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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(218) / PSB / 2019 / 1280 - 1284 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 7th 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, **Little Fairy Public School (School ID-1309229), Kingsway Camp, Delhi-110009** 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 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 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 28 May 2018 at 10 AM and 16 August 2018 at 4 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 17 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. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. Hon'ble Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The school was directed by DoE through its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/872 dated 22 August 2017 to recover the amount of INR 43 Lakhs transferred to Little Fairy Public School, Ashok Vihar within 60 days from the date of receipt of the order. Further, it was noted that the school made payments during FY 2016-2017 on behalf of Little Fairy Public School, Ashok Vihar towards which amount of INR 1,01,426 has been reflected as recoverable from Little Fairy Public School, Ashok Vihar in the audited financial statements of the school for FY 2016-2017.

   During personal hearing, the school confirmed that it has already recovered amount totalling to INR 24,00,000 from the school during FY 2017-2018 and FY 2018-2019 and submitted the evidence of receipt of funds from the school. The school further mentioned

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that the remaining balance of INR 19,00,000 will be recovered during later part of FY 2018-2019.

Accordingly, this amount of INR 44,01,426 (i.e. INR 43,00,000 plus INR 1,01,426) 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, as budgeted by the school in its income for FY 2017-2018 and with the direction to the school to recover the balance amount from Little Fairy School, Ashok Vihar within 30 days from the date of this order.

2. 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. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with the income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

   Order no. F. DE-15/ACT-I/WPC-4109/PART/13/872 dated 22 August 2017 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that the school was treating development fee as revenue receipt and crediting the same to Income & Expenditure Account.

   From the audited financial statements of FY 2016-2017, it was noted that the school has continued to treat development fee as revenue receipt and reported the same as income in its Income & Expenditure Account. Also, the school has not reported depreciation reserve in its financial statements. During personal hearing, the school submitted that it was not able to meet its commitment towards establishment expenses, hence was utilising the development fee for payment of salaries. The school further submitted that it will ensure that the directions of the Directorate are implemented in the FY 2018-2019.

   Accordingly, the school is directed to follow DOE instructions in this regard and ensure that development fund is treated as capital receipt and utilised only towards purchase of furniture, fixture and equipment. Also, depreciation reserve equivalent to the depreciation charged in the revenue accounts should be created and reported in the financial statements of the school. As development fee is taken to Income & Expenditure Account, the amount of development fee collected has been considered together with other incomes as budgeted income for FY 2017-2018 while deriving the fund position of the school (enclosed in the later part of this order).

3. 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.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) Assets held by a long-term employee benefit fund; and
(b) Qualifying insurance policies.

Order no. F. DE-15/ACT-I/WPC-4109/PART/13/872 dated 22 August 2017 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that the school was not recognizing liability towards retirement benefits of the employees in its financial statements.

From the financial statements for FY 2016-2017, it was noted that the school had not provided for provision for retirement benefits in its financial statement. Further, the school has not got its liability for retirement benefits liability valued by an actuary for FY 2016-2017. During personal hearing, the school submitted that it was paying gratuity on actual basis at the time of employee retire/leave the school as the school does not have sufficient funds to provide for liability towards staff retirement benefits in the books of accounts and invest the same in plan assets. It was also mentioned by the school that it was not paying leave encashment to employees who retire/leave the school.

Non-payment of leave encashment to staff is not in accordance with section 10 of DSEA, 1973. Accordingly, the school is directed ensure compliance with DSEA, 1973 in respect of payment of retirement benefits at the time of them leaving the school/ at retirement. The school should get its liability for retirement benefits valued by an actuary within 30 days from the date of this order and record the same as provision in its books of account. Further, the school is directed to invest the amount against the liability for retirement benefits determined by the actuary in investments that qualifies as 'plan-assets' in accordance with Accounting Standard 15.

In absence of actuarial valuation, provision in books of account and investment, no amount towards retirement benefits has been considered while deriving 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).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Science Fee, Eco Fee & transport fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school or has been incurring losses (deficit), which has been met from other fees/income. This was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/872 dated 22 August 2017. Details of calculation of surplus/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
Science Fee	59,528	62,528	(3,000)
Eco Fee	22,500	23,172	(672)
Transport Fee^	37,91,392	37,88,788	2,604

^ The school has not allocated salaries pertaining to staff such as driver, conductor, etc. involved in providing transportation services. Further, the school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

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).

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy. Unintentional surplus/deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate complete costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

2. On review of procurements process carried out by the school during FY 2016-2017 pertaining to purchase of assets , it was noted that the school is not following the standard procurement process of obtaining minimum three quotations from vendors, preparing a comparative summary and getting the comparative summary approved from the members of the purchase committee. During personal hearing, the school submitted that it has started to follow procurement process from FY 2017-2018, however, no documents pertaining to the same were submitted by the school.

   Accordingly, the school is directed to follow proper procurement process and maintain proper documentation relating to the same. Compliance of the same shall be validated at the time of evaluation of subsequent fee increase proposal. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

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 at written down value, which is not in accordance with the disclosure requirements of the guidance note citied above. Accordingly, the school is directed to disclose asset at gross value on the on the face of balance sheet on the assets side and the accumulated depreciation on the assets on 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.

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 2017-2018 amounting to INR 4,55,46,185 out of which cash outflow in the year 2017-2018 is estimated to be INR 5,68,49,601. This results in net deficit of INR 1,13,03,416. 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)	1,80,124
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	5,38,948

Particulars	Amount (INR)
Total Liquid Funds Available with the School as on 31 Mar 2017	**7,19,072**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	4,09,64,635
Add: Amount recoverable from Little Fairy Public School, Ashok Vihar [Refer Financial Finding No. 1]	44,01,426
Gross Estimated Available Funds for FY 2017-2018	**4,60,85,133**
Less: FDR against specific funds (FDRs with DoE and CBSE)	5,38,948
Less: Development Fund [Refer Financial Finding No. 2]	-
Less: Retirement Benefits [Refer Financial Finding No. 3]	-
Net Estimated Available Funds for FY 2017-2018	**4,55,46,185**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 2]	5,25,26,823
Less: Arrears of salary as per 7th CPC for Jan 2016 to Mar 2017 (as per separate computation submitted by the school) [Refer Note 2]	43,22,778
Estimated Deficit	**1,13,03,416**

Notes:

1. Fee and income as per audited financial statements of FY 2016-17 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 5,68,49,601 (including arrears of salary as per 7th CPC from Jan 2016 to Mar 2017 of INR 43,22,778). Based on the explanations and details provided by the school during personal hearing, the expenses as budgeted by the school for FY 2017-2018 have been considered.

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 **Little Fairy Public School (School ID-1309229), Kingsway Camp, Delhi-110009** 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 7th CPC in accordance with Directorate's order dated 25 Aug 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. 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

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To:
The Manager/ HoS
Little Fairy Public School
School ID 1309229
Kingsway camp, Delhi-110009

No. F.DE.15(218) / PSB / 2019 / 1280 - 1284 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