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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 ( 56 )/PSB/2019 / 932 - 936

Dated: 22/01/2019

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

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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, **St Laurence Public School, Pocket-F, Dilshad Garden, Delhi - 110095 (School Id: 1105215)** 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 26, 2018. Further, school was also provided opportunity of being heard on July 03, 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 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 the financial statements of the school for FY 2014-15, 2015-16 and 2016-17, following observations have been noted:
  - a. During 2014-15, the school had treated the Development Fee as a revenue receipt which is contravention of aforesaid clause. Therefore, the school is required to make adjustment to Development fund and general fund for Development Fee of **Rs. 36,25,790** received in FY 2014-15.
  - b. The school has transferred Rs. 13,92,920 from the Development Fund Account to Depreciation Reserve Fund in FY 2015-16 and transferred Rs. 15,94,810.73 from General Fund to Depreciation Reserve Fund account in FY 2016-17. Thus, it is clear that the school has not created Depreciation Reserve Fund in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is directed to create Depreciation Reserve Fund in accordance with the aforesaid clause if the school wants to collect development fee in future.

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- c. The school has utilised Rs. 5,84,645 and Rs. 4,97,113 in FY 2015-16 and 2016-17 respectively out of development fund for meeting revenue expenditure in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make adjustment to development fund and general fund for the amount utilised out of development fund for revenue expenditure.
- d. During FY 2015-16 and 2016-17, development fund has been utilised for purchase of following assets in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make adjustment to development fund for the amount utilised out of development fund for meeting capital expenditure. The summary of capital expenditures for which development fund was utilised are as follows:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Building	18,00,382	11,10,000
Library Books	-	4,815
Function Dresses	-	1,32,620
<b>Total</b>	<b>18,00,382</b>	<b>12,47,435</b>

II. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, 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". 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. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School.

On review of financial statements of FY 2015-16 and 2016-17, it is noted that the school has spent Rs. 18,00,382 and Rs. 11,10,000 respectively for upgradation of building which includes construction of swimming pool, ground stairs and furnishing and finishing of building in contravention of aforesaid orders and rule. Therefore, the school is directed to recover **Rs. 29,10,382** from society for amount utilised for upgradation of building.

(Figures in Rs.)

Particulars	2015-16	2016-17	Total
Building	18,00,382	11,10,000	29,10,382

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- 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, during 2016-17, the school has charged earmarked levy in the form of Activity Fee, Transport Fee, Computer Fee, Multiple Intelligence Fee, Smart Class Fee, Examination Fee and Pupil Fund but these charges were not charged on 'no profit no loss' basis. The school has earned surplus from smart class fee and incurred deficit from Activity Fee, Transport Fee, Computer Fee, Multiple Intelligence Fee, Examination Fee and Pupil Fund. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General fund for the surplus/ deficit incurred on these earmark levies.

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.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, the school is directed to stop the collection of separate earmarked levies in the name of Activity Fee, Computer Fee, Multiple Intelligence fee, Examination Fee, Smart class fee and Pupil fund.

- IV. 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 incurrance 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.

It is noted that in FY 2015-16 and 2016-17, instead of creating development fund utilised account, the school has transferred the whole amounts utilised for

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purchase of assets out of development fund to Capital Fund resulting in overstatement of General Fund balance. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Noted- 21 issued by ICAI. Further, the school is directed to adjust general fund for the purpose of determination of actual position of General Fund. The detail of amount adjusted are as under.

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17	Total
Development Fund utilised	18,53,560	16,58,101	35,11,661

**Other Irregularities:**

- I. 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 Strength	926	880	885
EWS strength	58	66	81
% EWS strength to total strength	6%	8%	9%

- II. 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 increased the Pupil Fund and Smart Board charges of all the classes 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. The summary of fee increased by the school are as under.

