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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 (176 )/PSB/2019/1070-1074

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.....

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.....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, **Max Fort School, Parwana Road, Pitampura, New Delhi-110034 (School Id: 1411253)** 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 26, 2018. Further, school was also provided opportunity of being heard on June 14, 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 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 on May 04, 2018 and June 27, 2018 and July 30, 2018 were evaluated 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, the development fee shall be treated as capital receipt and it should be utilized for the purpose of supplementing the resources for purchase, up gradation and replacement of furniture, fixture and equipment. However, on review of the financial statements for the period 2014-15, 2015-16 and 2016-17, the following has been observed:
  - a. The school has utilised its development fee for purchase of buses and construction of building, swimming pool and tennis court in contravention of the abovementioned clause. Therefore, the School is directed to make

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adjustment in the development fund and Fund utilised against Fixed assets.  
The details of development fund utilization are as follows:

(Figures Rs.)

Utilisation of Development fund	2014-15	2015-16	2016-17	Total
Building	-	11,77,940	19,12,620	30,90,560
Swimming pool	-	8,43,000	-	8,43,000
Tennis court	-	-	9,57,600	9,57,600
School Buses	8,52,494	-	-	8,52,494
<b>Total</b>	<b>8,52,494</b>	<b>20,20,940</b>	<b>28,70,220</b>	<b>57,43,654</b>

Moreover, as per Clause 2 of Public notice dated May 4<sup>th</sup>, 1997, "Schools are not allowed to charge Building Fund and Development Fee when the building is complete or otherwise as it is the responsibility of the society. So, the society should raise such funds from their own sources because the immovable property of the school become the sole property of the society and the students should not be burdened by way of collecting the Building fund or Development fee". However, as mentioned above the school has utilised the development fund for construction of building, swimming pool and tennis court in FY 2015-16 and 2016-17 which is not in accordance with the above provisions therefore, the school is directed to recover Rs. 48,91,160 from the society.

- b. The school has utilised development fund for renovation of building and other assets for Rs.47,30,422 in FY 2014-15 to 2016-17 in contravention to the aforesaid clause. Therefore, the School is directed to make adjustment in the development fund account and General fund with amount of development fee misutilised. The details of development fund utilization for renovation of building and other assets are as follows:

(Figures Rs.)

Utilisation of Development fund	2014-15	2015-16	2016-17	Total
Renovation of building and other asset	15,64,000	14,10,791	17,55,631	<b>47,30,422</b>

- c. The school has also utilised the development fund for repayment of loan taken for purchase of vehicles in FY 2015-16 and 2016-17 which was not in accordance with the aforesaid clause. Thus, the School is directed to make adjustment in the Development fund account and General Fund with the amount utilized for repayment of vehicle loan. The details of utilization of development fund for repayment of vehicle loan are as follows:

(Figures Rs.)

Utilisation of Development fund	2015-16	2016-17	Total
Repayment of vehicle loan	51,44,359	11,07,601	<b>62,51,960</b>

- II. The financial statement of FY 2015-16 was reflecting Rs.18,00,000 as recoverable from YK Marketing. This amount was given to YK Marketing for interior designing consultancy services for construction of top floor of school building. Later the YK Marketing terminated the said contract and agreed to return this advance amount to school. Out of which Rs.6,00,000 was received in FY 2016-17 and remaining amount of Rs.12,00,000 was received in FY 2017-18. Therefore, Rs.12,00,000 has been included in calculation of fund availability of the school.
- III. As per Section 18(4) of DSEA, 1973, Income derived by unaided school by way of fees shall be utilised only for such educational purpose as may be prescribed. However, it has been observed that the school took secured loan from HDFC Bank for purchase of Mercedes Car in FY 2011-12 and took a loan from Kotak Mahindra Bank for purchase of Toyota Innova GX-7 seater in FY 2012-13. Owning the luxury cars out of the school funds cannot be said that amount incurred for educational purposes. It is also pertinent to note that in FY 2016-17, the Mercedes car was sold for Rs. 15,75,000. Therefore, the school is directed to recover Rs. 4,19,894 from society towards payment of loan and interest thereon during FY 2014-15 to 2016-17 (net of sale proceeds of Mercedes Car). Further, the school is directed to make adjustment in General Fund for the amount of interest charged to Income and Expenditure Account. The summary of principal repayment and interest cost paid during the period is as under:

