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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(266)/PSB/2019 | 1370 - 1374

Dated: 29/3/2019.

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7<sup>th</sup> Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that 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, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 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 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court 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 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. 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) read along 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 response to this directorate's circular dated 23 Oct 2017 referred to above, **St. Rosier Public School (School ID-1309170), Shalimar Bagh, Delhi-110088** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 Chartered Accountants at HQ level who has evaluated the fee increase 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 through email. Further, school was also provided an opportunity of being heard on 1 August 2018 at 2:00 PM 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. Additionally, a visit was made at the school by the Chartered Accountant evaluating the fee increase proposal submitted by the school on 19 Oct 2018 to gather and review information/data relevant for evaluation of the proposal.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

#### A. Financial Discrepancies

1. Clause (vii) (c) 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 the financial fee structure..... capital expenditure/investments have to come from savings.*"

Further, clause 14 of this Directorate's Order No. F.DE/15 (56) /Act/ 2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment....*"

Based on the information provided by the school, the school had incurred an expenditure on purchase of a Bus (Tata Star Bus 26 + 1 Seater) of INR 14,75,874 during FY 2016-2017 of which INR 3,75,874 has been utilised from development fund, which was a non-compliance of the direction included in aforementioned orders. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. The remaining balance of INR 11 lakhs was contributed the society, which, however, was recorded as amount payable to the society in the audited financial statements of the school for FY 2016-2017.

During personal hearing, the school mentioned that this bus was bought to commence transport facility for students. While the school purchased the bus on 28 Feb 2017, it did not include any budget towards income and expenses in relation to the transport facility in

its budgeted Receipt & Payment Account for FY 2017-2018. The school mentioned that the transport facility was not started in the academic session 2017-2018, instead it was started in the session 2018-2019. However, the school could not explain the reason for purchasing the bus on 28 Feb 2017 and did not use the same for more than a year.

Accordingly, the amount spent on purchase of bus utilising school funds of INR 3,75,874 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Society within 30 days from the date of this order. Further, the school is instructed to adjust the amount of INR 11 lakhs reflected as payable to the society in its audited financial statements with the remaining balance of bus.

2. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" According to para 7.14 of the Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*Plan assets comprise:*

- (a) *assets held by a long-term employee benefit fund; and*  
(b) *qualifying insurance policies.*"

The audited financial statements of the school for FY 2016-2017 indicated that the school has not made any provision towards its liability for gratuity and leave encashment.

The school submitted actuarial valuation reports dated 9 Aug 2018 providing valuation of the liability towards gratuity and leave encashment for FY 2017-2018. On examination of the actuarial reports, it was noted the actuarial valuation was done in respect of only 20 employees of the school, whereas per the staff statement of April 2017 submitted by the school, it was noted that the school had provided details of 58 employees. Thus, it appears that the liability towards gratuity and leave encashment in the actuarial valuation reports was understated.

While the actuarial valuation reports are liable to be rejected on account of understated liability included in same, an amount of INR 7,40,373 (approximately 20% of the gratuity liability included in the actuarial report) and INR 57,242 (approximately 20% of the leave encashment liability included in the actuarial report) has been considered while deriving the fund position of the school (enclosed in the later part of this order), as this is the first time school obtained actuarial valuation of its liability towards staff retirement benefits.

Further, the school has not made any eligible investments that qualify as 'plan assets' within the meaning of Accounting Standard 15.

Accordingly, the school is directed to obtain actuarial valuation of its liability towards staff retirements benefits covering all employees of the school and deposit 20% of the amount determined by the actuary in investments that qualify as 'Plan Assets' as per Accounting Standard 15 within 30 days from the date of this order and the remaining liability over a period of next 4 years in order to protect the statutory liability towards staff. Accordingly, the amount budgeted by the school towards gratuity and leave encashment for FY 2017-

2018 has not been considered as part of budgeted expenses in the fund position of the school (enclosed in the later part of this order).

