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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 (204)/PSB/2019/1130-1134 Dated: 25/03/19

Order

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

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

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

"27....
(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

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

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

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education 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, **Apeejay School, Plot No-10 , Road No- 42, Sainik Vihar Pitampura Delhi-110034 (School Id: 1411184)** 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 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 22, 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. Clause 2 of the Public Notice dated 4 May 1997 states that "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure".

   Further, as per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School. However, following observations have been noted:

The financial statements of the school reflecting Building of Rs. 26,67,47,616 (gross block) which was purchased in FY 2010-11 for Rs. 21,20,50,100 at Greater Kailash for running Apeejay Rhythem Kinderworld. In order to meet the cost of purchase of such building, the school had utilised its overdraft facilities, took loans from Dena Bank and South Indian Bank and also utilised sale proceeds of the property lying at Panchsheel and Investments. The details of source of funds which were utilised for purchase of the above-mentioned building are as under.

(Figures in Rs.)

Particulars	**Amount**
O/d from South Indian Bank	5,85,67,890
Loan from South Indian Bank	2,70,00,000
Loan from Dena Bank	7,00,00,000
School FDR encashed	3,45,35,140
Sale of property	2,19,47,070
Total	**21,20,50,100**

Further, in FY 2013-14, the school got snction of fresh loan from Barclays Bank for Rs,. 15,00,00,000 and the credit facilities from the Dena Bank and South Indian Bank which were utilised for purchase of the abovementioned property have been squared off. On review of the financial statements of the school for the last three financial years, it has been observed that the school is majorly serving the interest cost on the aforesaid loan and no principal repayment has been made. The school has paid Rs. 4,58,96,987 from FY 2014-15 to 2016-17 towards payment of interest cost on the loan. Therefore, the school is directed to recover the aforesaid amount from the society because the payment of interest is linked with the creation of capital expenditure which is not allowable as per. clause 2 of public notice dated 4 May, 1997, order of the Hon'ble High Court and Rule 177 of the DSER, 1973. Moreover, with respect to the utilisation of school funds for the purchase of aforesaid property, the Director of Education may look into the compliance of the aforesaid provisions. The summary of interest paid by the school in last three financial years are as under:

(Figures in Rs.)

Particulars	**Interest paid**
FY 2014-15	1,65,23,626

Particulars	Interest paid
FY 2015-16	1,49,60,572
FY 2016-17	1,44,12,789
Total	**4,46,03,057**

It is also pertinent to note that building is appearing in the books of the school however, the relevant income and expenditure from this property is not reflecting in the financial statements of the school. Further, the school has stated in its reply that "Apeejay Rhythm Kiderworld school being in infancy stage, was in loss as such in order not to put burden on the students of Pitampura School, the loss was not clubbed". The school has admitted that the school is now not incurring the loss as such therefore the accounts of the Apeejay Rhythm Kinderworld for the current year will be merged with the accounts of the school. Thus, the Director of Education should take necessary steps to examine the accounts of the Apeejay Rhythm Kinderworld and other operational legal formalities for running the school.

II. In respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during 2014-15, 2015-16 and 2016-17, the school has charged earmarked levy in the form of Transport Fee, Computer Fee and Science Fee but these charges were not charged on 'no profit no loss' basis as the school has earned surplus from Science Fee and incurred deficit from Transport Fee and Computer Fee. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General Fund for surplus/ deficit incurred on earmarked levies and to follow fund based accounting in respect of earmarked levies.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprise of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

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

III. As per Order no. F.DE. /15/Act-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order no. F.DE. /15/Act-I/WPC-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. However, on review of the original fee receipts submitted by the school for the FY 2015-16 and 2016-17, it has been observed that the school has increased the tuition fee, development fee and annual charges for the FY 2016-17 without obtaining prior approval from the Directorate of education which is in contravention of aforesaid order. Therefore, the school is directed to roll back the increase fee or adjust the excess amount collected by the school against the future fee receivable from the students. The summary of fee increased by the school are as under:

(Figures in Rs.)

Class	Tuition Fee (Monthly)		Development Fee (Monthly)		Annual Charges (Yearly)	
	2015-16	**2016-17**	**2015-16**	**2016-17**	**2015-16**	**2016-17**
I	4620	5325	693	799	4235	4655
II	4290	5080	644	762	4235	4655
III	4025	4720	604	708	4235	4655
IV	3950	4425	593	664	4235	4655
V	3750	4345	563	652	4235	4655
VI	3510	4125	527	619	4235	4655
VII	3365	3860	505	579	4235	4655
VIII	3365	3700	505	555	4235	4655

IX	3365	3700	505	555	4235	4655
X	3520	3700	528	555	4235	4655
XI	3520	3870	528	581	4235	4655
XII	3520	3870	528	581	4235	4655

IV. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account.

