

905

(75) **GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI**
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054 (73)

No. F.DE.15 (244)/PSB/2019 / 1335-1339

Dated: 29-03-19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized Schools in Delhi' and directed that the private unaided Schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid Schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided Schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27....

(c) *It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with...*

28. *We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.....*

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule

172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Gitarattan Jindal Public School, Sector – VII, Rohini, Delhi - 110085 (School Id: 1413229)** 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 July 10, 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. 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 & others, which specifies that every non-profit organisation, are required to maintain its account on the basis of fund-based system of accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school is charging earmarked levy namely Transport charges, Activity Fee, Technological fees and medical fees but these fees are not charged on 'no profit no loss' basis as the school has earned surplus from medical fee and technological fee and incurred deficit from transport charges and activity fees. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment in General Fund for the surplus/ deficit incurred on these earmarked levies and to follow fund based accounting.

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 comprise 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 recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility 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 is directed to stop separate collection in the name of activity fee, medical fee and technological fee.

- II. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account". On review of the audited financial statements for the FY 2014-15, 2015-16 and 2016-17, following have been observed:
 - a. The school has utilized development fee for the purchase of library books of Rs. 22,897, Rs. 97,659 and Rs. 7,208 in FY 2014-15, 2015-16 and 2016-17 which is in contravention of clause 14 of order dated 11.02.2009 accordingly the school is directed to make necessary adjustment in the development fund account and in general fund account.
 - b. The school has utilised development fee for repair of building amounting to Rs. 21,84,630 in FY 2015-16 which is contravention of aforesaid order. Therefore, the school is directed to make necessary adjustment in development fund account and in general fund account.
- III. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise 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". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, The 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 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School. However, the school has incurred Rs. 17,26,966 and Rs. 23,81,736 for addition to the building in FY 2014-15 and 2016-17 respectively which is not in accordance with the aforesaid provisions. Therefore, this amount has been included in the calculation of fund availability of the school with direction to school to recover this amount from the society.

- IV. As per Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12. 1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 states that "Fees/funds collected from the parents/students shall be utilised strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from Private Recognized Unaided School Fund to the society or the trust or any other institution." However, on review of the financial statements it has been observed that the school has transferred Rs. 10,000 and Rs. 29,97,994 to society in FY 2014-15 and 2015-16 respectively in contravention to aforesaid clause. Therefore, this amount of Rs. 30,07,994 has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from society.

Other Irregularities

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. As per the details provided by school for FY 2016-17, out of total students in school, only 17% students belong to EWS category. The school has not complied with aforesaid order. Therefore, DDE District is directed to look into the matter. The details of total students and EWS students are as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total strength	1031	948	863
EWS	162	171	150
% EWS students to total students	16%	18%	17%

- II. The school is charging depreciation as per the Income Tax Act, 1961, not at the rates recommended in Appendix I to the Guidance note (GN 21) on Accounting by schools, issued by the Institute of Chartered Accountants of India.
- III. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determined at the balance sheet date. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to take appropriate steps to determine and earmark fund for gratuity in accordance with the provisions of AS-15.
- IV. As per Para 99 of Guidance note on "Accounting by School" issued by 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 cognisance from the above para, it has been observed that school has not treated the designated fund account as deferred income to the extent of cost of the assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Therefore, school is directed to comply with Guidance Note - 21 issued by ICAI.

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. 4,34,58,518** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 4,65,91,451**. This results in deficit of **Rs. 31,32,933**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	11,55,596
Investments as on 31.03.17 as per audited Financial Statements	2,34,054

Particulars	Amount
Add: Recoverable from society for amount spent on building in FY 2014-15 and 2016-17 (Point III of Financial irregularities)	41,08,702
Add: Recoverable from society in contravention of Clause 8 of order dated 15.12. 1999 (Point IV of Financial irregularities)	30,07,994
Less: Development fund as on 31.03.2017	11,25,647
Total	73,80,699
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)	3,60,77,819
Estimated availability of funds for FY 2017-18	4,34,58,518
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 2	4,65,91,451
Estimated Deficit	31,32,933

Adjustment:

Note 1: The school has proposed provision for gratuity of Rs. 29,37,909 in its budget for FY 2017-18 on the basis of the management estimates therefore, the same has not been considered in the evaluation of fee increase proposal.

Note 2: The school has not proposed capital expenditure in its budget for FY 2017-18, therefore, development fee has also not been considered in the evaluation of fee increase proposal.

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural finding noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and

911

who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 15% from 01 April, 2019.


AND WHEREAS, it is also noticed that the School has incurred Rs. 41,08,702 on building and Rs. 30,07,994 towards loan taken from society which is in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 71,16,696 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 for academic session 2017-18 of **Gitarattan Jindal Public School, Sector – VII, Rohini, Delhi - 110085 (School Id: 1413229)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase Tuition Fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate order dated 25.08.2017.
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India and others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.
5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

This is issued with the prior approval of the Competent Authority.


(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

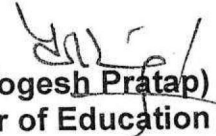
To
The Manager/ HoS
Gitarattan Jindal Public School,
Sector – VII, Rohini,
Delhi - 110085 (School Id: 1413229)

No. F.DE.15 (२५५)/PSB/2019 / 1335- 1339

Dated: 29/03/19

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi