

223
2559

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

No. F.DE.15 (311)/PSB/2019/1615-1619

Dated: 05/04/19

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 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, **Prince Public School, Sector – 24, Rohini, Delhi - 110085 (School Id: 1413212)** 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 March 26, 2018. Further, school was also provided opportunity of being heard on June 12, 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 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fund may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, school has utilised development fund for smart class expenses of Rs. 3,63,000 and for library books of Rs. 54,827 during FY 2015-16 which are in contravention of above mentioned clause. Therefore, the school is directed to make necessary adjustment in Development fund and Development Fund utilised account.
- II. As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, no amount whatsoever shall be transferred from the recognised unaided school fund to the society or the trust or any other institution.

Also, as per Rule 177 of DSER, income derived by an unaided 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 the audited financial statements for the FY 2016-17, it is noted that an amount of Rs. 21,26,177 was recoverable from the society as on March 31, 2017 as these funds have been given to society in contravention of Rule 177 of DSER, 1973. During discussion, school failed to clarify the purpose for which this amount was given to the society. Therefore, the same has been included in the calculation of funds availability of the school with the direction to school to recover this amount from the society.

III. 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.

However, in FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely transport fee, science fee and computer fee but these fees are not charged on 'no profit no loss' basis as the school has earned surplus from science fee and incurred deficit on transportation fee and computer fee. Further, the School is not following fund based accounting for earmarked levies. Therefore, the school is directed to make adjustment in General reserve for surplus/deficit incurred on these earmarked levies and to follow fund based accounting.

IV. As per Section 18(4) of DSEA, 1973, Income derived by unaided schools by way of fees shall be utilised only for such educational purposes as may be prescribed. However, it has been noted that in FY 2015-16, the school has purchased a luxury car namely Corolla Altis for Rs. 15,68,404, out of which Rs. 11,69,296 was procured as secured loan from Vijaya Bank and the remaining amount i.e. Rs. 3,99,108 was utilised from school fund. Further, the school has also utilised Rs. 1,97,767 out of its fund for repayment of loan and Rs. 1,25,702 for interest payment. Accordingly, Rs. 7,22,577 incurred by the school towards purchase of car, payment of loan and interest thereon have been included in the calculation of funds availability of the school with the direction to the school to recover this amount from the society. Further, the school is directed to make adjustment in

General reserve for the interest charged in the income & expenditure account. The summary of payment of loan and interest cost are as follows:

(Figures in Rs.)	
Particulars	Amount
Payment towards purchase of car	3,99,108
Repayment of Principal	1,97,767
Payment of Interest	1,25,702
Total recoverable from society	7,22,577

- V. As per Rule 177 of DSER, income derived by an unaided 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:

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

However, as per audited financial statements for FY 2015-16 and 2016-17, it is noted that school funds have been utilised for purchase of vehicles before providing for employee benefits as required by Rule 177 of DSER, 1973. The school has paid Rs. 15,00,769 towards principal repayment and Rs. 4,81,018 towards interest payment. Therefore, the aforesaid amounts have been included in the calculation of funds availability of the school with the direction to school to recover these amounts from the society. Further, the school is directed to make adjustment in General reserve for interest charged in the income & expenditure account. The summary of payment of loan and interest cost are as follows:

(Figures in Rs.)	
Particulars	Amount
Repayment of Principal	15,00,769
Payment of Interest	4,81,018
Total recoverable from society	19,81,787

Other Irregularities:

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE District is directed to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below:

(Figures in Rs.)			
Particulars	2014-15	2015-16	2016-17
EWS Students	487	511	547
Total Students	3,596	3,484	3,509
% of EWS Students	14%	15%	16%

- II. The fixed assets have been categorised under two categories in the financial statements i.e. assets purchased out of General reserve and assets purchased out of development fee. Assets purchased out of the General reserve are shown at WDV whereas assets purchased out of the development fee have been shown at the gross value in the financial statement. The school has not followed uniformity while disclosing fixed assets in its financial statements. Therefore, the school is directed to follow Guidance Note – 21 issued by ICAI.
- III. As per section 10 of DSEA&R, 1973, the scales of pay allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of recognised private school shall not be less than those of employees of corresponding status in school run by appropriate authority. However, during discussion the school has informed that it has not paid salaries to teaching staff in accordance with the recommendations given by 6th Central Pay Commission.

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. **5,90,18,217** out of which cash outflow in the year 2017-18 is estimated to be Rs. **5,58,91,892**. This results in net surplus of Rs. **31,26,325**. The details are as under:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	32,80,536
Investments as on 31.03.17 as per audited Financial Statements	15,71,553
Add: Recoverable from society in contravention to the clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999	21,26,177
Add: Amount recoverable against utilisation of school funds for purchase of corolla altis car and payment of	7,22,577

Particulars	Amount
principal and interest on loan obtained for corolla altis car	
Add: Amount recoverable against principal repayment and interest payment on loan obtained for bus	19,81,787
Less: Development fund utilised as on 31.03.2017	19,98,558
Total	76,84,072
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)	5,11,49,167
Add: 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)	1,84,978
Estimated availability of funds for FY 2017-18	5,90,18,217
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 2	5,58,91,892
Net Surplus	31,26,325

Note 1: The School has proposed salary expenses of Rs. 5,54,81,916 in its budget for FY 2017-18 (including 7th CPC arrears of Rs. 2,49,73,640) in comparison to actual salary expenses incurred of Rs. 2,18,47,380 in FY 2016-17. During discussion with school, it has been explained that there was higher attrition rate of staff and this increase includes amount proposed for those staff. Accordingly, the school has accepted that Rs. 1,97,06,788 was excessively proposed in the budget and therefore, same has not been considered in the evaluation of fee increase proposal of the School.

Note 2: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

(Figures in Rs.)					
Particulars	2016-17	2017-18	Net Increase	% Change	Disallowed
Function expenses	11,33,181	17,19,597	5,86,416	52%	4,73,098
Total	11,33,181	17,19,597	5,86,416	52%	4,73,098

- 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.

AND WHEREAS, it is noticed that the school has taken loan to purchase car and bus. As a result of which the school has incurred Rs. 27,04,364 towards repayment of loan and interest thereon. Further, the school has also given Rs. 21,26,177 to society as advance. The aforesaid amounts are in contravention to provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amounts from the society. The amount of receipts along with copy of bank statements showing receipt of above mentioned amount should be submitted to 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 **Prince Public School, Sector - 24, Rohini, Delhi - 110085 (School Id: 1413212)** 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 charge fee as per the existing fee structure of the school
4. 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).

5. 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.
6. 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.
7. 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 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

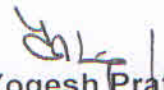
To
 The Manager/ HoS
 Prince Public School,
 Sector - 24, Rohini,
 Delhi - 110085 (School Id: 1413212)

No. F.DE.15 (311) /PSB/2019 /1615-1619

Dated: 05/04/19

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