**B. Other Discrepancies**

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

Further, clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*"

From the information provided by the school and taken on record, it was noted that the school charges earmarked levy in the form of Computer fee from students. However, the school has not maintained separate fund account for the same and the school has been incurring loss (deficit) that has been met from other fees/income, which was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/176-180 dated 26 December 2016. Details of calculation of deficit, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	(Deficit)/ Surplus (INR)
	A	B	C=A-B
Computer Fee	5,15,770	6,37,700	(1,21,930)

On the basis of aforementioned orders, earmarked levy is to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition



fee). The school is charging computer fees from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user based fees. Thus, based on the nature of the computer fees and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to this from tuition fee and/or annual charges, as applicable collected from the students. The school explained that annual charges collected from students are not sufficient to meet revenue expenses of the school. Thus, the deficit incurred from earmarked levy has been netted-off from other fee collected by the school on account of which fund balance of earmarked levy could not be separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

- 2. The school submitted a statement of staff as on 1 April 2017 along with its proposal for enhancement of fee for FY 2017-2018, which reflected a total of 58 staff. However, in its calculation for salary as per 7<sup>th</sup> CPC, the school submitted details of only 20 staff and mentioned that the remaining 38 are taken on contractual basis. Further, on examination of the salary payment sheets submitted by the school for the month of Mar 2017, it was noted that the school has not deducted any PF or ESI and has not deposited any amount towards these statutory liabilities.

Accordingly, the school is directed to ensure compliance with the provisions of DSEA & R, 1973 and other statutes including Employees' Provident Funds & Miscellaneous Provisions Act, 1952 and Employees' State Insurance Act, 1948. Compliance shall be verified at the time of evaluation of subsequent fee increase proposal.

- 3. Para 67 of the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India states "*The financial statements should disclose, inter alia, the historical cost of fixed assets.*"

Basis the presentation made in the audited financial statements for FY 2016-2017 submitted by the school, it was noted that the school is reporting fixed assets (other than those purchase from development fund during FY 2016-2017) at written down value, which is not in accordance with the disclosure requirements included in the guidance note cited above. Accordingly, the school is directed to disclose all asset at gross value on the face of Balance Sheet on the assets side and accumulated depreciation as depreciation reserve on the liability side of the Balance Sheet. The above being a presentation/disclosure finding, no financial impact is warranted for deriving the fund position of the school.

- 4. Directorate's order no. F.DE-15/WPC-4109/Part/13/7914-7923 dated 16 Apr 2016 regarding fee increase proposals for FY 2016-2017 stated "*In case, the schools have already charged any increased fee prior to issue of this order, the same shall be liable to*



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be adjusted by the schools in terms of the sanction of the Director of Education on the proposal".

The school had increased annual charges ranging from 20% to 33% during FY 2016-2017, without prior approval of the Directorate. Whereas, post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the fee increase proposal was rejected by DoE with the direction to the school that in case increased fee has already been charged from the parents, the same shall be refunded/adjusted vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/176-180 dated 26 December 2016.

Based on the details provided by the school, it was noted that the school did not refund/adjust the increased annual charges collected from students during FY 2016-2017. Also, during discussion with the school in personal hearing, the school mentioned that it has continued to collect increased annual charges during FY 2017-2018 and FY 2018-2019 also. School further mentioned that the fund position of the school does not allow refund/adjustment of increased fee collected from the students.

The school is directed not to increase the fee of any class without prior approval of the Directorate. Basis the fund position of the school, the fee collected by the school has been duly considered while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order).

5. Clause 14 of this Directorate's Order No. F.DE./15 (56) /Act/ 2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment ..... and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.*"

On review of the financial statements for FY 2016-2017, it was noted that no separate bank account was opened/ fixed deposits created by the school for deposit of development fee/ fund, which is not in accordance with the direction included in aforementioned order. Hence, the school is directed to maintain development fund in a separate bank account and/or deposit the amount in fixed deposit with bank. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

6. Para 18 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states that "*schools should follow recognition and measurement principles, within the framework of accrual basis of accounting, for the purpose of preparation of their financial statements.*"

During review of the audited financial statements of the school for FY 2016-2017, it was noted that the school is following hybrid system of accounting whereby incomes are accounted on cash basis and expenses are accounted on accrual basis.

The school is directed to follow accrual basis of accounting in accordance with the Guidance Note referred above.

7. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/176-180 dated 26 Dec 2016 noted that Fixed Assets Register is not maintained by the school and consequently, physical verification of assets is not being done by the school on periodical basis.

The school submitted a Fixed Assets Register (FAR), but it captured only the asset name, amount of assets purchased and depreciation thereon. The FAR prepared by school did not include details such as supplier name, invoice number, purchase date, manufacturer's serial number, location, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. Also, the value of assets reported in the FAR could not be reconciled with the amount mentioned in Fixed Asset Schedule annexed to the audited financial statements of FY 2016-2017.

