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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 (601)/PSB/2018/30315-319 Dated: 10/12/2018

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, **Lancers Convent School, Prashant Vihar, New Delhi - 27562815 (School Id: 1413256)**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 April02, 2018. Further, school was also provided opportunity of being heard on June13, 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 schoolwere evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

<u>Financial Irregularities:</u>

i. As per clause 2 of public notice dated May 4th, 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 the way of collecting the Building Fund or Development Charges. However, it is noticed that the school funds have been utilised for construction of building. Further, as per Judgement of Hon'ble Supreme Court in the case of Modern School vs Union of India and Others the capital expenditure can't form part of fee structure of the school. However, school is continuously increasing the fee and also incurring capital expenditure on account of construction of building. Thus, school is not following the principles laid down by Hon'ble Supreme Court in Modern School Judgement and in contravention of clause 2 of public notice dated May 4th, 1997. Therefore, school funds were utilized for construction of new class rooms/sections, lab rooms, etc., during FY 2014-15 to 2016-17. The amount incurred for construction of building is recoverable from the society and same has been considered as part fund available with school. The details of additions to building during the period are as follows:

(Figures in Rs.)

Particulars	Amount
Additions to building during FY 2014-15	2,66,39,418
Additions to building during FY 2015-16	58,30,000
Additions to building during FY 2016-17	30,02,000
Total	**3,54,71,418**

ii. As per Rule 177 of DSER, income derived by an unaided 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, school has utilised its funds for the purpose of repayment of loan and payment of interest thereon. This loan was taken for the purpose of installation of Centralised AC system and other related expenditures. It is also noticed that the school has not earmarked any funds for gratuity and other specified benefits admissible to the employees of the school but has utilised the funds for repayment of loan and interest thereon. Thus, school is in contravention of Rule 177 of DSER, 1973. Hence, it should be recovered from the society and adjusted in the availability of fund. Details of the repayment of loan and interest are given below:

(Figures in Rs.)

Financial Year	Repayment of loan*	Finance Expenses*	Total
FY 2014-15	65,26,051	83,08,571	1,48,34,622
FY 2015-16	2,37,92,823	50,89,563	2,88,82,386
FY 2016-17	81,39,049	19,40,290	1,00,79,339
Total	**3,84,57,923**	**1,53,38,424**	**5,37,96,347**

*as per receipts and payment account submitted by the school

iii. As per clause 14 of order dated 11.02.2009, school is required to maintain separate bank account for the purpose of maintaining the Development Fee account. However, on review of audited Financial Statements for FY 2014-15 and 2015-16, it is noted that the school was not maintaining separate bank account for Development Fee collected.

Further, the school has opened the separate bank account for Development fee with 'Bank of India' on 19.02.2016. During the discussion, school explained that fee receipts are initially collected/deposited in the main bank account of the school and subsequently, the share or part of Development Fee is transferred to this new bank account opened for Development Fee. On review of bank statement and Receipts and Payment account for the FY 2016-17, it is observed that the school has transferred the amount in this bank account in excess of amount actually received during the year. The details of Development Fee received and the amount of Development Fee transferred are as follows:

(Figures in Rs.)

Particulars	Development fee received as per the receipts and payment account	Development fee transferred as per the Bank statement	Difference
FY 2016-17	2,66,81,737	3,62,00,000	95,18,263

In view of the above, it is clear that during FY 2014-15 and 2015-16, the school was in contravention of clause 14 of order dated 11.02.2009. Also, the balance shown in the bank account of Development Fund as on 31.03.2017 cannot be treated as correct balance of Development Fund as excess amount has been transferred to this account. School is directed to make necessary adjustments in the General Reserve and in the Development Fund.

iv. On review of the audited Financial Statements of the FY 2014-15, it has been observed that fixed assets purchased out of the Development Fund of Rs.2,99,85,517 was not reflecting on the face of Balance Sheet. In fixed assets schedule, these assets were first shown as addition and then shown as deduction/ adjustment from the fixed assets. Due to this adjustment, the effect of additions made during the year becomes nullified. Further on these assets school has not provided any depreciation. School has failed to substantiate the reason whether these assets are still available with the school or it is actually purchased by the school out of the Development Fund. In view of above, this amount has been considered as the fund available with the school as it is recoverable from the society. Also, school is directed to make necessary adjustments in the Development Fund.