Class	2015-16	2016-17	% increase	2015-16	2016-17	% increase
	<b>Pupil Fund</b>			<b>Smart Board</b>		
I	170	200	18%	0	160	100%
II	170	200	18%	0	160	100%
III	125	170	36%	0	160	100%
IV	140	170	21%	150	160	7%
V	140	170	21%	150	160	7%
VI	140	170	21%	150	160	7%

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Class	2015-16	2016-17	% increase	2015-16	2016-17	% increase
	<b>Pupil Fund</b>			<b>Smart Board</b>		
VII	140	170	21%	150	160	7%
VIII	180	210	17%	150	160	7%
IX	200	210	5%	150	160	7%
X	200	230	15%	150	160	7%
XI	200	230	15%	150	160	7%
XII	150	230	53%	150	160	7%

III. 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. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits 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.

IV. On review of audited financial statement for FY 2014-15, 2015-16 and 2016-17, it is noted:

- a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon.
- b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number of student left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined.

**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. **4,89,73,764** out of which cash outflow in the year 2017-18 is estimated to be Rs. **4,23,45,324**. This results in net surplus of amounting to Rs. **66,28,440**. The details are as under:

Particulars	Figures (Rs.)
	Amount
Cash and Bank Balances as on 31.03.2017 as per audited Financial Statements	53,66,321
Investments as on 31.03.2017 as per audited Financial Statements*	3,20,570

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Particulars	Amount
Less: Fixed Deposit in the joint name of Secretary CBSE and Manager of the school	(1,57,929)
Add: Amount recoverable from society for upgradation of building in FY 2015-16 and 2016-17	29,10,382
Less: Development Fund as on 31.03.2017	(17,25,161)
Less: Caution money balance as on 31.03.2017	(4,48,400)
<b>Total</b>	<b>62,65,783</b>
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)	4,22,29,996
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)	4,77,985
<b>Estimated availability of funds for FY 2017-18</b>	<b>4,89,73,764</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	4,23,45,324
<b>Net Surplus</b>	<b>66,28,440</b>

**Note 1:** The school has proposed Rs. 1,00,08,777 for salary arrear which is 64% of the previous year salaries. On review of the calculation of arrears submitted by the school, it is noted that school was paying Dearness Allowance @ 100% of basic salary instead of 125% and thus, not complying with 6<sup>th</sup> CPC. Accordingly, the arrears of salaries budgeted as the difference between the salaries drawn under 6<sup>th</sup> CPC and the salaries payable under 7<sup>th</sup> CPC is on higher side. The school has failed to explain such overestimation of budgeted salaries and the calculation submitted by the school for arrears of 7<sup>th</sup> CPC cannot be treated as correct. However, in the above calculations 30% of previous year salary has been considered as salary arrear for the FY 2017-18 and the excess amount of Rs.52,88,896 has been disallowed [Rs.1,00,08,777 – (1,52,32,937\*30%)].

**Note 2:** The school has proposed provision for gratuity of Rs.13,85,409 in budget 2017-18 which has not been considered for evaluation of fee increase proposal.

**Note 3:** The school was directed to refund Rs. 27,39,729 (including interest) by JADSC due to non-compliance of clause 14 of the order dated 11.02.2009. Now the school has proposed this direction as allowable expenditure under the head 'Development Fee Refund Expense in its budget estimates for FY 2017-18. Since the school did not comply with clause 14 of the order dated 11.0.2009 as per finding of the committee therefore, the proposed expenditure cannot form part of the future fee. Accordingly, the same has not been considered in the evaluation of fee increase of the school.

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**Note 4:** School has proposed building upgradation amounting to Rs.15,34,647 in FY 2017-18 in contravention of clause 2 of the Public Notice dated 4 May 1997 and Rule 177 of DSER, 1973 which has not been considered for 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 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 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **St Laurence Public School, Pocket-F, Dilshad Garden, Delhi - 110095 (School Id: 1105215)** 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.

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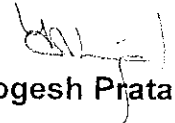


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3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out 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  
St Laurence Public School,  
Pocket-F, Dilshad Garden  
Delhi – 110095, (School Id: 1105215)

No. F.DE.15 ( 56 )/PSB/2018/2019/932-936

Dated: 22/01/2019

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.

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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**

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