

(84)

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

(84)

No. F.DE.15 (656)/PSB/2018/ 30744 - 30748

Dated: 19/12/2018

**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 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, **Happy Home Public School, Pocket B-4, Sector-11, Rohini, Delhi-110085 (School Id: 1413204)** 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 May 2, 2018. Further, school was also provided opportunity of being heard on July 17, 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 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, up-gradation 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 audited financial statements for the FY 2014-15, 2015-16 and 2016-17 following have been observed:
  - a. That the fixed assets purchased out of the development fund is neither reflected on the face of balance sheet nor in the fixed assets schedule. At the face of balance sheet school is reducing the amount as utilised for purchase of fixed

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assets out of development fee but this amount does not match with the additions made in the fixed assets during the year. School was asked to clarify the utilisation of development fund and presentation of fixed assets purchase out of development which it failed to submit. In view of this, it cannot be said that the fixed assets purchased out of development fund is available with the school. Since, it is not clear how much amount has actually been utilised for purchase of fixed assets and therefore, no adjustments have been made. School is directed to provide the details of utilisation of development fund for purchase of fixed assets and to make necessary adjustments in development fund balance and fixed assets balance. These shall be examined at the time of next fee increase proposal of the school.

- b. The school has utilised the development fee for incurring revenue expenditures in violation of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. These expenditures are directly reduced from the development fund account without debiting the Income and Expenditure account and accordingly, school is directed to make necessary adjustments in the general reserve fund and development fund. The details of revenue expenditure incurred out of development fund is given below:

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17
Utilised in coaching and training expenses	20,49,400	26,32,967	24,66,739
Utilized in smart classes and Spl. Teaching	1,87,080	2,44,572	-
Utilised in Hobbies, Crafts sport exp	2,79,584	18,232	48,500
Utilised for Medical Aid	2,91,553	3,15,092	3,15,092
Total	28,07,617	32,10,863	28,30,331
<b>Total</b>			<b>88,48,811</b>

- c. As per audited financial statements, the development fund was utilised for creation of depreciation reserve fund in contravention of clause 14 of order dated 11.02.2009. Further, it also noticed that in the schedule of development fund amount shown as utilisation against depreciation reserve fund is not shown/ presented as addition in the schedule of depreciation reserve fund. The school is failed to explain the same and accordingly, in the absence of the complete information no adjustments could be made. The school is directed to clarify the exact position of development fund and depreciation reserve fund. The details of depreciation reserve fund created out of development fund are as follows:

(Figures in Rs.)

Particular	FY 2014-15*	FY 2015-16	FY 2016-17
Depreciation Reserve Fund created out of Development Fund	-	94,41,912	7,15,048
<b>Total</b>			<b>1,01,56,960</b>

\*School has not submitted the schedule for the FY 2014-15.

- II. In respect of earmarked levies, school is required to comply with:

- a) 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;
- b) Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- c) 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, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is observed that the school has charged earmarked levies namely transport fee, computer and science fees and orientation charges from the students but these fees are not charged on 'no profit no loss' basis as school. During the period under evaluation, school has incurred deficit under transport fee, computer and science fees and orientation charges and the school has not followed fund-based accounting in respect of earmarked levies charged from the students. School is directed to follow fund-based accounting for earmarked levies charged from the students.

- III. As per Rule 177 of Delhi School Education Rules, 1973, savings, if any of the school can only be utilised by the school for meeting capital expenditures. However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that school funds have been utilised for purchase of vehicles in contravention of Rule 177 of DSER, 1973. School has taken loan for purchase of vehicles. Transportation facility has not been availed by each of the students and still, the burden of the loan along with interest thereon is imposed on each student of the school. School may be directed to recover this amount from the society. Details of repayment of loan and interest thereon are as follows:

(Figures in Rs.)

Particular	2014-15	2015-16	2016-17
Repayment of Vehicle Loan	5,26,748	5,33,926	7,86,285
Interest on Vehicle Loan	1,45,231	1,37,954	1,26,260
Total	6,71,979	12,28,639	9,12,545
Total			28,13,163

- IV. As per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that the school funds have been used for payment of rent. The amount of rent expense during FY 2014-15, 2015-16 and 2016-17 was Rs. 11,08,800, Rs. 18,00,000 and Rs. 19,20,000 respectively. It is not clear since land was already allotted by DDA then why School need to incur any rent expense. Accordingly, these amounts are not considered as allowable expenditure to the school and are to be recovered from the society. School may be directed to recover this amount from society.

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**Other Irregularities:**

- I. As per clause 4 of Order No. DE. /15/150/ACT/2010/4854 dated 09.09.2010, un-refunded caution money belonging to the ex-student shall be reflected as income for the next financial year and it shall not be show as liability after expiry of 30 days from the intimation to the ex-students for recovery of caution money. During the FY 2014-15, 2015-16 and 2016-17, school has neither refunded any caution money nor has shown as income by the school in its financial statements. School may be directed to comply with the directions contained in the aforesaid provision.
- II. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and as per land allotment letter the school is required to provide 25% reservation to children belonging to EWS/DG category at the entry level. However, student enrolment details and EWS students as provided by the school along with return filed under rule 180 is as follows:

Particular*	FY 2015-16	FY 2016-17
Number of EWS category students	342	357
Total Strength	2161	2194
Percentage	15.83%	16.27%

\*School has not provided the details EWS students and total strength of the school for the FY 2014-15.

The DDE (District) is directed to look into this matter.

