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

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No. F.DE.15 (636)/PSB/2018/30492-96

Dated: 14.12.2018

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

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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, **Laurel High The School, Behind IDPL, CHBS (Near Ashiana Chowk), Pitampura, New Delhi - 110034 (School Id: 1411254)** 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 26, 2018. Further, school was also provided opportunity of being heard on June 28, 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. However, the school has not submitted any clarifications/ documents after the hearing despite of issuing repetitive reminders to the school.

AND WHEREAS, the documents uploaded on the web portal for fee increase 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 11.02.2009 and as per Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 state that "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, fixtures 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from investment made out of this fund, will be kept in a separately maintained Development Fund Account. The School had treated the Development Fee as a revenue receipt in FY 2014-15. Therefore, the school is directed to make necessary adjustment in Development Fund account and General Fund account for Rs. 35,61,420 received in FY 2014-15.

Further, it has also been noted that the school has not maintained Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts in FY 2014-15, 2015-16, 2016-17. Therefore, school is directed to comply with clause 14 of the Order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.



- II. As per Section 18(4) of DSEA, 1973, income derived by Unaided Recognized School by way of fees should be utilized only for educational purposes as prescribed under Rules 176 and 177 of the DSER, 1973. However, school has utilised school fund for purchase of Luxury car (Skoda) by taking a loan from Nainital Bank prior to FY 2014-15. During FY 2015-16 and 2016-17, the school has repaid principal amount of Rs. 4,17,064. Therefore, the school is directed to recover the said amount from society.

Figures (Rs.)			
Particulars	FY 2015-16	FY 2016-17	Total
Principal repaid on loan taken for Skoda car	2,29,716	1,87,348	4,17,064

Apart from the above Car Loan, the financial statement of the school reflecting other types of loan for which no details has been provided by the school. The closing of the loan is as under:

Figures (Rs.)			
Particulars	As per Audited FS for FY 2014-15	As per Audited FS for FY 2015-16	As per Audited FS for FY 2016-17
Nainital Bank Skoda	4,39,266	2,09,550	22,202
ICICI Bank	8,21,647	20,47,776	13,87,495
Nainital Bank Loan	7,53,581	-	23,71,444

Further, as per Income and Expenditure, the School has paid interest on loan taken for various purposes has not been considered in the evaluation of fee increase proposal. Therefore, the school is directed to recover the whole amount of interest on the loan and make adjustment to General Fund.

Figures (Rs.)				
Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Interest on loan	2,31,748	1,01,221	1,84,675	5,17,644

- III. 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 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools 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. 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.

On review of the financial statement of the school it has been noted that the school has incurred capital expenditure of Rs. 1,14,51,611 under the head Building in FY 2014-15, 2015-16 and FY 2016-17 in contravention of the aforesaid provisions. Therefore, the school is directed to recover Rs. 1,14,51,611 from the society.

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Figures (Rs.)
				Total
Building	8,79,813	60,49,352	45,22,446	1,14,51,611

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

However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, the school is charging earmarked levies namely transportation charges and meal charges but these fees were not charged on 'no profit no loss' basis and has also not maintained the separate fund accounts for these earmarked levies. Further, the school has earned surplus from meal charges and incurred deficit from transportation charges. 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 Fund balance.

Other Irregularities:

- I. On review of financial statements for FY 2014-15 and 2015-16, there is a difference in WDV of fixed assets as on 31.03.2015 and WDV as on 01.04.2015. However, school was asked the reason of difference and impact of difference in financial statements, but school has not submitted any reply. Therefore, no financial impact could be quantified.

Particulars	Figures (Rs.)	
	As per FA schedule- FY 2014-15	As per FA schedule- FY 2015-16
	31.03.2015	01.04.2015
WDV	1,41,95,177	2,20,85,012

- II. A Letter was sent to school on 26th March, 2018 to call for additional documents. However, no response was received from the school. Further, opportunity to the school was given to appear on 28 June, 2018 at the premises of Directorate of Education which was duly attended by the school. Based on the discussion with the school, the school was asked to submit additional documents/ explanations by 3rd July, 2018. But the school has not submitted any clarifications/ documents after the hearing. Further, reminder

was issued to school on 18th July, 2018, 23rd July, 2018, 30th July, 2018 and 8th August, 2018 for submission of the said documents. Despite of the repetitive reminders sent to school as mentioned above, the school did not submit the required documents/explanations. Therefore, it can be concluded that the school do not have any further documents/explanation to offer in respect of their fee increase proposal. The lists of document which the school has not provided are given below.

