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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 (669)/PSB/2018 /30828- 32

Dated: 24/12/18

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."

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

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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 Aggarsain Adarsh Public School, Pitampura (School Id: 1411231)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the Schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the School very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the School vide email dated March 24, 2018. Further, School was also provided opportunity of being heard on July 26, 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 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". The school had collected development fee in FY 2014-15, 2015-16 and 2017-17 and treated the same as revenue receipt in its financial statements in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed to make necessary adjustments in General Fund account with the amount of development fee received during the period. Further, the school is also directed to comply with all the direction of the clause 14 of the order dated 11.02.2009 if it wish to collect the development fee in future. During the period the amount of Development Fee received by the school are as under:

(Figure in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Development Fee Received	47,97,178	51,28,596	55,82,215

- II. As per the Clause 2 of Public notice dated May 4, 1997, "Schools are not allowed to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of the society. Society means the trust or institution who has established the school. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02. 2005 issued by this Directorate states that "Capital expenditure cannot constitute a component of financial fee structure". Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School.

Thus the addition made to the Building in FY 2014-15 and FY 2016-17 for Rs.31,090 and Rs.3,43,500 respectively, is in contravention of the aforesaid provisions and therefore, the school is directed to recover this amount from the society.

- III. As per Rule 177 of DSER, income derived by an unaided 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 Audited Financial Statements it has been observed that school has purchased bus in FY 2015-16 for Rs.18,71,616 without providing full amount of Gratuity and Leave Encashment as required by AS-15. Thus, the school has not complied with the provisions of Rule 177 of DSER, 1973.

Accordingly, the same has not been considered in evaluation of fee increase proposal and therefore, the school is directed to recover this amount from the society.

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

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school was collecting earmarked levies namely transportation fee, science fee, school magazine fee and tech academic learning fee from the students but these fees were not charged on 'no profit no loss' basis because school has either earned surplus or incurred deficit from these earmarked levies. During the period under evaluation, school has earned surplus from all the earmarked levies. Further, school is not following fund based accounting for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

Moreover, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like Library, Laboratories, Science and Computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students'. These charges are Transport Fee, Swimming Pool Charges, Horse Riding, Tennis, Midday Meals etc.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop the collection of separate charges in the name of the "School magazine fee and Tech academic learning fee".

- V. The school has introduced a new head of fee in FY 2016-17. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the

provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. And accordingly, The Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016. However, on review of financial statements, it has been observed that the school has introduced a new head of fee namely "School Magazine Fee" of Rs.150 per annum from the all the students without obtaining prior approval from Directorate of Education in contravention of the order issued by Directorate of Education. The school may be show cause under section 24(4) of DSEA, 1973 why it has introduced new head of fee in contravention of Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016.

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 is directed 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.

Particulars	2014-15	2015-16	2016-17
Total Students	1,650	1,631	1,691
EWS Students	244	262	302
% of EWS students	14.79%	16.06%	17.86%

- II. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be charged. The caution Money, thus collected shall be kept deposited in a schedule bank in the name of 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 request for a refund.

As per the explanation provided^{by} the school, only principal amount of caution money is being refund to the student at the time of his/her leaving from the school. Thus the school is not complying with the direction of clause 18 of the order dated 11.02.2009. Hence, the school is directed to follow the abovementioned clause.

Further, 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 considered while projecting fee structure for ensuing academic year. But the school has not considered the amount of un-refunded caution money as its income of the ensuing year. Thus, the school is directed to follow the aforesaid clause while projecting its income for the ensuing financial year.

- 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, the school has not provided any amount towards the gratuity and leave encashment in its financial statement during FY 2014-15 to 2016-17. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as prescribed in AS-15.
- IV. The school is charging depreciation at the rates prescribed under the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note - 21.

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.11,49,50,578** out of which cash outflow in the year 2017-18 is estimated to be **Rs.8,19,50,446**. This results in surplus of funds amounting to **Rs.3,30,00,132**. The details are as follows:

(Figures in Rs.)		
Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,29,23,975	
Investments as on 31.03.17 as per Audited Financial Statements	3,08,84,804	
Add: Amount recoverable from the Society for purchase of Bus	18,71,616	
Add: Amount recoverable from the Society for additions made in Building in FY 2014-15 and 2016-17	3,74,590	
Total	4,60,54,985	
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)	6,60,11,973	
Add: Other income for FY 2016-17 as per Audited Financial Statements	28,83,620	
Estimated availability of funds for FY 2017-18	11,49,50,578	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	8,19,50,446	"Refer Note-1"
Net Surplus	3,30,00,132	

Adjustments: -

Note- 1 Initially the School did not propose any amount against salary arrears. However, as per the revised budget submitted by the school for FY 2017-18 in response to discussion, the school has proposed Rs.1,87,71,946 for salary arrear of 7th CPC. The proposed amount of salary arrear comes out to 44% over the actual salary of the previous year which is quite high however the school was paying D.A. at 119% instead of 125% under 6th CPC which could be one the reason of such higher arrears salary. Although, the school has overestimated the salary arrear but since, the school has sufficient funds to meet the impact of 7 CPC including gap of D.A. as per 6th CPC. Therefore, the whole amount proposed by the school has been considered for evaluation of fee increase proposal.

- 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 utilizing 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 utilized 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 prima facie there are financial and other irregularities and also, sufficient funds are available with the School to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the School may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the School to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said School.

AND WHEREAS, it is also noticed that the school has made additions to Building for Rs.3,74,590 in FY 2014-15 and 2016-17. Also, the school has incurred Rs.18,71,616 for purchase of Bus. Therefore, the school is directed to recover **Rs.22,46,206** 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.

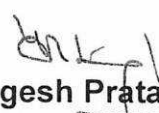
Accordingly, it is hereby conveyed that the proposal of fee increase of **Maharaja Aggarsain Adarsh Public School, Pitampura (School Id: 1411231)** is rejected by

the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.
3. To rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days 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 issues with the prior approval of the Competent Authority.


(Yogesh Pratap)

Deputy Director of Education-1
(Private School Branch)

Directorate of Education, GNCT of Delhi

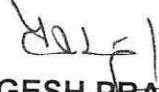
To
The Manager/ HoS
Maharaja Aggarsain Adarsh Public School,
Pitampura (School Id: 1411231)

No. F.DE.15 (669)/PSB/2018 /30828-32

Dated: 24/12/18

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-1

(Private School Branch)

Directorate of Education, GNCT of Delhi