(Figures Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Repayment of car loan	8,48,911	6,80,553	2,49,598	17,79,062
Less: Sale proceeds of Mercedes Car				15,75,000
Balance				2,04,062
Interest on term loan	1,47,569	61,611	6,652	2,15,832
<b>Total</b>	<b>9,96,480</b>	<b>7,42,164</b>	<b>2,56,250</b>	<b>4,19,894</b>

- IV. As per Rule 177 of DSER, 1973 income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses after creation of 10% reserve. However, school has utilised its funds for repayment of loan taken for purchase of buses despite of having deficit in all three financial years. During the last three financial years, the school has paid from the school funds Rs. 1,08,42,854 towards principal repayment and Rs. 22,78,924 towards interest payment which is not in accordance with the provisions of Rule 177 of DSER, 1973. Therefore, the school is directed to recover the aforesaid amount from the society. Further, School is directed to make adjustment in the General Fund in



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respect of interest charged to income and expenditure account. Summary of repayment of loan and interest thereon are as under:

(Figures Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Repayment of bus loan	42,15,753	42,54,533	23,72,568	1,08,42,854
Interest on term loan	11,76,327	7,22,965	3,79,632	22,78,924

- V. In respect of earmarked levies, school is required to comply with:
- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
  - Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
  - Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has collected transport fee from the students but it is not charged on 'no profit no loss' basis as the school has earned surplus from transport fee. Further, the school has not followed fund based accounting in respect of earmarked levy as specified in Guidance Note - 21. Therefore, the School is directed to follow Guidance Note - 21: Accounting by Schools for earmarked levies.

- VI. As per Rule 177 of DSER, 1973, fees/funds collected from the parents/students shall be utilised strictly in accordance with said rule. No amount whatsoever shall be transferred from school to the society. Further, as per Clause 2 of Public notice dated May 4<sup>th</sup>, 1997, "Schools are not allowed to charge building fund when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. However, during the discussion with the school at the DoE premises, the school has submitted that during FY 2011-12, society had taken a loan from Central Bank of India amounting to Rs. 4,30,00,000 for construction of school building. This loan was reflecting in the name of the society at Rs. 2,27,60,335 in the financial statements of the school for FY 2014-15. Further, a fresh loan amounting to Rs. 1,40,00,000 was taken in FY 2016-17 from Kotak Mahindra Bank and the previous loan in the name of the society was squared off. During the period under evaluation, the school has paid from its funds Rs. 2,74,31,186 towards principal repayment and Rs. 1,25,46,145 towards interest thereon. Therefore, the school is directed to recover the aforesaid amount from the society. Further, School is directed to make adjustment in the General Fund in respect of interest charged to income and expenditure account.

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Details of principal and interest paid on loan during FY 2014-15, 2015-16 and 2016-17 is given below:

(Figures Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Repayment of loan to society	55,86,368	35,96,021	1,82,48,798	2,74,31,186
Interest on term loan	61,55,097	36,33,424	27,57,624	1,25,46,145

- VII. 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. 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 the fee receipts provided by the school it has been observed that the school had increased the Tuition Fee and Smart Board Charges in FY 2016-17 without obtaining prior approval from Directorate of Education in contravention of the aforesaid order. Therefore, the school is directed to roll back the increase fee or adjust the excess amount of fee collected against the future fee receivable from the students. The summary of fee increased by the school is as under:

(Figures in Rs.)

Category of fee for Class I to VIII	FY 2015-16	FY 2016-17	% increase
Tuition fee	5,060	6,118	21%
Annual fee	9,900	11,990	21%
Development fee	9100	11000	21%
Activity fee	660	792	20%

#### Other Irregularities

- I. The school is reflecting fixed assets in financial statement under two categories i.e. assets purchased out of general fund are reflected at cost and assets purchased out of general fund are reflected at WDV. Therefore, the school is directed to follow the recommendation of GN-21 issued ICAI and DoE order dated 16.04.2016.
- II. On review of the income and expenditure account, it has been observed that school has been incurring higher expenditure under the following heads which seems to be on higher side. Therefore, the school is directed to monitor the relevance and exercise control over these expenditures.

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(Figures in Rs.)