Further, Rule 59(2)(viii) of DSER, 1973 states ".....conduct physical verification of school property and stocks at least once a year and ensure the maintenance of stock registers neatly and accurately". It was noted that the school did not conduct physical verification of assets during FY 2016-2017.

During the personal hearing, school mentioned that it will make recommended changes from FY 2018-2019 onwards. The school is directed to update the FAR with relevant details mentioned above and conduct physical verification of assets on periodic basis. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

**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 INR 2,10,92,210 out of which cash outflow in the year 2017-18 is estimated to be INR 3,23,34,352. This results in net deficit of INR 1,12,42,142. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	9,843
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	8,61,798
<b>Total Liquid Funds Available with the School as on 31 Mar 2017</b>	<b>8,71,641</b>
Add: Estimated fees and other incomes for FY 2017-2018 based on audited financial statements for FY 2016-2017 of the school [Refer Note 1]	2,13,52,581
Add: Recovery from Society against purchase of bus (net of amount already transferred by the Society) [Refer Financial Finding No. 2]	3,75,874
<b>Gross Estimated Available Funds for FY 2017-2018</b>	<b>2,26,80,696</b>
Less: Retirement benefits - Gratuity (20% of liability as per valuation report) [Refer Financial Finding No. 2]	7,40,373
Less: Retirement benefits – Leave Encashment (20% of liability as per valuation report) [Refer Financial Finding No. 2]	57,242

Particulars	Amount (INR)
Less: Development fund balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	7,10,920
<b>Net Estimated Available Funds for FY 2017-2018</b>	<b>2,10,92,210</b>
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 2]	2,68,47,580
Less: Arrears of salary as per 7th CPC for the period Jan 2016 to March 2017 (as per separate computation provided by the school) [Refer Note 2]	54,86,772
<b>Estimated Deficit</b>	<b>1,12,42,142</b>

**Notes:**

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.
2. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 4,47,18,300 (including arrears of salary as per 7<sup>th</sup> CPC for the period January 2016 to March 2017 of INR 54,86,772), which in some instances was found to be unreasonable/excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

Expense Heads	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
Salary and wages including Allowances and arrears	16,976,312	2,93,44,900	2,74,10,952	19,33,948	The amount is considered based on the calculation of 7 <sup>th</sup> CPC provided separately by the school. Arrears of INR 54,86,772 included in the salary amount has been reflected separately in table above.
Allowance Arrear	-	14,50,000	-	14,50,000	
Gratuity	-	15,00,000	-	15,00,000	Refer Financial Finding No. 2
Leave Encashment	-	10,00,000	-	10,00,000	
4 Months Working Reserve	-	65,00,000	-	65,00,000	Since FY 2017-2018 is the year of implementation of 7 <sup>th</sup> CPC, this has not been considered and



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Expense Heads	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
					should be deferred by the school.
<b>Total</b>	<b>16,976,312</b>	<b>3,97,94,900</b>	<b>2,74,10,952</b>	<b>1,23,83,948</b>	

ii. It seems that the school may not be able to meet its budgeted expenses from the existing fee structure and accordingly, it should utilise its existing funds/reserves and other resources. In this regard, Directorate of Education has already issued directions to the schools vide circular no. 1978 dated 16 Apr 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 instructions 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 materials were put before Director of Education for consideration and who after considering all material on record has found it appropriate to allow increase in tuition fee by 15% with effect from April 2019.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **St. Rosier Public School (School ID-1309170), Shalimar Bagh, Delhi-110088** has been accepted by the Director of Education with effect from April 2019 and the school is hereby allowed to increase tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

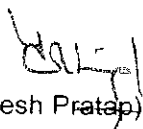
1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
3. To ensure implementation of recommendations of 7<sup>th</sup> CPC in accordance with Directorate's order dated 25 Aug 2017.

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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.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 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

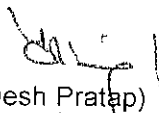
**To:**  
The Manager/ HoS  
ST. Rosier Public School  
School ID 1309170  
Shalimar Bagh, Delhi-110088

No. F.DE.15(266)/PSB/2019 / 1370 - 1374

Dated: 29.3.2019.

**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 Spl. 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