

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

No. F.DE.15 (३५५)/PSB/2019 /1340-44

Dated: 29/03/19

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

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, **Mother Divine Public School, Sector -3, Rohini, New Delhi (School Id: 1413211)** 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.

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 02, 2018. Further, School was also provided opportunity of being heard on June 16, 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. Before FY 2014-15, the school has utilised development fund of Rs.28,26,857 for purchase of vehicle which has been rectified by the school in FY 2014-15 but the corresponding entry for this rectification is not traceable in the financial statement. Further, the school was asked to provide the rectification entry passed by it but the same has not been provided by the school for verification. Therefore, the school is directed to provide the necessary details for verification within the stipulated time mentioned in the order.
- II. 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 is charging earmarked levies namely transport fee, smart class fee, activity fee, science fee, computer fee and facility fee from the students but these fees are not charged on 'no profit

no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account of transport fee, smart class fee and science fee and incurred deficit against all other earmarked levies. Further, the school is not following fund-based accounting in respect of these earmarked levies. Therefore, the school is directed to adjust the surplus/deficit on these earmarked levies against the general reserve.

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 comprises 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 comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also 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 the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist 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 are to be collected only from the user students availing the facilities and if, the services are extended to other 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 accordingly school is directed not charge a separate levy for these facilities in the name of smart class fee, activity fee and facility fee from all the students.

Other Irregularities:

- I. 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 the condition specified in the Land allotment letter which provides for 25% reservation to children belonging to EWS category in admission. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. As per School, the details of number of EWS students and total students in FY 2014-15, FY 2015-16 and FY 2016-17 are as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	2776	2740	2797
EWS Students	603	593	628
% of EWS students	21.72%	21.64%	22.45%

- II. 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, upgradation 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 statement for the FY 2014-15, 2015-16 and 2016-17, it has been observed that, the school has not transferred the interest income generated from the investment made out of development fee to the development fund account in FY 2014-15 to 2016-17 which is in contravention of the aforesaid clause. Therefore, the school is directed to follow the provision of clause 14 of order dated 11-02-2009.

- III. 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 Audited financial statements, it is noted that the school has made provision for gratuity and leave encashment of Rs.2,07,65,200 till FY 2016-17 on the basis of actuary report but has not made any investment for the same and accordingly, the same has not been considered for evaluation of fee increase proposal. Therefore, the school is directed to follow Accounting Standard 15.
- IV. In the financial statements, the school has shown its fixed assets under two categories i.e. assets purchased out of development fund and other than development fund. The fixed assets purchased out of development fund are reflected at gross value in the balance sheet whereas other fixed assets are reflected at written down value in the balance sheet of the FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to adopt uniform accounting policy for presentation of fixed assets in the financial statement as per GN-21 "Accounting by school" issued by ICAI.
- V. The opening balances of Investments for the FY 2015-16 do not reconcile with the closing balance of investments for the FY 2014-15 for which the school has not provided satisfactory explanation. The details of difference between closing balance and opening balance is as under:

Particulars	Closing balance of FY 2014-15	Opening balance of FY 2015-16	Differences
Investment against specific fund	31,32,645	33,41,022	2,08,377
Other Investment	1,09,67,769	1,14,08,278	4,40,509

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. 8,12,36,230** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 8,98,10,505**. This results in deficit of **Rs. 85,74,275**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	22,28,665
Investments as on 31.03.17 as per Audited Financial Statements	1,45,51,867
Less: Development Fund balance as on 31.03.2017	66,67,946
Total	1,01,12,586
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)	6,99,46,888
Add: Other income for FY 2016-17 as per Audited Financial Statements	11,76,756
Estimated availability of funds for FY 2017-18	8,12,36,230
Less: Budgeted expenses for FY 2017-18 (after making adjustment) Refer Note- 1 to 3	8,98,10,505
Estimated Deficit	85,74,275

Adjustments:

Note- 1: The school has proposed 7th CPC salary arrears of Rs.3,15,75,760 which is 71% of the actual salary paid in the FY 2016-17 at the same time the increment in regular salary has been proposed by 11%. For which the school was asked to provide justification for such increase but the school has not provided detailed calculation for verification. In absence of detailed calculation, the total increase in salary including the impact of arrears salary has been restricted to 27% of the actual salary paid in the previous financial year. Accordingly, excess amount of Rs. 2,44,90,455 has not been considered for evaluation of fee increase proposal.

Note- 2: For the first time the school has proposed Rs.1,35,64,210 for Salary Reserve equivalent to 3 month's of salary. Since, this is the year of implementation of 7th CPC where parents/ students are already overburdened therefore, the same has not been considered in the evaluation of fee increase proposal.

Note- 3: The school has proposed Rs.38,86,795 towards gratuity and leave encashment provisions which has not been considered in the evaluation of fee increase proposal because the school has not earmarked any investment against the same.

Note 4: Under the following heads the School has proposed higher expenditures as compared to the actual expenditure incurred in the previous financial year. The school has not provided any satisfactory explanation or justification for such unusual increase in these expenditures. Therefore, these expenditures have been restricted to 110% of the actual expenditure incurred in the FY 2016-17 considering the rate of inflation. The summary of expenditure disallowed is as under:

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase/ (Decrease)	% Change	Amount disallowed
Legal & professional expense	-	13,92,688	13,92,688	100%	13,92,688
Activity & Sports Expenses	28,42,192	44,28,500	15,86,308	56%	13,02,089
Total	28,42,192	58,21,188	29,78,996		26,94,777

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 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 though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural findings noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may 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 it appropriate to allow the increase in tuition fee by 15% from 01 April, 2019.

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **Mother Divine Public School, Sector -3, Rohini, New Delhi (School Id: 1413211)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

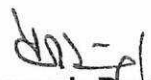
1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate order dated 25.08.2017.

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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 and others. 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.

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

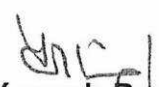
To
The Manager/ HoS
Mother Divine Public School,
Sector -3, Rohini, New Delhi (School Id: 1413211)

No. F.DE.15 (245)/PSB/2019 /1340-1344

Dated: 29/03/19

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