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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 ( 120 )/PSB/2019/1907-1911

Dated: 22/2/2019

**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, **St. Margaret Sr. Sec. School, D- Block, Prashant Vihar (Rohini), Delhi (School Id: 1413219)** 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 02, 2018. Further, School was also provided opportunity of being heard on July 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 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 in a separately maintained development fund account". However, on review of audited financial statements it is noted that the school has incurred expenditure for Rs.13,90,116 and capitalised the same under the head "Granite/stone/tiles affixed on floor" during FY 2016-17. These expenditures are related to construction activity which cannot be met out of development fund and which is in contravention of the aforesaid provisions. Therefore, school is directed to make necessary adjustments in the development fund account and development utilisation account in conformity with the provisions of clause 14.

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II. As per Clause 2 of Public Notice dated May 4, 1997 state that "It is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Additionally, Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02. 2005 issued by this Directorate state that "Capital expenditure cannot constitute a component of financial fee structure". Accordingly, based on the aforesaid Public Notice, High Court Judgment and Oder of the Director of Education, the cost relating to construction of School Building is to be met by the Society and not from the funds of the School.

Also, as per Rule 177 of DSER, income derived by an 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, as per audited financial statements for the FY 2015-16, Rs.5,84,83,888 is recoverable from the Society. This amount recoverable from the Society is reduced to Rs.1,15,04,028 in FY 2016-17. During discussion, the school has explained that, in FY 2016-17 it has received Land, Building (net of Depreciation) and investments amounting to Rs. 4,99,001, Rs. 21,04,894 and Rs.4,44,01,713 respectively from the society. It is clear that instead of recovering full amount from the Society, land and building received from the Society has been adjusted from the amount recoverable which is in contravention of aforesaid provisions of DSER, 1973, orders, public notice and court pronouncements. Thus, balance recoverable from the Society as on 31.03.2017 amounting Rs. 1,15,04,028 along with amount adjusted against land and building amounting Rs. 4,99,001, Rs. 21,04,894 respectively is

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directed to be recoverable from the Society and has been considered as funds available with the School.

- III. As per Para 99 of Guidance note on "Accounting by School" issued by ICAI state that "Where the fund is meant for meeting capital expenditure, upon incurrance of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year"

Taking cognisance from the above para, School should have considered the development fund utilisation account as deferred income to the extent of cost of assets purchased out of development fund and should have transferred the amount to the credit of Income and Expenditure account in proportion to the depreciation charged every year. However, it is noted that school has created the development utilisation fund as deferred income to the extent of cost of assets purchased out of development fund but has not transferred any amount to the credit of Income and Expenditure account in proportion to the depreciation charged every year. Therefore, the school is directed to make necessary adjustments to comply with the accounting treatment as indicated in the guidance note.

- IV. 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.

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 and activity fee from the students but these fees are not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has incurred deficit in respect of aforesaid earmarked levies. Further, fund based accounting has not been followed by the school for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

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

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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 fourth 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 levies are to be collected only from the user students availing the facilities and if, the services are extended to all 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 the Annual Charges. Accordingly, the School is directed not to charge a separate levy for these facilities in the name of "Activity fee".

- V. As per Form-2 of Right of Children to Free and Compulsory Education Act 2009, investments against the salary provisions are to be made in the joint name of the Deputy Director, Education and the Manager of the school. However, on review of audited financial statements for FY 2016-17, provision of Rs.1,52,33,333 against four months' salary reserve is noted but the investment made against that was not in the joint name of the Deputy Director, Education and the Manager of the school. Therefore, this amount has been considered in availability of fund with the school for implementation of recommendations of 7<sup>th</sup> CPC.

**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	1838	1808	1823
EWS Students	292	307	330
<b>% of EWS Students</b>	<b>15.89%</b>	<b>16.98%</b>	<b>18.10%</b>

- II. On review of audited financial statements for the FY 2014-15 to 2016-17, following irregularities have been noted:
  - a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. However, it is observed that the school is being refunding principal amount of caution money only and not the interest thereon which is in contravention of clause 18 of the order dated 11.2.2009. Therefore, the school is directed to comply with aforesaid provisions.

