

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

No. F.DE.15 (118)/PSB/2019/ 1892-1896

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 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 the order dated 23.10.2017 of this Directorate, **Delhi Public School, Sector-24, Phase-III, Rohini, New Delhi – 110085 (School Id: 1413221)** had submitted the proposal for increase in fee for the academic session 2017-18.

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 24, 2018. Further, school was also provided opportunity of being heard on June 29, 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 clarification on various issues noted.

AND WHEREAS, reply of the school, documents uploaded on the web portal for fee increase and subsequent documents as submitted by the school were evaluated by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. As per Order No. F.DE-15/Act-I/WPC-4109/Part/13/16662-68 dated 04.07.2017 issued by the Directorate of Education regarding the fee increase proposal for academic session 2016-17, wherein, the School was given certain directions to comply before submitting the fee increase proposal for the ensuing financial year 2017-18. While the school has applied its fee increase proposal for academic session 2017-18 without complying the directions of the aforesaid order dated 22.06.2017 as the school has challenged the aforesaid order before the Hon'ble High Court of Delhi vide Writ Petition No. W.P. (C) 8071 of 2017 and would submit the compliance report as per the direction of the Hon'ble Court. Therefore, the impact of compliance or non-compliance of the direction mentioned in the

aforesaid order has not been considered in the evaluation of fee increase proposal for the academic session 2017-18.

- II. As per the explanation provided by the school during discussion, it has stopped the collection under the head of "Development Fee" w.e.f. FY 2013-14 because it has limited use as per clause 14 of the order dated 11.02.2009. And instead of collecting fee in the name of Development Fee, the school has introduced new component "Operational Charges" in its Annual Charges so that the school can utilise this collection freely. The school is collecting Rs. 10,620 under the head "Operational charges in FY 2016-17. Thus, the school is continuously collecting the same amount from the students by changing the nomenclature of fee. Therefore, the school is directed to stop the collection of fee under the head "Operational charges" with immediate effect.
- III. As per clause 2 of public notice dated May 04, 1997 "School not to 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 property of the society. Therefore, the students should not be burdened by way of collecting Building Fund or Development Charges".

Further, as per Rule 177 of DSER, 1973 Income derived by an unaided recognised schools by way of fees shall be utilised at 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. And, the savings referred to above shall be arrived at after providing for the following:

- 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, it is noted that the school funds were utilised for construction building of Rs. 79,05,168 in FY 2016-17 before meeting the statutory liability towards the employees benefits which is in contravention of Rule 177 of DSER, 1973 and clause 2 of public noticed dated 4 May, 1997. Therefore, the school is directed to recover the amount utilised by the school for construction of building. Further, the financial statement of the school reflecting the Lease Hold Land which is being amortised over the lease period w.e.f. FY 2015-16 and 2016-17. As the land was originally allotted to the society, therefore the cost of the land and lease amortisation should be reflected in the books of the society and not in the books of the school. Therefore, the school is directed to make adjustment to General Reserve Fund for the amount amortised by the school for lease hold land. The details of amortization are as under:

(Figures in Rs.)

Particulars	As per Audited FS for FY 2015-16	As per Audited FS for FY 2016-17	Total
Amortization of Leasehold Land – Current Year	1,62,312	1,62,312	3,24,624
Amortization of Leasehold Land – Prior Period	26,66,303	-	26,66,303
Total			29,90,927

- IV. In the audited financial statements for FY 2014-15 to 2016-17, it is noted that the fixed assets purchased out of the development fund are reflected at the written down value (WDV) and at the same time depreciation reserve fund appeared at the liability side of the financial statements. This implies that General Reserve was debited twice with the amount of depreciation, first time at the time of charging depreciation on fixed assets and second time at the time of creating depreciation reserve fund. Thus, depreciation reserve fund would be part of the general reserve fund. Further, the depreciation reserve fund, that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of the order dated 11.02.2009, is mere accounting head for appropriate accounting treatment of depreciation in the books of account of the school in accordance with GN-21 issued by ICAI. Thus, the depreciation reserve fund will not have any financial impact in the calculation of fund position of the school and accordingly, has not been considered in the calculation of fund position of the school.

