

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

1505

No. F.DE.15 (599)/PSB/2018/30007-30002 Dated: 30/11/18

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, need 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 where 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.....



11-12-13

.....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, **N.K. Bagrodia Public School, Ahinsa Marg, Sector-9, Rohini, New Delhi-110085 (School Id: 1413198)** 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 an opportunity of being heard on August 27, 2018 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 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. On review of audited financial statements of FY2015-16 and 2016-17, it is noticed that the school has utilised development fee to the tune of Rs. 20,74,982 for incurring revenue expenditure. Accordingly, school is directed to make necessary adjustments in the balance of development fund account and reserves & surplus so as to ascertain the correct position of funds.

Particulars	Amount
In FY 2015-16, assets purchased out of Development Fund was Rs 30,82,596/ whereas Development Fund utilised was Rs. 36,61,199. Therefore, the difference Rs 5,78,603 was utilised for revenue expenditure.	5,78,603
In FY 2016-17, assets purchased out of Development Fund was Rs 97,21,432/- whereas development fund utilised was Rs 11,217,811/- . Therefore, the difference of Rs 14,96,379 was utilised for revenue	14,96,379

Particulars	Amount
expenditure.	
Total adjustment	20,74,982

II. On review of audited financial statements of FY 2014-15, 2015-16 and 2016-17, it is noticed that the school has not created Depreciation Reserve Fund. Accordingly, the school is directed to collect development fee only if it is creating Depreciation Reserve Fund equal to depreciation charged to revenue account in accordance with clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009

III. In respect of earmarked levies, school is required to adhere to:

- 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.

However, during FY 2014-15, 2015-16 and 2016-17, school has collected earmarked levies namely i.e. transport fee, science fee, computer fee, orientation charges and smart class fee from the students but these levies were not charged on 'no profit no loss' basis as the school is earning surplus from these levies and the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Accordingly, school is directed to charge earmarked levies in accordance with clause 22 of order dated 11.02.2009 and to follow fund based accounting.

Other Irregularities:

- As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012, the school shall provide 25% reservation to children belonging to EWS/DG categories. However, the school has not complied with above order and the condition of land allotment letter. As per school, the details of admission of EWS/DG students in the FY 2014-15, 2015-16 & 2016-17 are as under:

S. No.	Particulars	2014-15	2015-16	2016-17
1	EWS Students	362	413	453
2	Total Students	2,646	2,723	2,749
3	% of EWS Students	14%	15%	16%

- School has made provision for Leave Encashment and Gratuity on the basis of management estimates and not on the basis of actuarial valuation as specified by the Accounting Standard 15 on "Employee Benefits" as well as Guidance Note on "Accounting by school" issued by ICAI. In the absence of the actuarial report, the

same could not be quantified and therefore, no adjustment has been made in calculation of funds availability of the school.

- III. On review of fee receipts of FY 2014-15 and FY 2015-16, it is noted that school has collected smart class fee as earmarked levy. However, related income and expenditure is not reflected in the audited financial statements, therefore, financial impact of the same cannot be ascertained.
- IV. On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, following observations were noted in relation to caution money:
- 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.
 - As per clause 18 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, caution money collected from students shall be refunded to students at the time of his/ her leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund. However, it is noted that caution money pertaining to students who have left the schools was not refunded along with bank interest.

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

- The total funds available for the year 2017-18 amounting to Rs. **31,50,86,978** out of which cash outflow in the year 2017-18 is estimated to be Rs. **14,43,26,763**. This results in net surplus of Rs. **17,07,60,215**. The details are as follows:

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,23,24,522	
Add: Investments as on 31.03.17 as per Audited Financial Statements	18,26,57,073	
Less: Fixed deposit earmarked for Caution Money	10,00,000	
Less: Fixed Deposit in joint name of Directorate of Education & Manager, School	36,22,003	
Total	19,03,59,592	
Add: Fees of 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)	10,95,46,110	
Add; Other Income of 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)	1,51,81,276	
Estimated availability of funds for FY 2017-18	31,50,86,978	
Less: Budgeted expenses for the session FY 2017-18	14,43,26,763	Refer 'Note 2'

Particulars	Amount	Remarks
Net Surplus*	17,07,60,215	

*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 be 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. 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 amounting Rs.1,11,12,628 may be considered as included in the aforesaid fund position of the school.

Note 2: School has not submitted the copy of actuarial valuation report for provisions proposed for gratuity and leave encashment for the FY 2017-18 and hence, these expenses are not considered in the budget.

- 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 has been recommended by the team of expert Chartered Accountants that since 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.

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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, since 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 school is hereby directed to make equivalent investments against provision for Gratuity and Leave Encashment with LIC (or any other agency) within 90 days of the receipt of this order. And provisions for gratuity and leave encashment should be based on actuarial valuation.

AND WHEREAS, school is also directed to create 3 months' salary provision in accordance with the provisions of Right to Education Act, 2009 in joint name of Dy. Director, Education (District) and Manager of the School within 30 days of receipt of this order. Further, school is directed not to charge any development fee for academic session 2018-19 and any collection under this head of fee in subsequent period will be subject to evaluation of fund availability with school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **N.K. Bagrodia Public School, Ahinsa Marg, Sector-9, Rohini, New Delhi-110085 (School Id: 1413198)** 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.

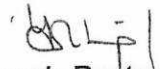


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6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

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.

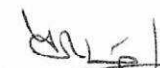

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
N.K. Bagrodia Public School,
Ahinsa Marg, Sector-9, Rohini, New Delhi-110085 (School Id: 1413198)

No. DE.15(599)/PSB/2018/30007-12 Dated: 30/11/18

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
(Private School Branch)
Directorate of Education, GNCT of Delhi