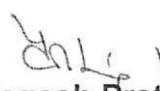
To  
 The Manager/ HoS  
 Gyandeep Vaidya Bhawan Secondary School,  
 Block C- 10, Yamuna Vihar, Delhi- 110053 (School Id: 1104309)

No. F.DE.15 (9140)/PSB/2019/1438-1442

Dated: 7/2/2019

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