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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 (587) / PSB/2018/30030-35 Dated: 30/11/18

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27.....

(c) *It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...*

28. *We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....*

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

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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, **Greenway Modern Sr Sec School, Between Pokcets A&D, Dilshad Garden -952, Delhi (School Id: 1106222)** 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 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 has 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 an opportunity of being heard on July 20, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification 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:
 - i. 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;
 - ii. Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
 - iii. 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, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, school has submitted that it is charging earmarked levies namely transport fee, smart classes fee and SMS & web charges from the students but these fees are not charged on 'no profit no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus from SMS & Web charges and incurred deficit against the receipts of

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transportation and smart class fee. Further, school is not following the fund-based accounting in respect of these earmarked levies collected from the students. School is directed to charge earmarked levies in accordance with clause 22 of order dated 11.02.2009 and to follow fund based accounting.

- II. On the review of audited financial statements of the FY 2014-15, it is noticed that school has utilised development fund to the tune of Rs.1,18,10,783 for purchase of fixed assets. However, total addition as per fixed assets schedule was Rs.1,07,90,783. Thus, there is a difference of Rs.10,20,000 between the amount utilised out of development fund and the amount capitalised under the head of fixed assets. The school has clarified vide letter dated 27.08.2018 that Rs.10,20,000 was received on account of sale of old buses which was wrongly added to development fund utilisation account. Accordingly, school is directed to make necessary adjustments in the balance of development fund utilisation account and development fund account so as to ascertain the correct position of funds.
- III. During the FY 2014-15 school has paid gratuity of Rs 8,00,000 which has been booked as expense in income and expenditure account and the same has not been adjusted against provision for gratuity appearing in the balance. School is directed to follow correct accounting practice and to make necessary changes in the balance of provision and general reserve.

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. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 given by the school are as under.

S. No.	Particulars	2014-15	2015-16	2016-17
1	EWS Students	312	362	405
2	Total Students	3,317	3,394	3,379
3	% of EWS Students	9%	11%	12%

- II. It has been observed that the school has incurred high amount of expenditure on purchase of furniture & fixture and on repair & maintenance of furniture and fixture in the FY 2014-15 to 2016-17 whereas the total number of the students were not increased in the same proportion. School is directed to follow due diligence while utilising school funds. Summary of the expenditure incurred for purchase and repair & maintenance on furniture and fixture and the proposed adjustment in reserve and surplus and fund position is as under:

(Figure in Rs.)			
Particulars	2014-15	2015-16	2016-17
Opening Balance at the beginning			

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Particulars	2014-15	2015-16	2016-17
of the financial year	2,15,33,577	2,89,50,507	3,54,93,382
Add: Additions during the year	74,16,930	65,42,875	57,35,896
Less: Deletion during the year	-	-	-
Closing Balance at the end of the financial year	2,89,50,507	3,54,93,382	4,12,29,278
% of addition over opening balance	34%	23%	16%
Repair & maintenance of Furniture & Fixture	17,46,067	33,13,909	23,24,176
% of repair and maintenance over opening balance	8%	11%	7%
Number of students	3,317	3,394	3,379
Cost of furniture & fixture per student	9,254	11,434	12,889
Depreciation charged on additions	5,43,027	5,14,505	3,92,054

- III. School has provided for gratuity and leave encashment on the basis of management estimates instead of Actuarial valuation basis in accordance with AS-15- Employee benefits. School has opening balance of amount of Rs.15,67,732 in the FY 2014-15. There could be an impact on the financials of the school, had the provision was been done on the basis of actuarial valuation. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal. Further, school has not created any provision for gratuity in the FY 2015-16 and FY 2016-17. Therefore, the school is directed to provide for statutory liability on the basis of actuarial basis in order to protect the interest of the teachers.
- IV. During the FY 2015-16, the school has sold computer and furniture for Rs. 1,50,000 and 5,000 respectively but the sale consideration on sale of these fixed assets are not appearing in the receipts & payment account for which the school failed to provide any clarification for not routing the aforesaid sale proceeds through receipts and payment accounts.
- V. During review of financial statement of the FY 2014-15, 2015-16 and 2016-17, following observations were noted in relation to caution money:
- a) 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 un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of ensuing year 2017-18' submitted

with return filled under rule 180(1) of DSER, 1973. But the school has not considered the amount of un-refunded caution money as income in the proposed budget. Further, in the absence of complete details the financial impact of the same cannot be ascertained on the proposed budget.