v. Clause 14 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, states that "Development Fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixtures and equipment". However, during the FY 2016-17 the school has utilised its Development Fund for "Rain Water Harvesting System" amounting to Rs.29,49,058. The Rain Water Harvesting System cannot be treated as eligible expenditure in accordance with the provisions of clause 14 of order dated 11.02.2009 and thus, the school has violated the provisions of clause 14 of order dated 11.02.2009. School is directed to make necessary adjustments in the General Fund and Development Fund.

vi. As per audited Financial Statements of the school for FY 2016-17, there is an amount recoverable from Unique Gentech Private Limited amounting to Rs.10,00,000 as advance was given to this vendor for purchase of generator. School submitted that this amount was outstanding since FY 2011-12 and is to recover this amount from the concerned vendor. This amount is considered as part of fund available with the school.

vii. 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.

In the FY 2014-15, 2015-16 and 2016-17, the school is charging earmarked levies namely Transport fee, Practical fee and Educational tour expenses from the students but these fees are not charged on 'no profit no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account of Transport fee and Practical fee and incurred losses on account of collection of educational tour expenses. Thus, the school has not followed fund-based accounting in respect of earmarked levies charged from the students. School may be directed to follow Fund - based accounting.

Other Irregularities:

i. On the review of fixed assets register of the FY 2014-15 to 2016-17, school has made additions in the fixed assets such as Musical Instruments, Sports goods, Furniture & fixture, Computer and Air conditioner, etc. Some of the units of these assets are sold or transferred in the same financial year but no amount has been reflected in the fixed assets schedule and in the Receipts &Payments account. Also, school is yet to provide any explanation of these additions and adjustments in the fixed assets. In the absence of any detail, no adjustment can be carried out in the evaluation of fee increase proposal of the school. School may be directed to follow generally accepted accounting principles for recording of fixed assets purchased or disposed off.

ii. It has been observed that the school has incurred substantial amount of expenditure on purchase and repair & maintenance of furniture and fixture in the FY 2014-15 to 2016-17 though the total number of the students has not increased in the same proportion during this period. School may be directed to expend its funds by following proper due diligence. Summary of the expenditure incurred for purchase and repair & maintenance on furniture and fixture is as under:

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17
Opening Balance at the beginning of the financial year	86,58,422	2,13,47,458	3,45,01,616
Add: Additions during the year	1,26,89,036	1,31,54,158	1,33,84,834
Less: Deletion during the year	-	-	-
Closing Balance at the end of the financial year	**2,13,47,458**	**3,45,01,616**	**4,78,86,450**

Particulars	2014-15	2015-16	2016-17
% of addition over opening balance	**147%**	**62%**	**39%**
Repair & maintenance on furniture & fixture	50,32,605	44,17,962	43,73,020
% of Repair and maintenance over opening balance	58%	21%	13%
Number of students	4,776	4,801	4,944
Cost of Furniture & fixture per student	5,523	8,107	10,570
Depreciation charged on additions	7,31,222	39,33,147	54,63,645

*In the FY 2014-15, school has not charged depreciation on the assets which is purchased out of the development fund.

iii. School has provided for Gratuity on the basis of management estimates instead of actuarial valuation basis in accordance with AS-15- "Employee Benefits" for FY 2015-16 and 2016-17. There could be an impact on the financials of the school had the provision been done on the basis of actuarial valuation. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.

iv. 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 and submit returns and documents in accordance with Appendix –II to this order. However, it has been noticed that the school is not following the Appendix-II while preparing its financial statements. The following points have been observed in this regard.

a) In the Income and Expenditure Account, the 'Staff Salary and Benefits' were not shown separately for Teaching and non-teaching staff; and
b) In the FY 2014-15, 2015-16 & 2016-17, the school has not showed comparative figures alongwith the current financial year's figures.

v. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 and as per S.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 given by the school are as under:

S. No.	Particulars	2014-15	2015-16	2016-17
1	EWS Students	657	685	761
2	Total Students	4,776	4,801	4,944
3	% of EWS Students	14%	14%	15%

vi. During review of financial statement of the FY 2014-15, 2015-16 and 2016-17, following observations were noted in relation to caution money.

a) 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 un-refunded Caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while

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projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of ensuing year 2017-18' submitted with return filled under rule 180(1) of DSER, 1973, it was noted that school has not considered the un-refunded Caution money as its income. School has not provided the details of those students who have left the school in the FY 2016-17. Hence, the financial impact cannot be ascertained.

b) As per clause 18 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, caution money collected from students shall be refunded to students at the time of his/ her leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund. However, it is noted that caution money pertaining to many students who have left the schools was not refunded along with bank interest.

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. **46,15,35,007** out of which cash outflow in the year 2017-18 is estimated to be Rs.**30,93,98,632**. This results in surplus of funds amounting to Rs.**15,21,36,375**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**	**Remarks**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	45,15,499	
Investments as on 31.03.17 as per audited Financial Statements	65,52,544	
Add: Capital Expenditure incurred by the school on Building should be recoverable from the society	3,54,71,418	Refer "Note 1"
Add: Repayment of loan (Recoverable from the society)	5,37,96,347	Refer "Note 2"
Add: Deposit money with "Income Tax" against appeal recovered in future	36,72,940	Refer "Note 3"
Add: Development Fund utilised for purchase of fixed assets in the FY 2014-15 but not shown in financial statements	2,99,85,517	Refer "Note 4"
Add: Recoverable from a party	10,00,000	Refer "Note 5"
Less: Development Fund	3,17,82,580	Refer "Note 6"
Total	**10,32,11,685**	
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)	34,03,68,861	
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)	1,79,54,461	
Estimated availability of funds for FY 2017-18	**46,15,35,007**	
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment)	30,93,98,632	Refer "Note 7"
Net Surplus	**15,21,36,375**	

Adjustment:

Note 1: School has incurred the capital expenditure on building which is the contravention of clause 2 of Public notice dated May 4th, 1997 and accordingly, the same is recoverable from the society.

Note 2: School has utilised its funds for repayment of loan and interest thereon in contravention of Rule 177 of DSER, 1973 and therefore, the same is recoverable from society.

Note 3: As per school, this amount was recoverable from Income Tax Department as on 31.03.2017. This amount has already been recovered by the school from the tax authority and accordingly, the same has considered in the above calculation.

Note 4: In the FY 2014-15, school has utilised its development fund for the capital expenditure though the fixed assets are not appearing in the audited financial statements of the school and the same has been treated as diversion of fixed assets. Accordingly, this has been treated as fund available with the school.

Note 5: School has given the advance to the vendor for purchase of generator. This amount is outstanding since long and accordingly, it has been considered as part of fund available with the school.

Note 6: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "*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* " Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs. 3,85,93,584 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in FY 2016-2017 amounting Rs. 3,17,82,580 from students has not been considered as fund available with school.

Note 7: School has not provided the details calculation of salary arrear as per the 7th CPC till the date. Hence, impact of the same has been allowed to the extent of 25% of the previous year expenditure and has disallowed Rs. 67,00,406.

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 has incurred capital expenditure on building amounting to Rs.3,54,71,418 and school has also utilised the school fund for the repayment of loan and interest thereon amounting Rs.5,37,96,347. Further, school has utilised the development fund amounting Rs. 2,99,85,517 against which fixed assets are not appearing in the financial statements of the school. These amounts are to be recovered by the school from 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 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 **Lancers Convent School, Prashant Vihar, New Delhi (School Id: 1413256)** 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 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.

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 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
Lancers Convent School,
Prashant Vihar, New Delhi
(School Id: 1413256)

~~Dated~~: No. F.DE.15(601)/PSB/2018/30315-319. Date. 10/12/18

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