The details of depreciation reserve fund created by the school out of general reserve and out of income and expenditure appropriation account are as follows:

(Figures in Rs.)

Particulars	As per Audited FS for FY 2014-15	As per Audited FS for FY 2015-16	As per Audited FS for FY 2016-17	Total
Depreciation Reserve Fund created of General Reserves	2,25,41,326	-	-	2,25,41,326
Depreciation Reserve Fund out of Income and Expenditure Appropriations	46,31,390	35,20,049	29,61,404	1,11,12,843
Total	2,71,72,716	35,20,049	29,61,404	3,36,54,169

- V. As per Para 99 of Guidance note on "Accounting by school" issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence 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 the cognizance from the above para, school should have created the 'Development Fund Utilization Account' as deferred income to the extent of cost of assets purchased out of Development Fund. And then this deferred income should be amortized in proportion to depreciation charged in revenue account. However, the school has not created Development Fund Utilization separately as required by para 99 due to which the yearend balance of Development Fund as on 31.03.2017 reflecting in the financial statements is not correct because it includes notional amount which is not available for utilisation. Therefore, for the purpose of calculation of available fund position of the school, the closing balance of Development Fund as on 31.03.2017 has been reduced by the amount which has been utilized by the school for purchase of assets during FY 2014 -15 to 2016-17. Further, the school is also directed to determine the correct balance of Development Fund account and Development Fund Utilization account in accordance with the Guidance Note-21 issued by ICAI.

- VI. The financial statements of the school reflect Rs. 8,83,53,639 and Rs. 5,29,84,360 under the head "Facility Expansion Fund" which was created out of the General Reserve and Surplus in FY 2015-16 and FY 2016-17 respectively.

Thus, the school has created Facility Expansion Fund amounting to Rs. 14,13,37,999 out of its reserves. As per the school this fund shall be utilised (but not limited) for meeting the expansion plan relating to additional construction of rooms, additional storey, hostel and other important school facilities, purchase of land and construction of new school building, purchase/ replenishment of heavy items like vehicle, DG set/ Electrical items which relate to building, renovation of existing school buildings, various process improvement and cost reductions initiatives which include projects like solar energy, science lab innovation, technology advancement for school education. Since, this fund has been created out of the General Reserve and out of the Surplus of the school. Thus, it would be part of the free reserves available with the school.

VII. 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.

In FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely i.e. transport fee, exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, misc. fee, municipal tax fee, website fee, sports and activity fee, science fee, computer fee, Other fee- trip/tour and excursion, other activity fee – NIE/NTSS/STSC and Almanac fee from the students but these levies was not charged on 'no profit no loss' basis. During the period under evaluation, school has earned surplus on account of transport fee, exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, misc. fee, municipal tax fee, website fee, science fee, computer fee, Other fee- trip/tour and excursion, other activity fee – NIE/NTSS/STSC, Almanac fee and incurred deficit on sports and activity fee and medical fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, the school is directed to make adjustment to General Reserve for the surplus/deficit incurred in respect of these earmarked levies.

Further, 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" 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.

Considering the aforesaid provisions, the earmarked levies should be collected from the user students only availing the services/ facilities and if such service/facilities has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the Tuition Fee or from the Annual Charges. Therefore, the school should look into the matter and stop the collection of separate earmarked levies in the exam/assignment fee, housekeeping fee, magazine/bulletin fee, maintenance fee, medical fee, misc. fee, municipal tax fee, website fee, sports and activity fee, Other fee- trip/tour and excursion, other activity fee – NIE/NTSS/STSC and Almanac fee from the students. It is also noted that the school has collected PT Association fund from students. In view of aforesaid recommendations of Duggal Committee, these fees are not covered under the head of fee recommended by the Committee. Thus, school is directed to stop collection of PT Association fund.

