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

No. F.DE.15 (436)/PSB/2019 / 1625 - 1629 Dated: 24/04/19

Order

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

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

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

"27....

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

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

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

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Vidya Bharati School, Sector-15, Rohini, Delhi - 110085 (School Id: 1413252)** 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 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 October 15, 2018. Further, school was also provided opportunity of being heard on April 12, 2019 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 separately maintained development fund account. However, on review of the financial statements of the school for FY 2014-15, 2015-16 and 2016-17, following observations have been noted:

a. In FY 2014-15, the school has treated Development Fee as a revenue receipt which is not in accordance with clause 14 of the order dated 11.02.2009. Therefore, School is directed to make necessary adjustment in the development fund account and general fund account.

b. In FY 2015-16 and 2016-17, the school has utilised development fee for meeting revenue expenditure in contravention to clause 14 of the order dated 11.02.2009. Therefore, amount utilised for revenue expenditure needs to be added back to Development fund account. Therefore, school is directed to make necessary adjustments in development fund and General fund. The summary of development fund utilised for revenue expenditure is as under.

(Figures in Rs.)

Particulars	**FY 2015-16**	**FY 2016-17**
Repair & maintenance	5,53,721	10,05,777
Payment for special subject teacher	1,67,081	1,25,120
Total	**7,20,802**	**11,30,897**

c. In FY 2015-16 and 2016-17, the school has utilised development fund for purchase of fixed assets amounting to Rs.73,77,816 but the same is neither reflecting on the face of the financial statements nor at the fixed assets schedule forming part of the financial statements. Since, balance sheet comprises of listing of assets and liabilities and owners' equity on the specific date, enterprise not reporting the assets in its financial statements indicates that the school has misutilised fund and thus it has been included in the calculation of fund availability of the school with instruction to the school to recover this amount from the society. The summary of fixed assets purchased out of development fund are as follows:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Smart class	16,55,195	20,87,913
Sports Material	2,74,681	-
Computer	9,93,450	13,14,750
CCTV Security	8,715	1,88,575
Furniture & fixtures	3,16,125	1,58,419
Printers	-	63,300
Music Instruments	-	1,57,704
Overhead Projector	-	29,138
Water cooler	-	1,22,100
Scientific instruments	-	7,751
Total	**32,48,166**	**41,29,650**

II. Clause 2 of the Public Notice dated 4 May 1997 states that "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 has to be incurred and borne by the society and not 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 school 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 purpose. 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, on review of financial statements of FY 2014-15, it has been noted that the school has incurred Rs. 16,75,602 for up gradation of building without complying with the abovementioned provisions. Therefore, the amount of school funds utilised for upgradation of building has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society.

III. In respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, in FY 2016-17, the school has charged earmarked levy in the form of Transport Income, Magazine Fee, Mid-day/ Medical Fee and Board Examination Fee but these levies have not been charged on 'no profit no loss' basis. The school has earned surplus from all these earmarked levies. Moreover, the school is not following fund based accounting in respect to earmarked levies collected by it. Therefore, the School is directed 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 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 this service/facility has been extended to all the students of the school, a separate charge should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, the school is instructed to stop the collection of separate earmarked levies in the name of Magazine Fee and Medical Fee.

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 the cognisance from the above para, school is required create development fund utilisation account as deferred income to the extent of cost of assets purchased out of development fund and is required to transfer an amount to the credit of Income and Expenditure account in proportion to the depreciation charged every year. However, the school is not following para 99 with respect to assets purchased out of the development fund account. Further, it has also been noted that the school is preparing separate Income and Expenditure account in respect to Development fee received and utilised for the FY 2015-16 and 2016-17. Whereas as per Order No. F.DE-15/Act-I/WPC-4109/part/13/7905-7913 dated 16.04.2016, the School is required to prepare its financial statements in accordance with the formats prescribed in the order and Guidance Note- 21 as issued by ICAI. Therefore, the school is instructed to comply with the order dated 16.04.2016 and guidance note 21 for preparation and presentation of financial statement.