- b) As per clause 18 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, caution money collected from students shall be refunded to students at the time of his/ her leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund.

However, on review of Receipts and Payments account it is noted that the school is not refunding caution money to students who have left the schools along with bank interest. In the absence of complete information, impact of the same cannot be ascertained.

- VI. During the review of audited financial statements for FY 2016-17 it has been noted that the school has incurred 45% (approx.) of expenditure towards establishment expenses and 55% (approx.) towards other expenditure whereas as per Rule 177, 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 employees of the school. From the above analysis, it appears that the school is utilising its fund for other purposes rather than securing the interest of the teachers. Therefore, the school management is required to take immediate steps to monitor the expenditure of the school and limits its administrative expenditure. On review of audited financial statements, the other expenditures have gone up majorly due to the following expenses:

(Figures in Rs.)

Particulars	FY 2016-17
Function and Festival Expenses	50,47,725
Educational Expenses	63,07,450
Exam Expenses	33,85,579
Staff Welfare	52,48,349
Student Welfare	93,57,846
Advertisement Expenses	52,72,351
Web and SMS Service Expenses	35,51,739
Printing & Stationery and Exam Expenses	75,12,242
Building Repair	1,47,95,178

- VII. The school has not prepared the audited financial statements as per the requirement of Appendix-II order no. F.DE-15/ACT- IWPC-4109/part/13/7905-7913dated 16.04.2016. The following observation has been noticed:

- i. School has not shown the 'Staff Salary and Benefits' separately in the 'Income and Expenditure account' for teaching and non-teaching staff.



- ii. Fixed assets schedule is not prepared as per the requirements of Appendix-II of this order.

VIII. It is noted that the school has been charging and collecting smart classes fee and SMS & web charges from each of the students. As per Duggal Committee Report, there are only four categories of fee that can be charged by school. The first category is registration fee and one-time charges. The second category comprise of Tuition fee. The third category of fee is Annual charges and the fourth category of fee consists of earmarked levies. Currently, school is claiming that smart classes fee and SMS & web charges are as part of earmarked levies which is not correct. It is clear that the smart classes fee and SMS & web charges do not fall under any of the aforesaid heads of fee as school is charging these heads of fee from each of the student. School needs to streamline its fee structure in accordance with the provisions of DSEA & R, 1973 and other directions of this Directorate.

Further, as the Pupil Fund fee is not covered by any of the four categories, school is directed not to collect Pupil Fund fee from the students.

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. **18,00,73,541** out of which cash outflow in the year 2017-18 is estimated to be Rs. **15,22,54,708**. This results in net surplus of Rs. **2,78,18,833**. The details are as follows:

Particulars	Amount (Rs.)	Remarks
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	3,18,87,292	
Investments as on 31.03.17 as per audited Financial Statements	14,70,608	
Less: Development Fund	1,34,81,001	
Total	1,98,76,899	
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)	15,85,04,200	
Other income 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)	16,92,442	
Estimated availability of funds for 2017-18	18,00,73,541	
Less: Budgeted expenses for the session FY 2017-18	15,22,54,708	Note 1
Net Surplus	2,78,18,833	

Adjustments:

Note 1: School has proposed for fixed assets amounting Rs. 1,52,20,560 for FY 2017-18. The school has not provided any details of the proposed expenditure. After discussion, school has submitted provisional financial statements for FY 2017-18

wherein it claimed to incur capital expenditure of Rs. 85,77,619. Therefore, capital expenditure to the extent actual expenditure incurred by school have been considered in the above calculations.

- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it has been recommended by the team of expert Chartered Accountants that since prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th 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 7th 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 **Greenway Modern Sr Sec School, Between Pokcets A&D, Dilshad Garden -952, Delhi (School Id: 1106222)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

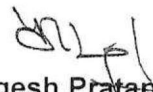
1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.

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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/violations will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

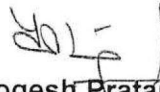
This is issued with the prior approval of the Competent Authority.


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

To
 The Manager/ HoS
 Greenway Modern Sr Sec School,
 Between Pokcets A&D, Dilshad Garden -952, Delhi (School Id: 1106222)

No. F. DE-15 (587) / PSB/2018/30030-35 Dated: 30/11/18
 Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


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