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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 (416) / PSB / 2018 / 30078 - 83

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 Recognized 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 their online fee increase proposals 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 condition, if any, in the letter of allotment regarding prior approval of Director of Education of the increase of fee by all the Unaided Recognized 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 Recognised 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...

h.

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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, **Maharaja Agarsain Public School, Phase-IV, Ashok Vihar, New Delhi-110052 (School Id: 1411187)** 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, a very rigorous and systematic process of evaluation has been followed by this Directorate by appointing team of 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 in this process of evaluation, necessary records and explanations were also called from the school vide email dated March 24, 2018. Further, school was also provided an opportunity of being heard on May 03, 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. The School has created provision of Rs.3,28,00,000 for three month's salary reserve in the financial statement of FY 2016-17 but has not invested the same in joint name of the Deputy Director and Manager of the school as required in Form-2 of Right of Children to Free and Compulsory Education Act

2009. Therefore, this amount has been excluded in the calculation of fund position of the school.

- ii. The School has created the Building Fund in FY 2014-15 and 2015-16 by appropriating surplus from the Income & Expenditure Account. The school has utilized this building fund of Rs.82,26,612 & Rs.30,04,010 in the FY 2014-15 and 2015-16 respectively. But the details of such utilization has not been provided by the school. Thus, in the absence of detailed information the amount utilized by the School has been added to the fund availability of the school and school is directed to make necessary adjustments in the balance of general reserve fund. The details of building fund utilized in FY 2014-15 & 2015-16 and available with the school as on 31.03.2016 is as under:

(Figures in Rs.)	
Particulars	Amount
Opening Balance of Building Fund as on April 01, 2014	1,78,07,834
Addition made during the year 2014-15 (appropriation of surplus)	1,10,00,000
Expenditure incurred from Building Fund in the FY 2014-15	82,26,612
Closing Balance as on March 31, 2015	2,05,81,222
Addition made during the year 2015-16 (appropriation of surplus)	1,20,00,000
Deduction made during the year 2015-16	30,04,010
Closing Balance as on March 31, 2016	2,95,77,212

- iii. The School has incurred Rs.28,98,137 for the construction of Building in the FY 2014-15 in contravention of Clause 2 of Public notice dated May 4th, 1997. Therefore, the amount so utilised by the School has been added back in the calculation of fund availability of the School.
- iv. As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, no amount whatsoever shall be transferred from the Unaided Recognised School fund to the society or the trust or any other institution. However, Rs.55,98,144 was recoverable from the society as on March 31, 2017. Therefore, this amount has been considered in the computation of fund availability.
- v. There was Building WIP in the FY 2014-15 for Rs.1,84,18,778 which has been adjusted against General Reserve in the FY 2015-16. But the School has not provide any detailed explanation for such adjustment. Thus, it appears that School has diverted its fund in contravention of the Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999. Therefore, it has been considered in the calculation of fund availability and School is directed to make necessary adjustments in the Reserve Funds.

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- vi. As per clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, user charges should be collected on no-profit and no loss basis and should be used only for the purpose for which these are collected. In FY 2014-15, 2015-16 and 2016-17, the School has charged Earmarked Levies namely Transport Fee, Science Fee, Computer Fee, Refreshment Fee, Smart Class Fee, Activity Fee, Extra Coaching Fee and Music Academy Fee from the students but these were not charged on 'no profit no loss' basis. The School has either earned surplus or incurred deficit from these levies. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Hence, School is directed to make necessary adjustment in the general reserve account. Further, the Earmarked levies on account of activity fee, extra coaching fee and music academy should be charged in accordance with the provisions of DSER, 1973 and orders issued thereunder and the School should stop the collection these levies separately.

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/DG categories. However, the School has not complied with above order and the condition of Land allotment letter. The details of admission allowed to EWS/DG students in the FY 2014-15, 2015-16 & 2016-17 are as under.

S.NO.	Particulars	2014-15	2015-16	2016-17
1	EWS Students	487	511	547
2	Total Students	3,596	3,484	3,509
3	% of EWS Students	14%	15%	16%

- ii) On the review of fee reconciliation statement submitted the School. Difference under following heads has been observed. Further, as reconciliation statement the School were collected fee under PTA, Insurance and Scout & Guide but the same were not reflecting in the audited financial statement. However, the School has not provided any explanation for these differences and accordingly, School is to submit the reasons of such differences and shall make necessary adjustments in its Financial Statements.

(Figures in Rs.)

Particulars	Fees as per fee reconciliation statement for FY 2016-17 (without Concession)	Fees as per audited financial statements for FY 2016-17 (without Concession)	Difference	%Change
Tuition Fee	10,40,06,280	9,84,05,036	56,01,244	5%
Annual Charges	1,14,20,127	1,65,26,810	-51,06,683	-45%
Computer & Lab Fee	91,20,744	80,46,132	10,74,612	12%
Smart classes	68,12,784	56,09,104	12,03,680	18%
Activity Fees	23,50,260	43,78,296	-20,28,036	-86%
Pupil Fund	23,50,260	22,42,735	1,07,525	5%
Activity Fee	45,19,870	43,78,296	1,41,574	3%
PTA	71,220	-	71,220	100%
Insurance	1,42,440	-	1,42,440	100%
Scout & Guide	97,000	-	97,000	100%
Development Fee	1,35,88,044	1,47,66,217	-11,78,173	-9%
Admission fee	-	6,42,850	-6,42,850	-100%
Registration charges	-	21,980	-21,980	-100%
Transportation charges	-	12,23,067	-12,23,067	-100%
Refreshment fee	-	9,60,925	-9,60,925	-100%
Extra Coaching Fee	-	1,08,971	-1,08,971	-100%
Music Academy	-	1,48,378	-1,48,378	-100%
Application Form	-	75,600	-75,600	-100%
Certificate Fee	-	4,410	-4,410	-100%
Other Receipts	-	34,369	-34,369	-100%
Total	15,44,79,029	15,75,73,176	(30,94,147)	

iii) During review of financial statement of the FY 2014-15, 2015-16 and 2016-17, following has been observed in respect 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, it was noted that School has not considered the un-refunded caution money as income in the budget and has not provided the details of those students who left the School in the FY 2016-17. Hence, the financial impact over the budgeted income cannot be ascertained.

