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**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI**  
**DIRECTORATE OF EDUCATION**  
**(PRIVATE SCHOOL BRANCH)**  
**OLD SECRETARIAT, DELHI-110054**

(33)

No. F.DE.15 (591)/PSB/2018/30036-41

Dated: 30/11/18

**Order**

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

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

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

"27....

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

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

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

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AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Brilliant's Convent School, West Enclave, Pitampura, New Delhi-110034 (School Id: 1411205)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 28, 2018. Further, school was also provided an opportunity of being heard on June 12, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and 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. On review of the audited financial statements for FY 2014-15 and 2015-16, it has been observed that fixed assets purchased out of the development fund was not reflecting on the face of balance sheet. In fixed assets schedule, these assets were first shown as addition and then adjusted against development fund. Due to this adjustment, the effect of additions made during the year becomes nullified. On further review of fixed assets register submitted by the school it has been observed that these assets are appropriately reflecting in FAR. Therefore, the school is required to prepare and present all its assets and fund balance on the face of the financial statement in accordance with the format issue by the Directorate of Education vide its order dated 16.04.2016 and generally accepted accounting principles.
- II. As per clause 2 of the public notice 04.05.1997, the school should not charge building fund from the students as it is the sole responsibility of the society who has established the school to raise funds from their own sources of donation. But the School has incurred capital expenditure of Rs.1,35,12,331 under Building WIP and

Rs. 2,34,494 under Building (Interior and Exterior) in FY 2014-15 in contravention of the clause 2 of the public notice dated 04.05.1997. Therefore, the aforesaid expenditure is required to be recover from the society and hence, have been added in fund availability of school.

III. 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, upgradation 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 in a separately maintained development fund account". On review of the audited financial statements for the FY 2014-15, 2015-16 and 2016-17, the following has been observed:

- a) The school has not maintained a separate bank account for collection of development fee which is in contravention of clause 14 of order dated 11.02.2009.
- b) School has utilized development fee for the purchase of vehicles amounting to Rs. 16,76,500 during the FY 2014-15 which is in contravention of clause 14 of order dated 11.02.2009 and therefore, school is directed to make necessary adjustments in the balance of development fund and general fund in accordance with aforesaid provisions.
- c) School has utilized development fee of Rs. 20,21,391 for repair and maintenance of computer and furniture and fixtures during the financial year 2016-17 in contravention of clause 14 of the order dated 11.02.2009 and therefore, school is directed to make necessary adjustments in the balance of development fund and general fund in accordance with aforesaid provisions.

IV. 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 and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely smart class fee, activity fee and transportation charges from the students but these fees are not charged on 'no profit no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account of smart class fee and activity fee and incurred deficit on account of transportation charges. Therefore, school is directed to

make necessary adjustments in its reserve balances by following fund based accounting.

- V. School has provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation basis in accordance with AS-15- "Employee Benefits" for FY 2014-15 to 2016-17. There could be an impact on the financial statements of the school, had the provision was done on the basis of actuarial valuation. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.
- VI. In FY 2016-17, the assets purchased was shown at net amount Rs. 20,36,889 after adjustment of sale proceeds of Rs. 1,59,711 which is against the Generally Accepted Accounting Policy (GAAP) . Further, the profit/ loss on the sale of these assets has not been shown in the income and expenditure accounts.

(Figures in Rs.)

Description	2016-17
Additions to Fixed Assets	21,96,600
Sale Proceeds	1,59,711
Fixed Assets Purchase in Receipts & Payments A/C	20,36,889

- VII. As per Section 18(4) of DSEA, 1973, income derived by unaided school by way of fees should be utilized only for educational purposes as prescribed under Rules 176 and 177 of the DSER, 1973. But the school has utilised its funds for purchase of luxury car (i.e. Toyota Car) in FY 2013-14 amounting to Rs. 11,65,222 in contravention of the above provision. Therefore, this amount is recoverable from society and has been considered as part of fund availability.

**Other Irregularities:**

- I. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, and s.no. 18 of land allotment letter which provides for 25% reservation to children belonging to EWS category. The admission allowed under EWS category in FY 2015-16 and FY 2016-17 was as under:

Particulars	2015-16	2016-17
Total Students	950	1,153
EWS Students	180	247
% of EWS students	18.94%	21.42%

- II. It is noted that the school has been charging and collecting pupil fund fee from each of the students. As per Duggal Committee Report, there are only four categories of fee that can be charged by school. The first category is registration fee and one-time charges. The second category comprise of Tuition fee. The third category of fee is Annual charges and the fourth category of fee consists of earmarked levies. It is clear



that the pupil fund fee do not fall under any of the aforesaid heads of fee. Thus, school is directed not to collect Pupil Fund fee from the students.

