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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(596)/PSB/2018/ 30347 - 51 Dated: 11/12/2018

## 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, **Bal Bharati Public School (School ID-1411223), Pitampura, Delhi-110034** 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 with effect from 1 Jan 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 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 6 July 2018 at 2:00 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.

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. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The audited financial statements of the school for FY 2016-2017 reflected a receivable balance from 'Inter-Unit Balance (CES)' of INR 6,52,89,200, which was confirmed by the school as receivable from the society and different schools/units under the society. The school was directed, through Order No. F.DE-15/ACT-I/WPC-4109/PART/13/811 dated 3 July 2017, to recover amount totalling to INR 66,539,200 from the society/inter-units against which only a small amount was recovered during FY 2016-2017 and closing balance of INR 6,52,89,200 is still recoverable. School did not provide any details of amount collected after 31 Mar 2017. Accordingly, this amount of INR 6,52,89,200 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 and with the direction to the school to recover this amount from the Society/inter-units within 30 days from the date of this order.

2. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such 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*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) 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 the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

   The financial statements of the school for FY 2014-2015, FY 2015-2016 and FY 2016-2017 revealed that the school has incurred capital expenditure totalling to INR 1,68,52,639 towards development of campus expenses and INR 90,98,517 towards construction of swimming pool and rain water harvesting in the aforesaid financial years, which is not in accordance with the aforementioned provisions. The school appropriated the cost of construction of swimming pool and rain water harvesting from development fund, which could be utilized only towards purchase of furniture, fixture and equipment. Further, this capital expenditure was incurred by the school without complying the requirements prescribed in Rule 177 of DSER, 1973. These amounts spent on the construction work totalling to INR 2,59,51,156 are 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 and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

3. Clause (vii) (c) 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 the financial fee structure.*" The school was directed by the directorate through its Order no. F.DE-15/Act-I/WPC-4109/Part/13/811 dated 3 July 2017 to recover the cost of vehicle purchased by the school during FY 2015-2016. However, the school has not recovered the same from the society. Thus, the amount spent by the school on purchase of vehicle of INR 33,45,789 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 and with the direction to the school to recover this amount from the Society within 30 days from the date of this order.

4. Directorate's order no. F.DE-15/ACT-1/WPC-4109/PART/13/811 dated 3 July 2017 issued to the school after evaluation of fee hike proposal for FY 2016-2017 identified that the school has been making payments to various centres/ institutes, which are managed by the same

society at a flat rate per student/ teacher in respect of activities/training/orientation, etc. organised by the school at these centres/ institutes questioning whether these were at arm's length price.

During review of the audited financial statements of FY 2016-2017, it was noted that the school has made further payments of INR 86,12,200 against Expedition charges, Montessori activity expenses, Teachers training expenses and Orientation expenses to various institutions managed by the same society. Basis the explanation provided by the school, these expenses are charged at the flat rates fixed by centres/institutes for utilising the available facilities at the respective centres/institutes created by the society for the benefit of the students and teachers and constitute all components of cost required for organising/conducting the activity/training. However, the school did not have any breakup of various components comprised in the flat rate charged nor was it able to justify how these rates have been decided. Therefore, it could not be ensured that the expenses incurred by way of transfer of funds to these centres/institutes of the society were at arm's length and that the expenditure is actually incurred. From the rates being charged, it appeared that these rates have an element of profit, which can be considered as an indication of diversion of funds by the school. Further, on account of regular year on year transfer of funds to these centres/institutes, inference may be drawn that the school has been mandated by the society to organise the activities/trainings in these centres/institutes to contribute to the sustainability of these centres/institutes by creating financial burden on the school.

Accordingly, the identified expense of INR 86,12,200 incurred by way of fund transfer to these centres/institutes during FY 2016-2017 is disallowed, considering the same as diversion of school funds to other institutions under the same management, with the direction to the school to recover this amount from the society within 30 days from the date of this order. The school is also directed to ensure that no funds are transferred by the school subsequently to these centres/institutes.

