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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 (276)/PSB/2019/1485-1489

Dated: 04/04/19

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

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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, **Delhi International School, Pkt- B- 5, Sector 03, Rohini, New Delhi (School Id: 1413210)** 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 28, 2018. Further, School was also provided opportunity of being heard on July 06, 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 thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. As per clause 2 of public notice dated May 4th, 1997, School shall not charge Building fund and Development charges when the Building is complete or otherwise as it is the responsibility of Society who has established the School to raise such funds from their own resources or donations from other associations because immovable property of the School becomes the sole property of the Society. Further, as per Judgement of Hon'ble Supreme Court in the case of Modern School Vs Union of India and Others, the capital expenditure cannot form part of financial fee structure of the School.

Also, as per Rule 177 of DSER, 1973 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, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Further, the aforesaid savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

However, on review of audited financial statements for FY 2016-17, it is noted that the school has utilised Rs.1,78,99,746 for construction of swimming pool in contravention of clause 2 of public notice dated May 4th, 1997 read with rule 177 of DSER, 1973. Hence, amount of Rs.1,78,99,746 utilised out the school funds by the school for construction of swimming pool has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society.

- II. Also, as per Rule 177 of DSER, 1973 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, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Further, the aforesaid savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

On review of the audited financial statements, it has been observed that school has taken secured loans and unsecured loans from various parties which was taken for capital expenditure and to meet day to day expenses of the school. On which the school has paid Rs. 19,59,92,334 towards principal repayment of secured and unsecured loan and Rs. 35,70,402 towards interest cost. It has also noted that at the beginning of the financial year 2014-15 the amount recoverable society was Rs.10,59,73,251 which is part of the school fund. During the period the school has received this recoverable amount from society and at the same time has utilised it for repayment of loan and interest cost thereon. Therefore, the school fund utilised for repayment of loan and interest thereon has been included in the calculation of fund availability of the school with direction to the school to recover this amount from the society.

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

- A Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- A Rule 176 of DSER, 1973 states that 'income derived from collections for specific purpose shall be spent only for such purpose';
- A 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 charges, Watch and ward charges, Refreshment charges, Orientation Fees and Smart interactive solutions charges from the student. 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 earned surplus in respect of refreshment charges and has incurred deficit in respect of all other levies. Accordingly, the school is directed to adjust the surplus/deficit incurred from these earmarked levies 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 in respect of all earmarked levies charged by the school.

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 forth 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.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services/ facilities of the school. And if, the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop the collection of separate charges in the name of "Watch and ward charges, Orientation Fees and Smart interactive solutions charges" with immediate effect.

IV. 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. And 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 has increased the fee under the head 'other charges' in FY 2016-17 without obtaining prior approval from the Directorate of Education which is contravention of the aforesaid order. Further, the school has also introduced new heads of fee i.e. 'orientation fee' and 'smart interactive solution fee' in FY 2016-17. Therefore, the Directorate of education may look the matter.

Other Irregularities

- I. 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. On review of financial statements, it has been observed that the school has made provision for gratuity and leave encashment amounting to Rs.14,32,087 for the first time in FY 2016-17 which has not been considered in the calculation of fund availability of the school because it was not determined on the basis of Actuary Valuation Report and has not earmarked equivalent investment. Therefore, the school is directed to provide the provision for employee benefits and to make equivalent investment in accordance with the requirements of Accounting Standard -15.
- II. 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, School is directed to apply the depreciation rates as prescribed in the Guidance Note-21 "Accounting by Schools".
- III. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in to the matter. The admission allowed under EWS category during FY 2016-17 is as under:

Particulars	FY 2016-17
Total Students	595
EWS Students	138
% of EWS Students	23.19%

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. 16,34,38,291** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 5,72,02,891**. This results in net balance of Surplus amounting to **Rs. 10,62,35,401** for FY 2017-18 after all payments. The details are as follows:

(Figures in Rs.)	
Particulars	Amount

Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	91,873
Investments as on 31.03.17 as per Audited Financial Statements	3,49,186
Add: Amount recoverable from the society for construction of swimming pool in FY 2016-17 (Refer Observation No. I of Financial Irregularity)	1,78,99,746
Add: Amount recoverable from the society for school fund utilised for payment of principal amount of loan and interest cost thereon during FY 2014-15 to 2016-17 (Refer Observation No. II of Financial Irregularity)	10,59,73,251
Less: Outstanding balance of Bank Overdraft as on 31-03-2017	77,81,238
Less: Fixed Deposit in the joint name of Deputy Director of Education and Delhi International School	3,25,415
Total	11,62,07,403
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) excluding transportation income and development Fee (Refer Note- 1)	4,69,77,734
Add: Other income for FY 2016-17 as per Audited Financial Statements	2,53,154
Estimated availability of funds for FY 2017-18	16,34,38,291
Less: Budgeted expenses for the session 2017-18 (Refer Note- 2 to 4)	5,72,02,891
Net Surplus	10,62,35,401

Adjustments:

Note- 1: The school has not proposed income and expenditure towards development fee, therefore, the same has not been considered for the evaluation of fee increase proposal. Similarly, the school has not proposed income and expenditure towards transportation because the school has informed that the transportation facility will be discontinued from the FY 2017-18 onwards.

Note- 2: The school has proposed Rs. 4,83,00,000 towards regular salary which comes to 47% increase over the actual salary paid in the FY 2016-17. Therefore, considering the rate of inflation, the regular increase in salary has been restricted to 10% of the actual salary paid in FY 2016-17. Further, the school has also proposed salary arrears which comes to 40% of the actual salary paid in the financial year 2016-17 which appears to be on the higher side. Therefore, the same has been restricted to 30% of the actual salary paid to the staff excluding salary paid to the contractual staff in the FY 2016-17. Accordingly, excess amount of Rs.1,47,10,955 proposed by the school has not been considered for evaluation of fee increase proposal.

Note- 3: The school has proposed Rs.57,00,000 towards refreshment charges which comes to 52% increase over the actual expenditure incurred in previous FY 2016-17. Moreover, the school has not provided any justification for such unusual increase and hence the increase proposed by the school has been restricted to 10% of the actual expenditure incurred by the school in the previous FY 2016-17. Thus, the

excess amount of Rs.15,86,319 has not been considered in evaluation of fee increase proposal.

Note- 4: As per section 18(4) of DSEA, 1973 read with Rule 176 & 177 of DSER, 1973, Income derived by unaided recognised schools by way of fees should be utilized only for such educational purposes as may be prescribed. Therefore, interest on Loan of Rs. 25,00,000 proposed by the school has not been considered in the evaluation of fee increase proposal.

- 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 7th 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 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said School.

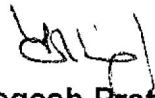
AND WHEREAS, it is also noticed that the School has incurred Rs.1,78,99,746 for construction of building and Rs.10,59,73,251 for payment of loan and interest cost out of the school fund which is in contravention of clause 2 of public notice dated 04-05-1997 read with Rule 177. Therefore, the school is directed to recover Rs.12,38,72,997 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 **Delhi International School, Pkt- B- 5, Sector 03, Rohini, New Delhi (School Id: 1413210)** 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:

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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
Delhi International School,
Pkt- B- 5, Sector 03, Rohini, New Delhi (School Id: 1413210)

No. F.DE.15 (276)/PSB/2019 / 1485-1489

Dated: 04/04/19

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