- III. The School is collecting transportation fee from the students in FY 2014-15 to 2016-17 but the same was not reported in the statement of fee filed under section 17(3) of the DSEA, 1973.
- IV. On review of audited financial statements for the year 2014-15, 2015-16 and 2016-17 and the fee receipts of the school. It is noticed that the school has charged one-time activity fee at the rate of Rs. 1,500 per student and miscellaneous fee at the rate of Rs. 3,000 per student at the time of admission from the students of Nursery and KG which is in contravention of the clause 17 of the order dated 11.02.2009. As per order dated 11.02.2009 the school is not authorised to collect any kind of fee from the students at the time of admission. Thus, the amounts collected by the school at the time of admission from the students tantamount as capitation fees as per sub section (1) of section 13 of Right to Education Act, 2009 therefore, the school should immediately discontinue such type of collection from the students. The summary of the amount collected as activity fees and miscellaneous fees during FY 2014-15, 2015-16 and 2016-17 are as under:

(Figures in Rs.)

Fee Description	2014-15	2015-16	2016-17
Activity Fee	16,00,000	21,17,500	26,42,000
Miscellaneous Fee	3,33,343	6,61,910	5,28,538

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. 7,60,26,388 out of which cash outflow in the year 2017-18 is estimated to be Rs. 6,79,98,608. This results in net surplus of Rs.80,27,780. The details are as follows:

Particulars	Amount (Rs.)
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	48,17,600
Investments as on 31.03.17 as per audited Financial Statements	3,69,739
Add: Purchase of toyota car in contravention of Section 18(4) of DSEA(Note 1)	11,65,222
Add: Capital Expenditure on Building WIP in FY 2014-15 (Recoverable from society) (Note 2)	1,35,12,331
Add: Capital Expenditure on Building (Interior & Exterior in FY 2014-15)(Recoverable from society) (Note 2)	2,34,494
Less: Development Fund (balance as on 31.03.2017)	26,53,314
<b>Total</b>	<b>1,74,46,072</b>
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	5,80,81,565

Particulars	Amount (Rs.)
in FY 2017-18)	
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)	4,98,751
<b>Estimated availability of funds for FY 2017-18</b>	<b>7,60,26,388</b>
Budgeted Expenses for the session FY 2017-18 (after making adjustments) (Note 3)	6,79,98,608
<b>Net Surplus/(Deficit)</b>	<b>80,27,780</b>

#### Adjustments:

**Note 1:** School has utilised its funds for purchase of luxury car (i.e. Toyota Car) in FY 2013-14 amounting to Rs. 11,65,222 in contravention of Section 18(4) of DSEA, 1973 and hence, added in fund availability.

**Note 2:** School has incurred capital expenditure of Rs.1,35,12,331 under Building WIP and Rs. 2,34,494 as addition to Building (Interior and Exterior) in FY 2014-15 which is in contravention of the clause 2 of the public notice dated 04.05.1997 and hence, added in fund availability.

**Note 3:** In response to the discussion held on June 12, 2018, school has submitted provisional trial balance for the year 2017-18. While reviewing the provisional trial balance for the financial year 2017-18 it was observed that school has overestimated some of the expenditures in its budgeted expenditure for FY 2017-18. Therefore, excess expenditures have not been considered in the evaluation of fee increase proposal. The details are as follows:

Expenditure	As per budget for fee increase submitted by school for F.Y. 2017-18(Rs.)	As per Trial Balance 2017-18 (Rs.)	Adjusted Expense(Rs.)
<b><u>Revenue Expenditures</u></b>			
Transportation Expenses	5,760,600	4,914,583	846,017
Building Repair & Maintenance	2,250,000	3,259,667	1,009,667
Furniture Repair & Maintenance	2,250,000	1,191,030	1,058,970
Employee benefits including retirement benefits	2,000,000	-	2,000,000
other expenses	9,200,000	5,253,305	3,946,695
<b>Total (A)</b>	<b>21,460,600</b>	<b>14,618,585</b>	<b>6,842,015</b>
<b><u>Capital Expenditures</u></b>			-
Furniture	1,500,000	1,136,178	363,822
Office Equipment	3,350,000	1,320,369	2,029,631
<b>Total (B)</b>	<b>4,850,000</b>	<b>2,456,547</b>	<b>2,393,453</b>
Total Adjustment (C=A+B)			92,35,468
Budgeted Expenditure before adjustments(D)			7,72,34,076
Budgeted expenditure after adjustments(D-C)			6,79,98,608

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

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it has been recommended by the team of expert Chartered Accountants that since prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7<sup>th</sup> 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 7<sup>th</sup> CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Brilliant's Convent School, West Enclave, Pitampura, New Delhi-110034 (School Id: 1411205)** is hereby 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 7<sup>th</sup> 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 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

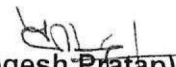
2.

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

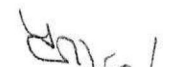
  
 (Yogesh Pratap)  
 Deputy Director of Education  
 (Private School Branch)  
 Directorate of Education, GNCT of Delhi

To  
 The Manager/ HoS  
 Briliants Convent School,  
 West Enclave, Pitampura,  
 New Delhi-110034(School Id: 1411205)

No. F. DE-15(591)/PSB/2018/30036-41  
 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