- 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, the School has refunded only the principal amount of caution money.

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. **35,42,76,149** out of which cash outflow in the year 2017-18 is estimated to be Rs. **16,75,75,179**. This results in surplus of funds amounting to Rs **18,67,18,044** The details are as follows:

Particulars	Amount (Rs.)	Remark
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,46,00,071	
Add: Investments as on 31.03.17 as per Audited Financial Statements	15,20,31,516	
Add: Expenditure incurred by the School in the FY 2014-15 & 2015-16 out of Building fund	1,12,30,622	Refer "Note 1"
Add: Capital Expenditure incurred by the School in the FY 2014-15 should be recoverable from the society	28,98,137	Refer "Note 2"
Add: Recoverable balance from society	55,98,144	Refer "Note 3"
Add: Building WIP expenditure incurred by the School in the FY 2014-15 should be recoverable from the society	1,84,18,778	Refer "Note 4"
Less: Fixed Deposit with Bank in the joint name of DDE and Manager, Maharaja Agarsain Public School	82,700	
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, Maharaja Agarsain Public School	7,55,493	
Less: Development Fee for One Year	1,47,66,217	Refer "Note 5"
Available Funds	18,91,72,858	
Add: Fees for FY 2016-17 as per Audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	14,02,45,124	

Particulars	Amount (Rs.)	Remark
Add: 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)	2,48,58,167	
Estimated availability of funds for FY 2017-18	35,42,76,149	
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment)	16,75,75,179	Refer "Note 6,&7"
Net Surplus	18,67,18,044	

Adjustment:

Note 1: School has incurred capital expenditure on Building out of the Building fund for which no details have been provided by the School.

Note 2: School has incurred the capital expenditure on construction of Building which in contravention of clause 2 of Public notice dated May 4th, 1997.

Note 3: As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999; amount recoverable from the Society has been added back to the fund.

Note 4: School has diverted the fund against construction on Building.

Note 5: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 5,65,33,646 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of Development Fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in FY 2016-2017 from students has been considered for deriving the fund position of the school, which is considered sufficient basis the spending pattern of the school in past.

Note 6: The School has proposed first time for leave encasement but the basis of such proposed has not been provided therefore, the same has not been considered.

Note 7: The budgeted figures under some major heads in FY 2017-18 have been over estimated as compare to FY 2016-17, for which School has not provided any proper justification. Therefore, such expenditure in excess of 15% has been

- (C) disallowed in the evaluation of fee increase proposals. The details of such expenditure are as under:

(Figures in Rs.)

Particulars	As per audited Income and Expenditure Account for F.Y. 2016-17	As per budget for fee increase submitted by School for F.Y. 2017-18	Net Increase/ (Decrease)	% Change	Expenditure in Excess of 15%
Printing and Stationary expenses	3,41,483	4,50,000	1,08,517	32%	57,295
Advertisements Expenses	1,00,495	5,00,000	3,99,505	398%	3,84,431
Cleaning Charges	17,04,533	20,00,000	2,95,467	17%	39,787
Card & dairy Expenses	1,63,463	2,00,000	36,537	22%	12,018
Interest on Staff Security	4,28,832	5,00,000	71,168	17%	6,843
Examination Expenses	4,88,081	7,00,000	2,11,919	43%	1,38,707
Science Laboratory	2,12,668	4,00,000	1,87,332	88%	1,55,432
Sports Expenses	2,02,764	3,00,000	97,236	48%	66,821
Refreshment	3,25,637	4,00,000	74,363	23%	25,517
Total					8,86,851

- 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."

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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 prima facie there are financial and other irregularities and also funds are available with the School on account of implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18, the fee increase proposal of the School may not be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, finds 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, since sufficient funds are available with the School to implement the recommendations of 7th CPC, the School is directed to make equivalent investments against provision for gratuity and leave encashment with LIC (or any other agency) within 90 days of the receipt of this order. And provisions for gratuity and leave encashment should be based on actuarial valuation.

AND WHEREAS, it is also noticed that the School has transferred Rs. 55,58,144 to "Agarwal Welfare Society". Further School has also incurred capital expenditure on building amounting to Rs.2,13,16,915 (including Building WIP of Rs.1,84,18,778 and capital expenditure on building in the FY 2014-15). This amount is to be recovered from the society. The amount 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 **Maharaja Agarsain Public School, Phase-IV, Ashok Vihar, New Delhi-110052 (School Id: 1411187)** 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:

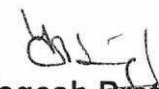
1. Not to increase any fee in pursuance to the proposal submitted by School on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the 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

Maharaja Agarsain Public School,

Phase-IV, Ashok Vihar

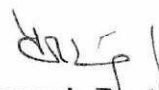
New Delhi-110052 (School Id: 1411187)

No. DE-15(416)/PSB/2018/30078-83

Copy to:

Dated: 30/11/18

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