- a. Original fee receipts issued during the financial year 2014-15, 2015-16 and 2016-17 for each class (at least 2 students)
- b. Copy of fee collection registers for the financial year 2014-15, 2015-16 and 2016-17
- c. Item-wise details/breakup/justification for the proposed increase (or decrease) for all revenue expenditure and capital expenditures as per budgeted statement for session 2017-18 against actual expenditure incurred during 2016-17 along with relevant documents to substantiate its claim
- d. Copy of salary payment register (or Pay bill register) for two months before implementation of 7th CPC and two months after implementation of 7th CPC along with proof of disbursements of salaries and arrears
- e. Copy of TDS return and PF return for the financial year 2016-17
- f. Statement of surplus or deficit in respect of each earmarked levies namely Transportation Charges and Meal charges showing collection of fee under these heads and expenditure incurred against that
- g. Audited Receipt and Payment account for the year 2014-15, 2015-16 and 2016-17 is required from school.
- h. Details of secured loan taken from Nainital Bank and ICICI Bank is required from school (nature of loan, source of repayment, purpose for taking loan etc.)
- i. Details and documents of car/ buses, date and cost of purchase, source of financing
- j. School needs to submit the detailed calculation of fee collected during the year 2014-15, 2015-16 and 2016-17 (i.e. number of student as per EWS scheme/ other students, fee structure, computation of fee for the year 2016-17 etc.)
- k. Details of return filled with district under rule 180 for the year 2016-17 is to be submit by school.
- l. Justification on non-preparing the financial statements in accordance with Appendix-II of order dated 16.04.2016.
- m. Whether the school has filed statement of fees by 31st March for the years 2015-16 and 2016-17 before the commencement of the academic session under section 17(3) of the Act. If yes, please provide the details.
- n. Whether school is collecting donation in any name from the students at the time of admission? If yes, please provide the details.
- o. Is there any complaint of parents against school in relation to fee hike? If yes, whether the same has been duly disposed of?
- p. Detailed calculation of late fee/fine collected during the year 2014-15, 2015-16 and 2016-17.
- q. School need to clarify that it has maintained one schedule for general fund and society account. The school has made withdrawals from this account in all the three years.

- r. School need to clarify about the transfer of Rs. 1,25,93,869 from Laurel High Montessori School in FY 2015-16
- III. As per rule 180 of the Delhi School Education Rules, 1973 every unaided recognized private school shall submit returns and documents in accordance with Appendix II of said rules. However, the school has not prepared its accounts as per annexure II of rule 180 of DSER, 1973.

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. **6,98,75,698** out of which cash outflow in the year 2017-18 is estimated to be Rs. **5,26,62,000**. This results in net surplus of amounting to Rs. **1,72,13,698**. The details are as follows:

Figures (Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	25,58,643
Investments as on 31.03.17 as per audited Financial Statements	15,30,352
Less: FDR in the joint name of Chairman CBSE and Manager of school	(75,000)
Less: FDR in the joint name of DDE and Manager of school	(2,00,000)
Add: Recoverable from society for construction of building in contravention to the clause 2 of public notice dated May 4, 1997 and Rule 177 of DSER, 1973	1,14,51,611
Add: Amount recoverable against interest paid on loan taken from ICICI Bank and Nainital Bank for purchase of buses and car in contravention to Section 18(4) of DSEA, 1973	5,17,644
Add: Amount recoverable against principal repaid on loan taken for purchase of Skoda car from Nainital Bank in contravention to Section 18(4) of DSEA, 1973	4,17,064
Total	1,62,00,314
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)	5,33,54,958
Other income 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)	3,20,426
Estimated availability of funds for FY 2017-18	6,98,75,698
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	5,26,62,000
Net Surplus	1,72,13,698

- 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 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, 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Laurel High The School, Behind IDPL, CHBS (Near Ashiana Chowk), Pitampura, New Delhi - 110034 (School Id: 1411254)** 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:

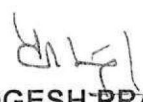
1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the 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 remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order 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 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)

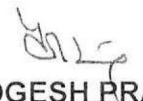
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Laurel High The School,
Behind IDPL, CHBS (Near Ashiana Chowk), Pitampura
New Delhi -110034, (School Id: 1923347)

No. F.DE.15 (636)/PSB/2018/30692-96 Dated: 14.12.2018

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 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