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

(41)

No. F.DE.15 (217)/PSB/2019 / 1260-1264

Dated: 29.3.2019

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, **Crescent Public School, Saraswati Vihar, Pitampura, New Delhi-110034 (School Id: 1411217)** 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.

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 27, 2018. Further, School was also provided opportunity of being heard on August 24, 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. As per Rule 177 of DSEAR, income derived by an unaided private recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Further, the aforesaid savings shall be arrived at after providing for the following, namely:
  - a. Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
  - b. The needed expansion of the school or any expenditure of a developmental nature;

- c. The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d. Co-curricular activities of the students;
- e. Reasonable reserve fund, not being less than ten percent, of such savings.

However, on review of the financial statements for the FY 2014-15 to 2016-17, it has been noted that the school has purchased a bus of Rs.30,25,000 in FY 2014-15 without complying the provisions of Rule 177 of the DSER, 1973. Because Rule 177 of DSER, 1973 states that the capital or contingent expenditure can be done only out of the saving after providing all the employees benefits. Therefore, the amount utilised by the school for purchase of Bus for Rs. 30,25,000 has been considered in the calculation of fund availability of the school with direction to the school to recover this amount from the society.

- II. 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 done out of this fund, will be kept separately maintained development fund account. However, on review of audited financial statements, the following have been observed.
  - a. The school has utilised its development fee for purchase of Library Books for Rs. 15,934 and Mobile Phone for Rs. 64,008 in FY 2016-17 which is not in accordance with the aforesaid provisions. Thus, school is directed to comply with clause 14 of the order dated 11.02.009.
  - b. During FY 2014-15 and 2015-16 the school has treated the development fee as revenue receipts which is in contravention of the abovementioned clause. Thus, school is directed to comply with clause 14 of the order dated 11.02.009.
  - c. The school has not been maintaining depreciation reserve fund in the past three financial years. Therefore, the school is directed to comply with the provisions of clause 14 of the order dated 11.02.2009 if it wish to collect development fee in future.
- III. In FY 2016-17, the school has shown utilised of development fund of Rs.24,96,127 while the assets were reflecting in the financial statement for Rs. 21,16,261 only. Thus, for difference amount of Rs. 3,79,866, the school was asked to provide the explanation but the school failed to submit any explanation in this regard. Therefore, it appears that the school has misutilised Rs 3,79,866 accordingly it has been included in the calculation of fund availability of the school with direction to the school to recover this amount from society.
- IV. 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".

Taking cognizance from the above para, it has been observed that school has not created deferred income account to the extent of cost of assets purchased out of development fund in FY 2016-17. And for assets purchased out of development fund has been transferred to general fund resulting overstatement of general fund balance at the end of the FY 2016-17. Therefore, necessary adjustments have been made in the general fund account and development utilization fund account in accordance with the requirement of the Guidance Note and the school is directed to comply with the provisions of Guidance Note- 21

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

- Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973 states 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 states 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 to 2016-17, it has been noted that the school has charged earmarked levies in the name of transport fee and smart class fee (science and computer fee) from the student. But these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, school has earned surplus in respect of smart class fee and has incurred deficit in respect transport fee. Accordingly, surplus/deficit incurred from these earmarked levies has been adjusted against General Fund Balance. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting in respect of all earmarked levies charged by the school.

#### 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 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is required to look in the matter. The admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	467	497	495

EWS Students	52	57	59
% of EWS students	11.13%	11.47%	11.92%

- 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 determined at the balance sheet date. However, on review of the financial statement, it has been noted that the school has not been maintaining any provision towards the Gratuity and Leave Encashment in accordance with the requirement of AS- 15 and Guidance Note- 21 issued by ICAI. Therefore, the school directed to make the provision for gratuity and leave encashment in order to protect the employees benefits in accordance with the requirements of Accounting Standard -15 and Guidance Note- 21.
- III. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, School is directed to comply with the Guidance Note-21 "Accounting by Schools".

**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 FY 2017-18 amounting to **Rs. 2,65,59,407** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 3,07,79,116**. This results in deficit of **Rs. 42,19,710**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	7,03,760
Investments as on 31.03.17 as per Audited Financial Statements	5,87,532
Add: Amount recoverable from the society for purchase of Bus in contravention of Rule 177, of DSER, 1973 (Refer Observation No. I of Financial Irregularity)	30,25,000
Add: Amount recoverable from the society (Refer Observation No. III of Financial Irregularity)	3,79,866
Less: Development fund balance as on 31-03-2017	17,627
Less: Fixed deposit made in the name of Deputy Director of Education and Crescent Public School	3,71,892
Less: FDR pledge with DoE	1,73,552
<b>Total</b>	<b>41,33,088</b>
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)	2,11,71,209
Add: Other income for FY 2016-17 as per Audited Financial Statements	12,55,110
<b>Estimated availability of funds for FY 2017-18</b>	<b>2,65,59,407</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) (Refer Note 1 and Note 2)	3,07,79,116
<b>Estimated Deficit</b>	<b>42,19,709</b>

## Adjustments:

**Note 1:** The school has proposed Rs.80,01,804 for salary arrears which is 51% of the actual salary paid in the previous year. The reasons for such unusual increase in arrears salary cannot be ascertained because the school has not submitted detailed calculation of arrear salary. In the absence of complete details, the salary arrears proposed by the school has been restricted to 30% of previous year salary paid by the school accordingly the excess amount proposed by the school towards salary arrears of **Rs.32,89,923** has been disallowed. [Rs.80,01,804 – (Rs.1,57,06,269\*30%)].

**Note 2:** The capital expenditure proposed by the school under the following heads are found unreasonable and therefore, it has been restricted to 110% of the actual expenditure incurred by the school in the previous financial year.

Particulars	Closing Value of Fixed assets in the FS of FY 2016-17	Amount proposed in FY 2017-18	Amount Disallowed in excess 10% of the actual expenditure incurred in FY.
Air Conditioner	1,03,885	10,00,000	8,85,727
Furniture and Fixtures	3,28,475	7,00,000	3,38,678
<b>Total</b>	<b>4,32,360</b>	<b>17,00,000</b>	<b>12,24,404</b>

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 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 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 finding noted (appropriate

instruction 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 material were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 15% with effect from 01 April, 2019.

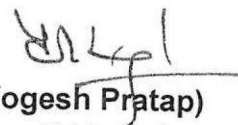
AND WHEREAS, it is also noticed that the School has incurred Rs. 30,25,000 for purchase of bus and has misutilised Rs. 3,79,866 in contravention of Rule 177. Therefore, the school is directed to recover Rs. 34,04,866 from the society. The amount of receipts along with copy of bank statements showing receipt of above mentioned amount should be submitted with DoE, in compliance of the same, within sixty days from the date of the 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 for academic session 2017-18 of **Crescent Public School, Saraswati Vihar, Pitampura, New Delhi-110034 (School Id: 1411217)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 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 all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7<sup>th</sup> CPC in accordance with Directorate order dated 25.08.2017.
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 and others. 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 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.

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  
Crescent Public School,  
Saraswati Vihar, Pitampura,  
New Delhi-110034 (School Id: 1411217)

No. F.DE.15 (227)/PSB/2019 / 1260-1264

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 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