Particulars	As per I&E for FY 2014-15	As per I&E for FY 2015-16	As per I&E for FY 2016-17
Smart class expenses	2,16,41,098	26,61,256	22,73,908
Student Welfare expenses	19,81,705	20,55,307	13,71,720
Advertisement expenses	15,71,771	8,68,488	10,06,800
Printing & stationery	21,66,059	16,50,412	12,31,939
Consultancy charges	6,98,888	40,000	5,10,000
Building repairs	78,92,164	79,05,719	38,31,308
Teacher workshop	55,59,883	77,65,762	61,93,750

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

Particulars	2014-15	2015-16	2016-17
Total strength	1,239	1,266	1,381
EWS	6	31	139
% EWS students to total students	0%	2%	10%

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to Rs. 19,45,21,593 out of which cash outflow in the FY 2017-18 is estimated to be Rs. 12,66,34,887. This results in surplus of funds amounting to Rs. 6,78,86,706. The details are as follows:

(Figures Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	1,15,24,894
Add: Investments as on 31.03.17 as per audited Financial Statements	29,02,008
Add: Recoverable from society against construction of building out of the development fund in FY 2015-16 and 2016-17 (Point I (a) of Financial irregularities)	48,91,160
Add: Advance recoverable from YK Marketing received in FY 2017-18 (Point II of Financial irregularities)	12,00,000

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Particulars	Amount
Add: Recoverable from society for principal repaid and interest paid on car loan (Point III of Financial irregularities)	4,19,894
Add: Recoverable from society towards repayment of principal and interest payment on loan taken from Axis bank for purchase of buses (Point IV of Financial irregularities)	1,31,21,778
Add: Recoverable from society against repayment of loan taken for construction of building (Point VI of Financial irregularities)	2,74,31,186
Add: Recoverable from society for payment of interest on loan taken for construction of building (Point VI of Financial irregularities)	1,25,46,145
Less: Fixed Deposit in the joint name of Dy Director of Education and school	14,02,008
Less: Caution Money as on 31.03.2017	4,64,500
Less: Development Fund as on 31.03.2017	62,160
Less: Provision for gratuity and leave encashment as on 31.03.2017	62,72,225
<b>Total</b>	<b>6,58,36,173</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)	12,77,17,358
Add: 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)	9,68,062
<b>Estimated availability of funds for FY 2017-18</b>	<b>19,45,21,593</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1	12,66,34,887
<b>Net Surplus</b>	<b>6,78,86,706</b>

**Note 1:** School has proposed repayment of loan along with interest out of development fund in budget 2017-18 which is in contravention of clause 14 of order dated 11.02.2009 and Rule 177 of DSER, 1973. Therefore, the same has not been considered in the evaluation of fee increase proposal. The details are given below:

(Figures Rs.)

Particulars	FY 2017-18
Repayment of loan with interest	73,66,000
Repayment of school bus loan	33,42,152
<b>Total</b>	<b>1,07,08,152</b>

- 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,

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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 expert Chartered Accountants that prima facie there are financial and other irregularities and also funds are available with the school on account of implementation of recommendations of 7<sup>th</sup> CPC and to carry out its operations for the academic session 2017-18, the fee increase proposal of the school may not be accepted.

AND WHEREAS, it is noticed that the school has incurred Rs. 48,91,160 for construction of building and Rs. 5,35,19,003 towards payment of loan along with interest thereon which are in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover Rs. 5,84,10,163 from the society. Further, 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 issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

And WHEREAS, since sufficient funds are available with the school after meeting all expenditures for the year 2017-18, the school is hereby directed to make equivalent investment against provision for gratuity and leave encashment with LIC (or any other agency) within 90 days of receipt of this order so as to protect the statutory liabilities.

And WHEREAS, the school is also directed that the future repayment of loan taken from Kotak Mahindra Bank has to be met out of the contribution received from the society.

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 and financial and other irregularities in the school found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7<sup>th</sup> CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Max Fort School, Parwana Road, Pitampura, New Delhi - 110034 (School Id: 1411253)** is



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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 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 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.
4. 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.
5. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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 will also be attached.

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

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

  
(Yogesh Pratap)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi

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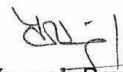
To  
The Manager/ HoS  
Max Fort School,  
Parwana Road, Pitampura  
New Delhi - 110034 (School Id: 1411253)

No. F.DE.15 (176)/PSB/2019/1070-1074

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