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

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No. F.DE.15(268)/PSB/2019/ 1365-1369 Dated: 29/03/2019

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that 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 its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 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 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court 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 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. 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) read along 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 response to this directorate's circular dated 23 Oct 2017 referred to above, **Alok Bharti Public School (School ID- 1413215), B-1 Sec-16 Rohini** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format 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 Chartered Accountants at HQ level who has evaluated the fee increase 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 through email. Further, school was also provided an opportunity of being heard on 13 July 2018 at 03:00 PM 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 clarification 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 thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Discrepancies

1. Observation relating to income reported in financial statements not corroborated with the fee structure of the school and number of students was noted in order no. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 8 August 2017 issued to the school post evaluation of the proposal for enhancement of fee for the academic year 2016-2017.

   Incomes (fee collected from students) reported in the audited Income and Expenditure Account/ Receipt and Payment Account for FY 2016-2017 were recomputed to evaluate the accuracy of incomes reported based on the approved fee structure of the school and details of number of students enrolled (non-EWS) provided by the school. Basis the computation prepared, differences were noted in the fee collection reported by the school during FY 2016-2017 in its audited Income & Expenditure Account/ Receipt and Payment and amount of fee arrived/computed as per details provided by the school. The derived differences could not be reconciled by the school. Following differences were derived based on the computation of FY 2016-2017:

Particulars	Income reported in Audited Income & Expenditure Account (A)	Fee computed on the basis of details of no. of students provided by the school (B)	Derived Difference (A-B)
Tuition Fees	1,08,34,480	96,87,600	11,46,880
Development Fee	7,37,475	7,99,200	(61,725)
Annual Fees	20,12,968	22,59,960	(2,46,992)
Total	**1,35,84,923**	**1,27,46,760**	**8,38,163**

The school should perform a detailed reconciliation of the amount collected/income from students and the income that should have been recognised based on the fee structure and number of students enrolled by the school. In absence of sufficient explanation/justification, the net difference of INR 8,38,163 computed above has been considered as funds available with the school while deriving the fund position of the school (enclosed in the later part of the order).

2. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, according to para 7.14 of the Accounting Standard 15 "*Plan assets comprise:*
   (a) assets held by a long-term employee benefit fund; and
   (b) qualifying insurance policies."

   The directorate in its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 8 August 2017 issued to the school post evaluation of the proposal for fee increase during FY 2016-2017 noted that the school was not providing for staff terminal benefits (gratuity and leave encashment) in its financial statements. The financial statements of FY 2016-2017 again reflected that the school has not created any liability towards staff retirement benefits.

   The school has neither obtained an actuarial certificate regarding its liability towards retirement benefits of the staff nor has it provided for any liability in its financial statements of FY 2016-2017. Also, the school has not deposited any amount in investments that qualifies as 'Plan Assets' as per Accounting Standard 15.

   According to school, due to limitations on account of small number of students enrolled with the school and inadequate funds, the school has not been able to deposit any funds towards gratuity and leave encashment. Further, the school mentioned that it will not deny any staff the benefits of gratuity and leave encashment, as and when it becomes payable.

   Comments of the school confirm non-compliance of Accounting Standard 15. Thus, the school is directed to obtain actuarial valuation of its liability towards gratuity and leave encashment and start creating fund for the same in accordance with Accounting Standard 15. In absence of actuarial valuation, no amount has been adjusted towards retirement benefits while deriving the fund position of the school (enclosed in the later part of the order).

B. Other Discrepancies

1. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

   Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

   Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines,* *and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of Transport Fees from students. However, the school has not maintained separate fund accounts for earmarked levy and the school has been generating surplus from earmarked levy, which has been utilised for meeting other expenses of the school, which was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 8 August 2017. Details of calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus (INR)
Transportation Charges^	5,05,850	1,02,410	4,03,440

^ The school has not included salary of staff engaged in providing transport facility to students and has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

The school explained that tuition fee collected from students is not sufficient to meet the establishment cost. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost, on account of which fund balance of earmarked levies could not be separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) have been considered while deriving the fund position of the school (enclosed in the later part of this order).

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount of transport fee. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school is directed to evaluate total cost against transport service and propose the fee structure for the same during subsequent proposal for enhancement of fee ensuring that the proposed levy has been calculated on no-profit no-loss basis.

2. As per Clause 14 of this Directorate's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11 Feb 2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account."*

   The school was directed to treat development fees as capital receipt in the directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 8 August 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 submitted by the school.

   On review of the audited financial statements of the school for FY 2016-2017, it was noted that the school was not treating development fees as capital receipt instead treated it as revenue receipts for meeting revenue expenses of the school. Further, the school has not opened a separate bank nor has it earmarked any fixed deposits against development fund to ensure availability of funds at the time of incurring capital expenditure on furniture, fixture and equipment.

   The school is directed to follow DOE instruction in this regard and ensure that development fee is treated as capital receipt by creating development fund and transferring depreciation charged in revenue account to depreciation reserve. Development fund so created should be utilised only towards purchase of furniture, fixture and equipment. The school is directed not to charge development fee from students till the time school complies with above directions.

   Accordingly, no adjustment towards development fund has been made while deriving the fund position of the school (enclosed in the later part of the order).

3. Observation relating to school not having any policy of procurement and there is no process of calling bids/quotations was noted in order No. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 8 August 2017 issued to the school post evaluation of the proposal for enhancement of fee for the academic year 2016-2017. It was noted that the school has not taken any measure to define its procurement process and has continued to award contracts on discretionary basis to the particular contractors without inviting quotations/bids from other parties.