5. Incomes (fee collected from students) reported in the audited Income and Expenditure Account/ Receipt and Payment Account for FY 2016-2017 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2016-2017 in its audited Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school. The school provided a reconciliation of fee, however, the same was prepared without giving consideration to the number of students and thus, the derived difference could not be reconciled by the school. Following differences were derived based on the computation of FY 2016-2017:

| Particulars | Income reported in Audited Income & Expenditure Account (A) | Fee computed on the basis of details no. of students provided by the school (B) | Derived Difference (A-B) |
|---|---|---|---|
| Annual fee | 1,89,30,125 | 2,18,75,000 | (29,44,875) |
| Development Fee | 3,07,90,915* | 2,84,91,360 | 22,99,555 |

* As per Audited Receipt and Payment Account for FY 2016-2017.

The school should perform a detailed reconciliation of the amount collected/income from students and the income that should have been recognised based on the fee structure and number of students enrolled by the school. As the differences computed above are almost netting off, thus no adjustment has been made while deriving the fund position of the school (enclosed in the later part of the 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).

The school explained that it has been following fund based accounting for the major category of earmarked incomes i.e. Activity fee and Transport fee. Based on the audited financial statements of the school for FY 2016-2017, it was noted that the school charges earmarked levies in the form of Smart class fees, Computer fee, Science fee, Orientation Programme, Skill development, etc. from students. However, the school has not maintained separate fund accounts for these earmarked levies and has been generating huge surplus from all the earmarked levies. Details of calculation of surplus derived during FY 2016-2017 is given below:

| Earmarked Fee | Income (INR) | Expenses (INR) | Surplus (INR) |
|---|---|---|---|
| | A | B | C=A-B |
| Smart Class | 66,41,760 | 16,84,232 | 49,57,528 |
| Computer fee | 191,250 | 0* | 191,250 |
| Science fee | 184,125 | 0* | 184,125 |
| Orientation Programme^ | 22,42,500 | 17,64,000 | 4,78,500 |
| Skill Development fee^ | 74,47,000 | 0* | 74,47,000 |
| Miscellaneous Charges | 3,43,03,610 | 0* | 3,43,03,610 |

* Details of expenses incurred against earmarked levies collected from students was not provided by the school.

^ Financial statements of the school for FY 2016-2017 reflected that the school has collected earmarked levy towards Orientation Programme and Skill Development under the category of 'Activity fund' from students, whereas, the same were not disclosed in the fee structure enclosed by the school along with its Return under Rule 180 submitted to the Directorate.

On the basis of aforementioned orders, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The school is charging Smart Class, Activity fee, Miscellaneous Charges, etc. from the students of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user based fees. Thus, based on the nature of the Smart Class fees, Activity fee, Miscellaneous Charges, etc. and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee and should incur the expenses relating to these from tuition fee and annual charges, as applicable collected from the students. Further, the school should not charge any earmarked levy from students such as orientation programme and skill development, which are being mandatorily collected from students admitted in Nursery class.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. 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 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. 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."* However, it was noted that the school had incurred capital expenditure on swimming pool for INR 80,05,390, rain water harvesting for INR 10,93,127and Library books of INR 1,32,691 during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the direction included in above order. Also refer Financial discrepancy no 2 above.

   The school is directed to follow DOE instruction in this regard and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment.

3. As per the provisions of rule 107- 'Fixation of Pay' of DSER, 1973, "(1) *The initial pay of an employee, on the first appointment shall be fixed ordinarily at the minimum of the scale of pay. Provided that a higher initial pay, in the specified scale of pay, may be given to a person by a appointing authority....*

   *(2) The pay of an employee on promotion to higher grade or post shall be determined by the same rules as are applicable to the employee of government school."*

   From the computation of salary in accordance with 7th CPC prepared by the school and placed on record, it was noted that gross salaries of Principal and Vice Principal were computed as INR 6,06,171 (details of grade pay not provided by school) and INR 1,79,439 (with a grade pay of INR 8,900) respectively for the month of December 2017, which appeared excessive in comparison to the salaries paid to comparable staff in government schools. The school explained that both the staff are working for a long time with the school and received annual increments as per their experience and tenure of services. However, reconciliation of salary from her date of joining and subsequent increments was not provided by the school. In absence of detailed reconciliation, it could not be concluded whether excessive salary is being drawn by the principal of the school. Accordingly, the compliance of the above will be

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examined at the time of evaluation of proposal for enhancement of fee for subsequent academic session.

4. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.*"

   Also, the school was directed by the Directorate through its Order no. F.DE-15/Act-I/WPC-4109/Part/13/811 dated 3 July 2017 to make earmarked investments equivalent to the provision for retirement benefits with LIC (or any other agency). Based on the records submitted by the school, it was observed that the actuarial valuation reports for gratuity and leave encashment indicated total liability of INR 12,93,27,392 as on 31 March 2017 (against which equivalent provision was created as on 31 Mar 2017), whereas the school has invested amount totalling to INR 11,18,74,205 with LIC towards gratuity and leave encashment till 31 Mar 2018. Thus, the school has not complied with above direction as it has not deposited amount equivalent to the liability determined by the actuary, being amount invested till 31 Mar 2018 is lower than the liability determined by the actuary as on 31 Mar 2017 and no further investment made in respect of current service cost for FY 2017-2018.

5. Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus collected shall be kept deposited in a scheduled bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   However, the school had not maintained separate bank account for deposit of caution money collected. While it was pointed out in Directorate's Order No. F.DE-15/ACT-I/WPC-4109/PART/13/811 dated 3 July 2017 that the school is not refunding interest earned on caution money along with the refund of caution money, the school has not complied with same and has not refunded interest along with caution money.

   The amount to be refunded to students towards caution money, as per the audited financial statements for FY 2016-2017, has been considered while deriving the fund position of the school (enclosed in the later part of this order) with the direction to the school to ensure compliance with clause 18 mentioned above.

**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 INR 57,08,64,389 out of which cash outflow in the year 2017-18 is estimated to be INR 47,64,48,295 This results in net surplus of INR 9,44,16,094. 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) | 5,35,05,700 |
| Investments (Fixed Deposits) including accrued interest as on 31 March 2017 (as per audited financial statements of FY 2016-2017) | 22,21,56,832 |
| **Total Liquid Funds Available with the School as on 31 Mar 2017** | **27,56,62,532** |
| 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] | 34,55,43,617 |
| Add: Recovery of amount shown as Inter-Unit Balance (CES) transfers as on 31 March 2017 [Refer Financial Finding No. 1] | 6,52,89,200 |
| Add: Recovery of amount against construction expenses from the society [Refer Financial Finding No. 2] | 2,59,51,156 |
| Add: Recovery from society of amount incurred on purchase of vehicle [Refer Financial Finding No. 3] | 33,45,789 |
| Add: Recovery of amount transferred as expenses to other institutions under the Society [Refer Financial Finding No. 4] | 86,12,200 |
| **Gross Estimated Available Funds for FY 2017-2018** | **72,44,04,494** |
| Less: Caution Money balance as on 31 Mar 2017 (as per audited financial statements of FY 2016-2017) | 22,21,000 |
| Less: Refund/adjustment of increased fee collected by the school during FY 2016-2017 (as per audited financial statements of FY 2016-2017) [Refer Note 2] | 94,41,425 |
| Less: Staff retirement benefits (equivalent to the amount included in the evidence of investment made with LIC during FY 2017-2018) [Refer Other Finding No. 4 and Note 3] | 11,18,74,205 |
| Less: Development fund [Refer Note 4] | 3,00,03,475 |
| Less: Depreciation Reserve Fund [Refer Note 5] | - |
| Less: Amount paid towards arrears of Employee Provident Fund during FY 2017-2018 [Refer Note 6] | - |
| **Net Estimated Available Funds for FY 2017-2018** | **57,08,64,389** |
| Less: Budgeted Expenses for FY 2017-2018 [Refer Note 7] | 44,73,88,680 |
| Less: Arrears of salary from January 2016 to March 2017 on account of implementation of 7th CPC with effect from 1 Jan 2016 [Refer Note 7] | 2,90,59,615 |
| **Estimated Surplus as on 31 Mar 2018** | **9,44,16,094** |

<u>Notes</u>:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.

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2. Based on the audited financial statements for FY 2016-2017 of the school, the school created a liability in its books of account as on 31 March 2017 to refund/adjust the increased fee collected of INR 94,41,425. Based on the explanation given by the school during personal hearing, the same has been adjusted/ refunded against fee collected in FY 2017-2018, which has been considered while deriving the fund position.