- VIII. The provision for gratuity and Leave encashment has been made by the school on the basis of actuarial valuation report but the plan assets as per the actuarial valuation report was nil which means the school has not earmarked investment towards the gratuity and leave encashment as required by AS-15. Further, as per DOE order No. F.DE-15/Act-I/WPC-4109/Part/13/16662-68 dated 04.07.2017 issued by the Directorate of Education regarding the fee increase proposal for academic session 2016-17, the school was directed to make earmarked investments with LIC (or any other agency) within 90 days of the receipt of the order which has not been complied because the matter is under trial before the Hon'ble High Court of Delhi. Accordingly, no adjustments against the liability towards gratuity and leave encashment have been considered in the calculation of fund position of the school.

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 condition specified Land allotment letter which provides for 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. The admission allowed by the school under EWS category in FY 2014-15, FY 2015-16 and FY 2016-17 was as under:

Particulars	2014-15	2015-16	2016-17
Total no. of students in school	2472	2435	2454
Total EWS students	226	265	311
% of EWS students to total no. of students	9%	11%	13%

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

- The total funds available for the year 2017-18 amounts to Rs. 63,50,34,830 out of which cash outflow in the year 2017-18 is estimated to be Rs. 27,71,44,000. This results in surplus of funds amounting to Rs. 35,78,90,830. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	7,83,33,322
Investments as on 31.03.17 as per audited Financial Statements	35,10,69,972
Add: Recoverable from society against renovation work of capital nature undertaken by school- (Refer Point III of financial irregularities)	79,05,168
Less: FDR in joint name of Dy Director Education and School	(6,56,950)
Less: FDR in joint name of Secretary CBSE and School	(13,42,568)
Less: Development Fund as on 31.03.2017 (net of utilisation for fixed assets) - (Refer Point V of Financial irregularities)	(6,01,43,855)
Less: Depreciation Reserve Fund as on 31.03.2017- (Refer Point IV of Financial irregularities)	-
Less: Provision for Gratuity - (Refer Point VIII of Financial irregularities)	-
Less: Provision for Leave Encashment- (Refer Point VIII of Financial irregularities)	-
Total	37,51,65,089
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)	22,56,19,393

Particulars	Amount
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)	3,42,50,348
Estimated availability of funds for FY 2017-18	63,50,34,830
Less: Budgeted expenses for the session 2017-18 as per School's submission- Refer Note 1	27,71,44,000
Net Surplus	35,78,90,830

Note 1: School has proposed gratuity and leave encashment of Rs. 1,08,89,000 in its budget for FY 2017-18. However, the school has not complied with the directions contained in order no. F.DE-15/Act-I/WPC-4109/Part/13/16662-68 dated 04.07.2017 and has not earmarked the investments with LIC (or any other agency) for gratuity and leave encashment and thus, current year provisions for gratuity and leave encashment have not been considered.

- 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 Chartered Accountants that since prima facie there are financial and other irregularities and also funds are available with the school to carry out its operations for the academic session 2017-18, the fee increase proposal of the school may not be accepted. Further, as per DOE order No. F.DE-15/Act-I/WPC-4109/Part/13/16662-68 dated 04.07.2017, the school has already implemented the recommendations of 7th CPC and therefore, the aforesaid surplus has been arrived after considering all expenditures proposed by the school.

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 and financial and other irregularities in the school and found that sufficient funds are available with the school

to meet its budgeted expenditure for the academic session 2017-18. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

AND WHEREAS, it is also noticed that the school funds has been utilized for building in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from society is Rs. 79,05,168. 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 issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

AND WHEREAS, since sufficient funds are available with school after meeting all expenditures for the year 2017-18, the school is hereby directed to make equivalent investments against the provision for Gratuity and Leave Encashment with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect statutory liabilities. The provisions for gratuity and leave encashment are to be on actuarial valuation basis.


Accordingly, it is hereby conveyed that the proposal of fee increase of **Delhi Public School, Sector-24, Phase-III, Rohini, New Delhi – 110085 (School Id: 1413221)** is hereby 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 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 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 & 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.
4. 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.

5. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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 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

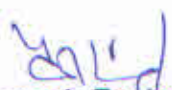
To
The Manager/ HoS
Delhi Public School,
Sector-24, Phase-III, Rohini, New Delhi -110085 (School Id: 1413221)

No. F.DE.15 (118)/PSB/2019/ 1892-1896

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