However, during FY 2014-15, 2015-16 and 2016-17, school has utilised development fee for purchase of library books, vehicle and computer software as stated in the table below which is in contravention of clause 14 of order dated 11.02.2009. Therefore, the school is directed to comply with clause 14 of order dated 11.02.2009.

(Figures in Rs.)

Particulars	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**Total**
Library Books	56,031	22,515	12,148	90,694
Vehicles	-	6,02,221	-	6,02,221
Computer Software (Intangible assets)	4,900	10,25,189	48,900	10,78,989
Total	**60,931**	**16,49,925**	**61,048**	**17,71,904**

V. As per Para 99 of Guidance note on "Accounting by school" issued by ICAI, relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".

It is noted that in FY 2014-15, 2015-16 and 2016-17, instead of creating deferred income account, the school has transferred the whole amounts utilised for purchase of assets out of development fund to General Fund resulting in overstatement of General Fund balance at year end. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Noted- 21 issued by ICAI. Further, the amounts which were transferred by the school to General Fund as mentioned above during the last three financial years have been adjusted for the purpose of determination of actual position of General Fund. The detail of amount adjusted are as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Development Fund utilised	17,19,465	66,48,226	1,73,43,717	2,57,11,408

Other Irregularities:

I. The school has been using depreciation rates as prescribed in the Income Tax Act, 1961 not as per the rates as recommended in Appendix 1 to the GN-21 issued by ICAI. Therefore, the school is directed to comply with GN-21.

II. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. Though, the school has taken group gratuity scheme from LIC for teaching staff only. And in respect of non-teaching staff, provisions for gratuity and leave encashment has been provided on the basis of management estimates. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15 for all the staffs of the school and present the value of plan assets and liability towards gratuity and leave encashment in the financial statements to reflect true and fair view of the financial statements.

III. As per clause ,18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon. Therefore, the school is directed to comply clause 18 of order dated 11.02.2009

IV. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	2644	2612	2686
No. of EWS	268	268	352
% of EWS to total	**10%**	**10%**	**13%**

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Particulars	FY2014-15	FY2015-16	FY2016-17
strength			

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

i. The total funds available for the year 2017-18 amounting to Rs. **21,10,25,800** out of which cash outflow in the year 2017-18 is estimated to be Rs. **18,35,08,363**. This results in net surplus of amounting to Rs. **2,75,17,437**. The details are as under:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	29,92,032
Investments as on 31.03.17 as per audited Financial Statements	1,23,77,658
Add: Recoverable from society against interest paid on loan taken for purchase of property	4,58,96,987
Less: Fixed Deposit with Bank in the joint name of DDE and Manager Apeejay School	15,26,614
Less: Caution money as on 31.03.2017	15,56,500
Less: Development Fund received for FY 2016-17	1,86,26,454
Total	3,95,57,109
Add: Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	17,01,04,602
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	13,64,089
Estimated availability of funds for FY 2017-18	**21,10,25,800**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	**18,35,08,363**
Net Surplus	**2,75,17,437**

Note 1: School has provided for gratuity and leave encashment on the basis of management estimates instead of Actuarial valuation basis in accordance with AS-15 in budget for FY 2017-18. Therefore, the same has not been considered in evaluation of fee increase proposal.

Note 2: Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17 or has proposed new head of expenditures which were not there in the FY 2016-17, for which the school has neither provided any reasons for such unusual increase nor it has provided any explanation/ justification.

Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10%and expenditure under new heads has/have not been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase	% change	Disallowed
Building Repairs	7,02,413	60,00,000	52,97,587	754%	52,27,346
Total	**7,02,413**	**60,00,000**	**52,97,587**	**754%**	**52,27,346**

Note 3: The school has proposed interest on loan amounting to Rs. 1,45,78,012 in its budget for FY 2017-18 which has not been considered in evaluation of fee increase proposal.

Note 4: The school has proposed following capital expenditure in budget for FY 2017-18 which has not been considered in evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	FY 2017-18
Courts	50,00,000
Vehicles (Cars and Scooters)	19,00,000
Total	**69,00,000**

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

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 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.

AND WHEREAS, it is noticed that the school has utilised Rs. 4,58,96,987 for payment of interest on loan which was taken for purchase of property in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount 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 issuance of this 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 of **Apeejay School, Plot No-10 , Road No- 42, Sainik Vihar Pitampura Delhi-110034 (School Id: 1411184)** 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.

3. To charge fee as per the existing fee structure of the school

4. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).

5. 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.

6. 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.

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7. 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
Apeejay School,
Plot No-10 , Road No- 42,
Sainik Vihar, Pitampura
Delhi-110034 (School Id: 1411184)

No. F.DE.15 (204)/PSB/2019 / 1130 – 1134 Dated: 25/03/19

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