   During personal hearing, school explained that it is following the procurement process laid down by society, however, no such policy/procedure was submitted by the school. Also, no documents regarding the procurement process carried out for awarding the contracts during FY 2016-2017 was submitted by the school.

   The school is directed to implement proper internal control system in relation to procurement of goods and services so as to ensure that contracts are awarded on Arms' length and competitive prices only.

4. Observation relating to irregularity in depositing statutory dues of tax deducted at source in accordance with the provisions the Income Tax Act, 1961 was indicated in this directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 08 August 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017. Similar

instances of delays (4 out of 12 months) were also noted during FY 2016-2017. The school mentioned that TDS will be deposited with IT Department within the prescribed time lines and extra care will be taken in this regard in future.

The school is directed to adhere to all statutory compliances including timely payment of statutory dues.

5. Observation relating to non-maintenance of fixed assets register (FAR) was indicated in this directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/865 dated 08 August 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017. The school mentioned that its fixed assets register got misplaced during one of the previous audits and the same is under preparation.

The school should prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

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 year 2017-18 amounting to INR 2,10,07,862 out of which cash outflow in the year 2017-18 is estimated to be INR 2,13,42,855. This results in net deficit of INR 3,34,993. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	22,00,431
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	2,36,768
Total Liquid Funds Available with the School as on 31 Mar 2017	**24,37,199**
Add: Estimated Fees and other incomes for FY 2017-2018 [Refer Note 1]	1,77,32,500
Add: Difference noted in Income recorded in Income and Expenditure Account as compared with fee computed based on the details provided by the school for FY 2016-2017 [Refer Financial Finding No. 1]	8,38,163
Gross Estimated Availability of funds for F.Y 2017-18	**2,10,07,862**
Less: Development fund [Refer Other Finding No.2]	-
Less: Staff Retirement Benefits [Refer Financial Finding No.2]	-
Net Estimated Available Funds for FY 2017-2018	**2,10,07,862**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 2]	1,83,42,855
Less: Arrears of salary as per 7th CPC from January 2016 to March 2018 [Refer Note 2]	30,00,000
Estimated Deficit	**3,34,993**

Notes:

1. The school has proposed to start two new sections in class Nursery and KG during FY 2017-2018. On account of additional students admitted in new sections, the school has anticipated increased collection of fee during FY 2017-2018. The amount of fee estimated to be collected by the school during FY 2017-2018 and included in the budget estimate submitted by the school has been considered in table above.

2. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 as INR 2,27,94,000 (including arrears of 7th CPC amounting to INR 30,00,000 that are considered separately), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, some of the expenses heads as budgeted were considered, while other expense heads were restricted to 110% of the expense incurred during FY 2016-2017 giving consideration to general rise in cost/inflation and especially because FY 2017-2018 is the year of implementation of 7th CPC where additional financial burden of increase salary of staff is already there. Therefore, certain expenses in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	% increase budgeted	Amount allowed	Amount Disallowed	Remarks
Staff Welfare	59,817	1,20,000	101%	65,799	54,201	Reasonable explanation or supporting documents not provided by the school for such percent increase. Thus, expenditure restricted to 110% of that incurred during FY 2016-2017.
Bank Charges	2,584	10,000	287%	2,842	7,158	
School Maintenance	2,90,867	5,00,000	72%	3,19,954	1,80,046	
Electricity and water	4,10,233	6,00,000	46%	4,51,256	1,48,744	
Function & Cultural Expenses	73,918	1,00,000	35%	81,310	18,690	
Gardening Expenses	13,960	80,000	473%	15,356	64,644	
Misc. Expense	30,219	50,000	65%	33,241	16,759	
Printing and Stationery	1,40,638	1,80,000	28%	1,54,702	25,298	
Housekeeping & security Exp.	6,45,994	10,00,000	55%	7,10,593	2,89,407	
Telephone & Postage Expenses	37,410	60,000	60%	41,151	18,849	
Transportation exp.	1,02,410	4,00,000	291%	1,12,651	2,87,349	
Laboratory Expenses	-	30,000	-	-	30,000	New head of expense for which no detail provided by the school.
Depreciation	1,50,552	3,00,000	99%	-	3,00,000	This is a non-cash expenditure and would not have any impact on the fund position of the school. Thus, disallowed.
Donation	-	10,000	-	-	10,000	Donation can only be paid out surplus determined in accordance with Rule 177. Not

Particulars	FY 2016-2017	FY 2017-2018	% increase budgeted	Amount allowed	Amount Disallowed	Remarks
						allowed on account of deficit.
Total	19,58,602	34,40,000		19,88,855	14,51,145	

ii. It seems that the school may not be able to meet its budgeted expenses from the existing fee structure and accordingly, it should utilise its existing funds/reserves and other resources. In this regard, Directorate of Education has already issued directions to the schools vide circular no. 1978 dated 16 Apr 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 instructions 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 materials were put before Director of Education for consideration and who after considering all material on record has found it appropriate to allow increase in tuition fee by 10% with effect from April 2019.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **Alok Bharti Public School (School ID- 1413215)**, B-1 Sec-16 Rohini, Delhi has been accepted by the Director of Education with effect from April 2019 and the school is hereby allowed to increase tuition fee by 10%. Further, the management of said school is hereby directed under section 24(3) of DSEA, 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 the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate's order dated 25 Aug 2017.
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.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 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
Alok Bharti Public School
(School ID- 1413215),
B-1 Sec-16 Rohini
New Delhi-110058

No. F.DE.15(268)/PSB/2019/1365-1369 Dated: 29/03/2019

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2. P.S. to Director (Education) Directorate of Education GNCT of Delhi.
3. P.A. to Spl. 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