3. Based on the details provided by the school, it has deposited INR 8,20,92,210 and INR 2,97,81,995 with LIC towards gratuity and leave encashment respectively during FY 2017-2018. Though the entire amount of INR 11.19 crores approx. was deposited with LIC in one single year, the same has been considered for deriving the fund position of the school.

4. 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 by 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 INR 9,11,80,519 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 one year (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.

5. The school has charged depreciation on fixed assets and has transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. While development fund has been adjusted for deriving the fund position of the school as per Note 4 above, depreciation reserve is more of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

6. Based on the audited financial statements for FY 2016-2017 of the school, the school carried forward the liability of INR 2,59,42,640 towards PF arrears payable to the department from previous financial year; however, details/evidence regarding actual deposit made with EPFO by the school during FY 2017-2018 was not provided by the school. Hence, the same is not considered in the above fund position.

7. 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 48,63,51,954 (including arrears of salary as per 7$^{th}$ CPC for the period January 2016 to March 2017), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore,

the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

| Particulars | FY 2016-2017 | FY 2017-2018 | Amount allowed | Amount Disallowed | Remarks |
|---|---|---|---|---|---|
| Lift | - | 25,00,000 | - | 25,00,000 | Cannot be installed using Development Fund, as it becomes integral part of building |
| Mobile Phone | - | 2,00,000 | - | 2,00,000 | Disallowed on account of expenditure of personal nature |
| Gratuity | - | 30,29,894 | - | 30,29,894 | Staff Retirement benefits have been separately considered in fund position equivalent to the amount invested with LIC during FY 2017-2018. Refer Note 3 above. Thus, it has been disallowed from budgeted expenses to avoid duplicity. |
| Leave encashment | - | 41,73,765 | - | 41,73,765 | |
| **Total** | **-** | **99.03,659** | **-** | **99,03,659** | |

In view of the above examination, it is evident that the school have sufficient funds for meeting all the budgeted expenditure for the financial year 2017-2018.

ii. The directions issued by the Directorate of Education vide 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." The school has sufficient funds to carry on the operation of the school for the academic session 2017-2018 on the basis of existing fees structure and after considering existing funds/reserves.

Whereas 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. However, the school has a recoverable balance of INR 6,52,89,200 from society/inter-units, which is a non-compliance of the aforementioned order, being transferred without adhering to the requirements of Rule 177. Accordingly, the school is directed to recover this amount from society/inter-units and utilize the same for revenue expenditure of the school.

Whereas per direction no. 2 of Public Notice dated 4 May 1997, 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 for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that tuition fee cannot

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be fixed to recover capital expenditure to be incurred on the properties of the society. Thus, the additions to school campus, swimming pool and rainwater harvesting should not be met out of the fee collected from students and is required to be recovered from the society.

And whereas per point no. 22 of Order No. F.DE./15 (56)/Act/2009/778 dated 11 Feb 2009, user charges should be collected at 'no profit and no loss' basis and should be used only for the purpose for which these are collected. The school has continued to charge earmarked fee higher than the expenses incurred against all earmarked levies collected from students. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levy charged from the students in accordance with the DSEA & R, 1973 and orders, circulars, etc. issued thereunder. Surplus against each earmarked levy collected from the students should be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019. Also, school should discontinue charging compulsory earmarked levies from all students.

And whereas per point no. 14 of Order No. F.DE./15(56)/ACT/2009/778 dated 11 Feb 2009, Development Fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up-gradation and replacement of furniture, fixture and equipment. The school is advised to comply with the directions with regard to proper utilisation of development fund only towards purchase of furniture, fixtures and equipment.

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 along with certain financial irregularities that exist (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings, which were noted (appropriate instructions against which have been given in this order), the funds available with the school for implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

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 that the school has sufficient funds for meeting the financial implications of 7th CPC salary and other expenses for the financial year 2017-2018. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2017-2018.

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for session 2017-2018 of **Bal Bharati Public School (School ID-1411223), Pitampura, Delhi-110034** has been 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/charges during FY 2017-2018. In case, the school has already charged increased fee during FY 2017-2018, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To communicate with 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 rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to 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. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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

**To:**
The Manager/ HoS
Bal Bharati Public School
School ID 1411223
Pitampura, Delhi-110034

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No. F.DE.15(596)/PSB/2018/ 30347-51 Dated: 11/12/2018

**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