- III. School has made the provision for gratuity and leave encashment of Rs 76,55,986 and Rs 17,71,013 respectively as on 31.03.2017 on the basis of actuary report. However, school has not made any investment against these provisions as required under Accounting Standard 15 as issued by ICAI and accordingly no impact of the same can be considered.
- IV. As per sub section (1) of section 13 of Right to Education Act, 2009, no school or person shall, while admitting a child, collect any capitation fee. On review of fee structure as submitted by the school along with fee increase proposal, it is observed that the school has been collecting one-time orientation fees amounting Rs. 2,200/ Rs.3,300/ Rs. 4,400 from the students at the time of admission in contravention of the aforesaid clause. Therefore, school may be directed to stop such collections from the students. The class-wise rates of fee are as follows:

(Figures in Rs.)	
Class	Fees
Nursery to Fifth	2,200
Sixth to Eight	3,300
Ninth to Twelfth	4,400

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. **8,06,74,318** out of which cash outflow in the year 2017-18 is estimated to be **Rs.7,20,48,846**. This results in surplus of funds amounting to Rs. **86,25,472**. The details are as follows:

(Figures in Rs)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	49,27,422
Investments as on 31.03.17 as per audited Financial Statements	13,27,754
Add: Recoverable from society for expenditure incurred on repayment of vehicle loan.	28,13,163
Add: Rent amount paid by school recoverable from society	48,28,800
<b>Total</b>	<b>1,38,97,139</b>
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)	6,57,53,590
Other income for FY 2016-17 as per audited Financial Statements	10,23,589
<b>Estimated availability of funds for FY 2017-18</b>	<b>8,06,74,318</b>
<b>Less: Budgeted expenses for the session FY 2017-18 (after making adjustment) (Note 1 and 2)</b>	<b>7,20,48,846</b>
<b>Net Surplus</b>	<b>86,25,472</b>

**Adjustment:**

**Adjustment:**

**Note 1:**

- The school has proposed Rs.17,29,472 for salary reserve equivalent to 3 months' of salary for the first time. Since this is the year of implementation of 7th CPC therefore, the allowance for creation of such reserve would give additional burden on the parents/ student. Therefore, it has not been considered in above calculations.
- The provision for gratuity and leave encashment amounting Rs. 29,47,348 and Rs 8,63,000 respectively have not been considered in the budget for FY 2017-18, since the same are not supported by actuarial valuation report.
- School has submitted the calculations of regular salary and arrears of salary as per the recommendations of 7<sup>th</sup> CPC. School has computed month wise salary details as per recommendations of 6<sup>th</sup> CPC and as per recommendations of 7<sup>th</sup> CPC. These details are compared with the salary expense for FY 2016-17 and with the budgeted salary for FY 2017-18. Following differences are noted:

- In the calculation sheet, school has compared the salary payable as per recommendations of 6<sup>th</sup> CPC and the salary payable as per recommendations of 7<sup>th</sup> CPC. Upon checking the 6<sup>th</sup> CPC salary as per

calculation sheet vis-à-vis salary expense as per audited financial statements for FY 2016-17 differences are noted. The details of the same are as follows:

(Figures in Rs.)

Particulars	As per working sheet	As per audited Financial Statements	Difference
As per 6th CPC - FY 2016-17	2,53,95,370	3,62,66,626	1,08,71,256

2. Upon checking the 6<sup>th</sup> CPC salary as per calculation sheet vis-à-vis salary expense as per budget statement for FY 2017-18 differences are noted. The details of the same are as follows:

In view of the aforesaid differences, the 7<sup>th</sup> CPC working submitted by the school cannot be treated as correct and hence, the same have not been considered in the budget for the FY 2017-18 for the purpose of fee increase proposal. Accordingly, an increase of 30% on salary paid in FY 2016-17 has been considered in above calculation as impact of 7<sup>th</sup> CPC on salary expenditure of the school and balance amount has been disallowed. The details of disallowance are as follows:

(Figures in Rs.)

Particulars	As per audited Income and Expenditure Account for F.Y. 2016-17	As per budget for fee increase submitted by school for F.Y. 2017-18	Net Increase/ Decrease	Disallowed
Salary and wages	3,62,66,626	4,26,06,702	63,40,076	55,68,402
Salary Arrear	-	78,02,352	78,02,352	
Increase in regular salary	-	23,05,962	23,05,962	
<b>Total</b>	<b>3,62,66,626</b>	<b>5,27,15,016</b>	<b>1,64,48,390</b>	

**Note 2:**

- As per Rule 177 of Delhi School Education Rules, 1973, savings, if any of the school can only be utilised by the school for meeting capital expenditures. School has taken loan for purchase of vehicles and the burden of the loan along with interest thereon was imposed on each student of the school. Hence interest on loan amounting to Rs. 1,38,886/-, as proposed by the school has not been considered for the purpose of fee increase proposal.
- School has budgeted rent expenses amounting to Rs. 21,12,000 for FY 2017-18. It is not clear since the land was allotted by DDA then why School need to incur any

rent expense. Accordingly, the same has not been considered as allowable budgeted expenditure.

- 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."

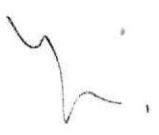
AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie there are financial and other irregularities 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 7<sup>th</sup> 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 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 utilised the school funds for the repayment of loan and interest thereon amounting Rs. 28,13,163 and for payment of rent amounting Rs. 48,28,800. These amounts are to be recovered by the school from 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 issuance of this 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 **Happy Home Public School, Pocket B-4, Sector-11, Rohini, Delhi-110085 (School Id: 1413204)** 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:

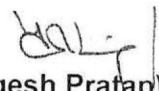




1. Not to increase any fee in pursuance to the proposal submitted by school for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the 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

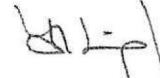
To  
The Manager/ HoS  
Happy Home Public School,  
Pocket B-4, Sector-11, Rohini, Delhi-110085  
(School Id: 1413204)

No.No. F.DE.15 (656)/PSB/2018/30744-30748

Dated: 19/12/2018

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