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2019

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 (287.)/PSB/2019 /1535-1539

Dated: 04/04/19.

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

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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, **St Giri Senior Secondary School, Sector-3 Rohini, New Delhi-85 (School Id: 1413254)** 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.

a. The school has utilised development fund for upgradation of building for Rs. 15,70,430 and Rs. 3668747 in FY 2014-15 and 2015-16 respectively which is in contravention of the clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make necessary adjustment in development fund account and capital fund account.

Further, 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

1. As per clause 14 of order no. F.D.E. /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, up-gradation 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 the following has been observed.

Financial Irregularities

AND WHEREAS, necessary records and explanations were also called from the School vide email dated March 28, 2018. Further, School was also provided opportunity of being heard on June 04, 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:

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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 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 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.

Based on the aforesaid provisions and judgement of the court, the construction of the school building is the responsibility of the society being a property of the society, thus expenditure of Rs. 52,39,177 incurred by the school for construction of building as mentioned above is to be recovered from the society.

- b. In FY 2014-15, 2015-16 and 2016-17, the school has also utilised development fund for purchase of library books in contravention of the clause 14 of the order dated 11.02. 2009. Therefore, the school is directed to make necessary adjustments in the Development fund account and development fund utilisation account. The summary of utilisation of development fund is as under:

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(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Library Books	28,548	2,71,850	3,28,187	6,28,585
Total	28,548	2,71,850	3,28,187	6,28,585

II. Further, it has been noted that during the financial year the school has increased the expenditure under the salary by Rs.1,14,67,651 in FY 2016-17 which comes to 39% increase over the actual expenditure incurred during the previous year without any impact of 7th CPC arrears for which the school has not provided any justification/ clarifications. In view of this, the salary expenditure incurred during 2016-17 and subsequently, budgeted in FY 2017-18 cannot be considered as correct and accordingly, it is not possible to arrive at correct position of funds available with the School.

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 & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, in FY 2014-15, 2015-16 and 2016-17, the school has been collecting earmarked levies in the name of transportation fee and smart class fee from the students but these levies is not being charged on 'no profit no loss' basis as the school has earned surplus from transportation fee and incurred deficit from smart class fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies. Therefore, the school is directed to adjust the surplus/deficit incurred on these earmarked levies against capital fund.

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- IV. As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, no amount whatsoever shall be transferred from the recognised unaided school fund to the society or the trust or any other institution. However, on review of the financial statement the following has been observed:
- a. The school had given advanced of Rs 8,92,001 to St Geri Public School, 221, Kotla Mahigiran, Sarita Vihar, New delhi, (School ID 1925297), despite of reflecting deficits in all three years i.e. 2014-15, 2015-16 and 2016-17 which is in contravention of Rule 177 of DSER, 1973. Therefore, this amount is to be recovered from the Society.
 - b. Further, the school had given advanced sum of Rs 2,04,861 to Goswami VidyaPitha, i.e. registered society of school. Therefore, this amount is to be recovered from the Society.

Other Irregularities

- I. As per the GN-21 on accounting by Schools, school shall charge the depreciation at the rate which is specified in the Appendix – 1 of the GN-21. However, school is charging the depreciation rate as per the Income tax act. Therefore, the school is directed to follow GN-21 issued by ICAI.
- II. The school is preparing fixed assets schedule under two categories i.e. assets purchased out of general fund and assets purchased out of development fund. Assets purchased out the general fund are shown at WDV and assets purchased out of the development fund are shown at the gross value in the financial statements. Therefore, the school is directed to present the value of its assets in the financial as per Guidance Note 21 issued by ICAI.
- III. 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 provided this detail. Thus, concerned DDE, District is directed to look into the matter.

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AND WHEREAS, after going through detailed examination of all the material on record and considering the aforesaid financial and other irregularities, the fund position of the School cannot be ascertained and therefore, fee increase proposal of the School may be rejected.

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 has been recommended by the team of expert Chartered Accountants that prima facie since there are financial and other irregularities and also, it is not possible to determine its correct position of the funds, 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 there are financial and other irregularities and also, it is not possible to determine its correct position of the funds and therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **St Giri Senior Secondary School, Sector-3 Rohini, New Delhi-85 (School Id: 1413254)** 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 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.

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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.
 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/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 Giri Senior Secondary School,
Sector-3 Rohini, New Delhi-85 (School Id: 1413254)

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No. F.DE.15 (287)/PSB/2019/1535-1539

Dated: 04/04/19.

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