

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

No. F.DE.15 (419)/PSB/2019/1315-1319

Dated: 29/03/2019

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, **MBM International School, Ashok Nagar, New Delhi-110093 (School Id: 1106211)** 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 March 24, 2018. Further, School was also provided opportunity of being heard on June 21, 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. In respect of earmarked levies, school is required to comply with:
 - a) Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
 - b) Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
 - c) Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely examination fee, smart class fee and computer fee from the students but the same was not charged on 'no profit no loss' basis as the school has earned surplus against these fees during the period under evaluation. Further, fund based accounting has not been followed by the school in respect of all the earmarked levies. Therefore, the school is directed to adjust the surplus on these earmarked levies against the general reserve and follow the abovementioned provisions.

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

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fee and all One Time Charges" which is 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 from the Tuition Fee or from Annual Charges accordingly school is directed not charge a separate levy for these facilities in the name of examination fee, smart class fee and computer fee from all the students.

- II. On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it was noted that the school has utilised Rs. 6,50,225, Rs. 7,01,576 and Rs. 8,07,489 respectively from the development fund collected towards purchase of assets. However, while scrutinizing the fixed asset schedule, no addition to fixed assets could be traced. Even the school is unable to provide justification for the same. Further, this amount is reflecting on the payment side of the Receipt and Payment Account, which implies that fund was taken out of the bank and was diverted. Therefore, the school is directed to recover Rs.25,59,290 from the society and accordingly, the same has been included in the calculation of fund availability of the school **under point 2.3.4**. The details of the assets are mentioned as under:

(Figures in Rs.)

Assets purchased out of development fund not appearing under head fixed assets	FY 2014-15	FY 2015-16	FY 2016-17
Furniture & fixtures	5,54,950	4,08,125	7,08,360
Motor Pump	6,275		
Water purifier	20,000	18,000	18,000
Battery	19,000	19,000	-
Air conditioners	50,000	-	-
Sports equipment	-	52,797	36,000
Black boards	-	94,725	-
Steel Almira	-	5,045	34,000
Fire safety equipment	-	9,955	-
Boards/Banners	-	59,550	-
Library books	-	12,479	11,129
Speakers	-	2,900	-
Inverters	-	19,000	-
Total	6,50,225	7,01,576	8,07,489

- III. As per Order No. F. DE-15/ACT-IWPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order No. F. DE-15/ACT-IWPC-4109/Part/13/6750 dated 19.02.2016, schools which have been allotted land by the land-owning agencies on the condition to seek prior sanction of Director of Education for increase in fee, are required to submit their proposals for prior approval for academic session 2016-17 online through website of the Directorate. The Land allotment letter of the School has a condition not to increase the rate of fee without prior sanction of the Directorate of Education. However, on review of the fee receipts it has been observed that the school had increased Fee under the head tuition fee, development fee, computer fee, exam fee and smart class fee in FY 2016-17 without obtaining prior approval from Directorate of Education. Thus, School has contravened the aforesaid orders issued by the Directorate of Education. Details of fee increased by the school are as under:

Class	Tuition Fee (Monthly)		Development Fee (Quarterly)		Computer fee (Monthly)		Exam fee (Quarterly)		Smart class fee Monthly	
	2015-16	2016-17	2015-16	2016-17	2015-16	2016-17	2015-16	2016-17	2015-16	2016-17
Pre-primary	975	975	435	435	-	-	325	350	250	275
I to V	975	1070	435	480	275	300	350	375	250	275
VI to VIII	1270	1395	570	624	300	325	350	375	250	275

Other Irregularities

- I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts. Further it also requires that that development fee collected shall be kept in a separate development fund account. However, on review of audited financial statement for the FY 2014-15, 2015-16 and 2016-17, it was observed that neither the school is maintaining depreciation reserve fund nor is it maintaining a separate bank account for depositing the development fee. Therefore, the school is directed to comply with the provisions of clause 14 of order dated 11-02-2009.
- II. On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities have been noted:
 - a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled 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 interest thereon. However, on review of audited Financial Statements, it is observed that the school is being refunding principal amount of caution money only and not the interest thereon which is in contravention of clause 18 of the order dated 11.2.2009. Therefore, the School is directed to comply with the aforesaid provisions.

- b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010, after the expiry of 30 days, the amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, the school has not considered the amount of un-refunded caution money as income in its proposed budget. Therefore, the School is directed to comply with the aforesaid provisions.
- III. The school has shown activity fee in the fee increase proposal submitted by the school to Directorate of education for the FY 2016-17 and FY 2017-18 which is not reflecting in the financial statements for the year FY 2016-17. No Clarification was provided by the school in this regard.
- IV. During 2014-15, school has not charged depreciation to the Income and Expenditure account, rather it was charged to development fund account which is an incorrect treatment. Further, the school is charging depreciation as per rates prescribed by Income Tax Act, 1961 and not as per depreciation rates prescribed by the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note- 21.

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. 1,21,54,222** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 1,36,97,518**. This results in deficit of **Rs. 15,43,296**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	3,72,164
Investments as on 31.03.17 as per audited Financial Statements	3,91,556
Add: Amount diverted by the school for purchase of assets out of Development fund (Refer observation no. II of financial irregularity)	21,59,290
Less: Development fund balance as on 31-03-2017	14,022
Less: Outstanding balance of caution money as on 31-03-2017	28,000
Total	28,80,989
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)	85,99,825
Other income for 2016-17 as per audited Financial Statements	6,73,408
Estimated availability of funds for 2017-18	1,21,54,222
Less: Budgeted expenses for FY 2017-18 (after making adjustment) Refer Note- 1 and 2	1,36,97,518
Estimated Deficit	15,43,296

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Adjustments:

Note-1: The school has proposed Rs.87,40,224 for regular salary to staff which was 14% over the actual salary paid in previous financial year. Therefore, the increased salary proposed by the school in excess of 10% of the actual salary paid in the previous year i.e. Rs. 3,34,050 has not been considered for evaluation of fee increase proposal.

Note -2: As per 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". Further, Rule 177 of DSER, 1973, states that the 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. Based on aforesaid provisions and considering the year of implementation of 7th CPC, the amount proposed by the school of Rs.8,61,000 towards capital expenditure has been restricted to the extent of development fee receivable in FY 2017-18 and accordingly excess amount of Rs.71,000 has not been considered in evaluation of fee increase proposal.

- 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 findings 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 15% from 01 April, 2019.

AND WHEREAS, it is also noticed that the school has utilised Rs.21,59,290 out of development fund for purchase of fixed assets but the assets were not reflecting in the financial statement. Therefore, the school is directed to recover Rs.21,59,290 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 for academic session 2017-18 of **MBM International School, Ashok Nagar, New Delhi-110093 (School Id: 1106211)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. 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

To
 The Manager/ HoS
 MBM International School,
 Ashok Nagar, New Delhi-110093 (School Id: 1106211)

No. F.DE.15 (419)/PSB/2019 /1315-1319


Dated: 29/03/2019

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.

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4. DDE concerned
5. Guard file.


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