

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

No. F.DE.15 (188)/PSB/2019/1050-1054

Dated: 14/3/2019

**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, **Vishal Bharti Public School, Parvana Road, Saraswati Vihar, Pitampura, Delhi - 1100034 (School Id: 1411242)** 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 24, 2018. Further, School was also provided opportunity of being heard on March 04, 2019 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 separately maintained development fund account. However, on review of the financial statements of the school for FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has treated the Development Fee as a revenue receipt which is contravention of the aforesaid clause. Therefore, the school is directed to make necessary adjustment in the development fund account and general fund account. The school is further directed to comply with the provisions of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Details of development fee received during FY 2014-15 to 2016-17 are as under:

2388

(Figures in Rs.)				
Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Development Fee Collected	8,01,970	913330	1049725	27,65,025

II. 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, science fee, computer fee and activity fee from the students. 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 incurred deficit in respect to transport fee and has earned surplus in respect to science fee, computer fee and activity 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 for all earmarked levies being charged from the students.

Moreover, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprised 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 comprised of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and 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 fee comprised of "Annual Charges" to cover all expenditure not included in the second category and the fourth category comprised 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.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered or clubbed either with tuition fee or from the annual charges. Therefore, the school is directed to stop the collection of separate earmarked levies in the name of Activity Fee, Transport Fee, Computer Fee and Science fee with immediate effect.

- III. As per Rule 177 of DSER, income derived by unaided 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. and, not being less than ten percent, of such savings.

Based on the aforesaid provision it has been observed that the School has purchased a vehicle for Rs 20,40,000 and Rs. 36,00,000 in FY 2015-16 and 2016-17 respectively for the which the school has not provided justification which is contravention of Rule 177 of the DSER 1973. Therefore, the amount of Rs. 56,40,000 incurred by the school for purchase of vehicles has been included in the calculation of fund availability of the school and accordingly the school is directed to recover this amount from the society.

**Other Irregularities**

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Strength	659	696	865
EWS strength	104	110	140
% EWS strength to total strength	16%	16%	16%

- 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 determine at the balance sheet date. However, on review of financial statements it has been noted that he school has not provided for gratuity and leave encashment in its financial statements. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as required by AS-15.
- III. On review of audited financial statement for FY 2014-15, 2015-16 and 2016-17, it is noted:
  - a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. Though the school has not collected caution money during the FY 2014-15, 2015-16 and 2016-17, Rs. 86,045 has been shown under student security deposits for all three FY mentioned. Hence the school should start refunding caution money to ex-students. Therefore, the school is directed to follow the above mentioned provisions.



2390

b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number of student left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined. Therefore, the school is directed to follow the abovementioned provisions.

IV. The school is charging depreciation on fixed assets as per the rates 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, the School is directed to follow the depreciation rates as prescribed by 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 FY 2017-18 amounting to **Rs. 2,88,82,093** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 1,95,90,761**. This results in net balance of Surplus amounting to **Rs. 92,91,332** for FY 2017-18 after all payments. The details are as follows:

Particulars	(Figures in Rs.) Amount
Cash and Bank Balance	28,61,889
Add: Investments as on 31.03.17 as per Audited Financial Statements	2,61,088
Add: Recoverable from Society for purchase of vehicles ( <b>Refer Observation III of Financial Irregularity</b> )	56,40,000
Less: FDR in the joint name of Vishal Bharti School and Secretary of CBSE	40,000
Less: FDR in the joint name of Vishal Bharti School and Deputy Director of Education	2,21,082
Less: Outstanding Balance of Caution Money as on 31.03.2017	86,045
<b>Total</b>	<b>84,15,850</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)	1,96,72,777
Other income for 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)	7,93,466
<b>Estimated availability of funds for FY 2017-18</b>	<b>2,88,82,093</b>
Less: Budgeted expenses for the session 2017-18 ( <b>Refer Note- 1</b> )	1,95,90,761
<b>Net Surplus</b>	<b>92,91,332</b>

## Adjustments:

**Note- 1:** The school has proposed Rs.1,90,79,158 for salary including Rs.1,20,42,158 for salary arrear. Thus, the total increase in salary becomes 128% of the actual salary paid in FY 2016-17. Since the school has not provided calculation of arrears salary as per the recommendation of 7<sup>th</sup> CPC. Therefore, for evaluation of fee increase proposal an increase of 40% of actual salary paid in FY 2016-17 (30% on account of salary arrear plus 10% for regular increase) has been considered. Thus, the excess salary arrear of **Rs.73,74,577** has not been considered.

- i. 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 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 7<sup>th</sup> CPC, the fee increase proposal of the School may not be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, 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.

AND WHEREAS, it is also noticed that the School has incurred Rs.56,40,000 for purchase of vehicles in contravention of Rule 177. Therefore, the school is directed to recover the aforesaid amount 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 **Vishal Bharti Public School, Parvana Road, Saraswati Vihar, Pitampura, Delhi -1100034 (School Id: 1411242)** 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:

2592

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 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 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.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

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

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

To  
The Manager/ HoS  
Vishal Bharti Public School,  
Parvana Road, Saraswati Vihar,  
Pitampura, Delhi -1100034 (School Id: 1411242)

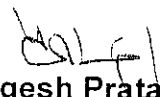
2393

No. F.DE.15 ( 188)/PSB/2019/1050-1054

Dated: 14/3/2019

**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**