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 but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is required to look into the matter. The details of total students and EWS students are given below:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Strength	1483	1481	1433
EWS strength	173	180	199
% EWS strength to total strength	**12%**	**12%**	**14%**

II. 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 determine at the balance sheet date. The school has taken group gratuity scheme from LIC for gratuity only. However, the provision for leave encashment has been provided on the basis of management estimates. Therefore, the school is required to determine the value of Leave encashment as per the actuarial valuation report as required by AS-15.

III. On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that:

a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving from the school. Though the school is refunding the caution money to the students at the time of his/ her leaving, however, without any interest which is contravention of clause 18 of order dated 11.02.2009. Therefore, the school may be instructed to comply with clause 18 of order dated 11.02.2209.

b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. However, the school has not budgeted any income in its budget nor provided any details about the number of students left without clamming caution money. Therefore, in the absence of complete details about the number of student left during the period without claiming the amount of caution money, financial impact of the same cannot be determined.

IV. The school is creating depreciation reserve fund equivalent to depreciation charged on fixed assets and is showing fixed assets at Gross Value in its financial statements. It is accounting head for accounting treatment of depreciation in the books of accounts of the school. Thus, depreciation reserve fund has been considered as free in order to determine correct position of reserves.

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

i. The total funds available for the year 2017-18 amounting to Rs. **6,41,97,616** out of which cash outflow in the year 2017-18 is estimated to be Rs. **5,75,74,307**. This results in net surplus of amounting to Rs. **66,23,309**. The details are as under:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	3,52,965
Add: Investments as on 31.03.17 as per audited Financial Statements	67,15,515
Add: Recoverable from society against addition to building in FY 2014-15	16,75,602
Add: Recoverable from society against additions to fixed assets out of development fund which were not shown in financial statements	73,77,816
Less: Caution money as on 31.03.2017	20,01,750

Particulars	Amount
Less: Development Fund as on 31.03.2017	10,54,087
Less: FDR in the joint name of Dy Director of Education and School	9,68,348
Total	**1,20,97,713**
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)	4,86,23,390
Add: Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	34,76,513
Estimated availability of funds for FY 2017-18	**6,41,97,616**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Note 1 to 4	5,75,74,307
Net Surplus	**66,23,309**

Note 1: The school has proposed Rs.1,13,52,000 for salary arrear which comes to 37% of the actual salary paid in the previous financial year which is on higher side. The reason for this higher arrear salary is that the school did not implemented the recommendation of 6th CPC fully as the school was paying Dearness Allowance @ 100% of basic salary instead of 125% of the basic pay. Thus, for the purpose of evaluation of fee increase proposal the arrears salary has been restricted to 30% of the actual salary paid in the previous financial years and the excess amount of Rs.21,79,541 has been disallowed [Rs.1,13,52,000 – (3,05,74,862*30%)].

Note 2: The school has proposed provision for leave encashment of Rs.10,03,000 in budget 2017-18 which has not been considered for evaluation of fee increase proposal since the same has not been supported by actuarial valuation report as required by AS-15 "Employees Benefit".

Note 3: The school has proposed salary Rs. 4,01,11,000 for teaching and non-teaching staff which is 31% higher than actual salary paid by the school in FY 2016-17 for which the school has not provided any justification for such unusual increase. Therefore, only 10% increase has been allowed over the expenditure incurred by the school in previous year FY 2016-17 and excess amount has been disallowed in evaluation of fee increase proposal.

Note 4: The following capital expenditure proposed by the school for FY 2017-18 has not been considered in the evaluation of fee increase proposal as per clause 2 of the public notice dated 4 May, 1997.

(Figures in Rs.)

Particulars	**FY 2017-18**
Indoor auditorium	5,50,000
Building repair & maintenance	9,00,000
Total	**14,50,000**

ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

AND WHEREAS, it is also noticed that the school funds have been utilized for construction of building amounting Rs. 16,75,602 in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. School funds have been utilised for fixed assets which were not shown in the financial statements of the School amounting Rs. 73,77,816 and therefore, need to be recovered from society. Total amount to be recovered by the school from society is Rs. 90,53,418. 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Vidya Bharati School, Sector-15, Rohini, Delhi - 110085 (School Id: 1413252)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.

3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order 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 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.

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 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
Vidya Bharati School,
Sector-15, Rohini,
Delhi - 110085 (School Id: 1413252)

No. F.DE.15 (436)/PSB/2018/1625-1629 Dated: 24/04/19

Copy to:

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

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