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- b. As per clause 4 of order No. DE./15/150/ACT/2010/4854-69 dated 09/09/2010, after the expiry of 30 days, the amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, the school has not considered the amount of un-refunded caution money as income in its proposed budget. Therefore, the school is directed to comply with aforesaid provisions.
- III. The school is charging depreciation as per the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note-21 "Accounting by School".
- IV. On review of audited financial statements for the FY 2016-17 it is noted that, there was mistake in the total expenditure of FY 2016-17 which leads to decrease in loss by Rs. 1,726 in the Income and Expenditure account. Further, school has not submitted any clarification for the same and therefore, the school is directed to clarify the reason for such mistake along with its impact on the balance sheet while filing its fee increase proposal next time with the Directorate.

**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. 15,23,44,976** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 8,94,22,684**. This results in net balance of Surplus amounting to **Rs. 6,29,22,292** 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	78,38,392
Investments as on 31.03.17 as per Audited Financial Statements	7,23,70,728
Add: Amount recoverable from the society for building and balance outstanding as on 31-03-2017 ( <b>Refer Observation No. I of Financial Irregularities</b> )	1,41,07,923
Less: Investments against Provision for Gratuity and Leave Encashment ( <b>Refer Note- 1</b> )	-
Less: Investments against Provision for Salary Reserve ( <b>Refer Note- 2</b> )	-
Less: Closing balance of Caution Money as on 31-03-2017	17,31,874
Less: Closing balance of Development Fund as on 31-03-2017	63,97,968
Less: Fixed Deposit in the joint name of Manager of School and DIR of Edu. Delhi and Secretary of CBSE	80,062
Less: Fixed Deposit in the joint name of Manager and Secretary of CBSE	19,65,181

<b>Total</b>	<b>8,41,41,958</b>
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)	6,22,38,441
Add: Other income for FY 2016-17 as per Audited Financial Statements	59,64,577
<b>Estimated availability of funds for FY 2017-18</b>	<b>15,23,44,976</b>
Less: Budgeted expenses for FY 2017-18 (after making adjustment) "Refer Note- 3 & 4"	8,94,22,684
<b>Net Surplus</b>	<b>6,29,22,292</b>

### Adjustments:

**Note- 1:** Since, as per the actuarial valuation report the value of plan assets towards gratuity and leave encashment is Nil, therefore, investment made by the school has not been considered for evaluation of fee increase proposal.

**Note- 2:** The school has provided for 4 month's salary reserve as on 31-03-2017 for Rs.1,52,33,333 but has not invested the same in joint name of the Deputy Director and Manager of the school as required in Form-2 of Right of Children to Free and Compulsory Education Act 2009. Therefore, the same has not been considered for evaluation of fee increase proposal.

**Note- 3:** Since, as per the actuarial valuation report the value of plan assets towards gratuity and leave encashment is Nil, therefore **Rs.1,50,41,232** proposed by the school for gratuity and leave encashment along with the investment made by the school for gratuity and leave encashment has not been considered for evaluation of fee increase proposal.

**Note- 4:** The school has proposed Rs.92,42,913 towards Capital Expenditure which is in excess of development fee proposed for the FY 2017-18. Therefore, the capital expenditure proposed by the school is restricted to development fee proposed for FY 2017-18 and the school may be instructed to meet the excess amount of capital expenditure out of the surplus balance of development fund unutilised as on 31-03-2017. Accordingly, capital expenditure of **Rs.20,65,053** (Rs.92,42,913 – Rs.71,77,860) has not been considered in this table.

- 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

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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 7<sup>th</sup> 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 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 a recoverable balance of Rs. 1,15,04,028 from the Society as on 31.03.2017. Further, the school has adjusted Rs. 4,99,001 and Rs. 21,04,894 against land and building from the recoverable balance of society. Therefore, the school is directed to recover Rs.1,41,07,923 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 **St. Margaret Sr. Sec. School, D- Block, Prashant Vihar (Rohini), Delhi (School Id: 1413219)** 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 7<sup>th</sup> 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.






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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

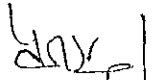
To  
The Manager/ HoS  
St. Margaret Sr. Sec. School,  
D- Block, Prashant Vihar (Rohini), Delhi (School Id: 1413219)

No. F.DE.15 ( 120 )/PSB/2019/1907-1911

Dated: 22/2/2019

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