

145

1673

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

No. F.DE.15 (251) /PSB/2019 /1325-1329

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

1679

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, **Prestige Convent Sr Sec School, Sector – 8, Rohini, Delhi - 110085 (School Id: 1413260)** 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 28, 2018. Further, School was also provided opportunity of being heard on June 06, 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. Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 state that "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.

The school has treated Development fee as revenue receipt in FY 2014-15, 2015-16 and 2016-17 and has not maintained separate bank account for Development fee which is in contravention of aforesaid clause. Therefore, the school is directed to comply with clause 14 of order dated 11.02.2009.

The summary of Development fee received during the last three financial years is as under:

(Figures in Rs.)	
Development Fee Collected	Amount

1675

FY 2014-15	36,09,960
FY 2015-16	41,45,045
FY 2016-17	41,92,320
Total	1,19,47,325

- II. In respect of earmarked levies, the 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 2014-15, 2015-16 and 2016-17, the school has collected earmarked levy namely lab charges but this fee is not charged on 'no profit no loss' basis as school has earned surplus from lab charges. Further, the school is not following fund based accounting. Therefore, the school is directed to make adjustment to General reserve for surplus earned from lab charges and to follow fund based accounting.

- III. As per Rule 172 of Delhi School Education Rules 1973, no fee contribution or other charge shall be collected from any student by trust or society running any recognised school whether aided or not. Every fee, contribution or other charge collected from any student by recognised school shall be collected in its own name and a proper receipt shall be granted by the school for every collection made by it.

However, as per the sample fee receipts submitted by the school for FY 2014-15, 2015-16 and 2016-17, it has been noted that school has collected transport fee in the name of society "Shiv Shakti Educational Society" which is in contravention of aforesaid rule and the transport expenses were also charged in society books of account. Therefore, the school is directed to make adjustment in General Reserve account for transport income and expenditure which were booked in society books of accounts. And henceforth, the school is directed to comply with Rule 172 of DSER 1973. The details of transport fee collected and expenses incurred during the last three financial was as follows:-

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Transport fee	29,83,200	32,55,595	37,69,550	1,00,08,345
Transport expenses	29,80,787	32,50,292	37,40,274	99,71,353
Surplus	2,413	5,303	29,276	36,992

- IV. 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, 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 managing committee for meeting capital or contingent

1676

expenditure of the school or for one or more of the following educational purposes namely:

- a) Award of scholarships to students
- b) Establishment of any other recognised school
- c) 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

However, the school has taken loan in FY 2011-12 for purchase of vehicles. On review of financial statements for FY 2014-15, the school has made payment of Rs.7,39,890 towards principal repayment of loan and Rs.74,623 towards interest payment thereon without providing for employee benefits as required by Rule 177 of DSER, 1973. Therefore, the school is directed to recover aforesaid amounts from society. Further, the school is also directed to make adjustment in General reserve for amount of interest charged in income and expenditure account. The summary of payment of loan and interest thereon is as under.

Particulars	(Figures in Rs.)		
	ICICI Bus Loan 1	ICICI Bus Loan 2	Total
Payment of loan	7,11,197	28,693	7,39,890
Payment of Interest	74,345	278	74,623
Total	7,85,542	28,971	8,14,513

Other Irregularities:

- I. As per AS-10, Property Plant and Equipment, depreciation on all the fixed assets is to be charged to income and expenditure account. However, the school has not charged depreciation on fixed assets in FY 2015-16 and 2016-17 resulting in over statement of surplus. Therefore, the school is directed to comply with AS-10 issued by ICAI.
- II. 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. However, the school has not complied with above requirement in FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1062	1088	1087
EWS Students	137	127	126
% of EWS Students	13%	12%	12%

- III. As per generally accepted accounting principles, a complete set of financial statements include Balance sheet, a statement of profit and loss (also known as 'income & expenditure statement'), a cash flow statement (also known as receipt & payment account) and notes to accounts and other statements are an integral part of the financial statements. However, the school has not prepared Notes to accounts with the financial statement of FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to prepare notes to accounts.

- 1677
- IV. The school has substantial amount of fixed assets having WDV of Rs. 37,42,035 as on March 31, 2017. However, the school has not maintained fixed asset register due to which value of fixed asset and the quantity of fixed assets cannot be substantiated. So in order to have control over the fixed assets, school should prepare fixed assets register containing quantity, type of asset, purchase cost, date of purchase, location, fixed assets identification number, user of fixed assets.

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. **3,85,98,352** out of which cash outflow in the year 2017-18 is estimated to be Rs. **4,01,44,186**. This results in deficit of Rs. **15,45,835**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	7,37,793
Add: Recoverable from society against payment of loan and interest thereon (Point IV of Financial irregularities)	8,14,513
Total	15,52,306
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)	3,69,50,330
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)	95,716
Estimated availability of funds for FY 2017-18	3,85,98,352
Less: Budgeted expenses for the session 2017-18 (after making adjustment) – Refer Note 1	4,01,44,186
Estimated Deficit	15,45,835

Note 1: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has not been considered in the evaluation of fee increase proposal. The details of such expenditure are as under:

(Figures in Rs.)					
Particulars	FY 2016-17	FY 2017-18	Net Increase	% Change	Disallowed
Electricity & Water Expenses	5,61,226	7,00,000	1,38,774	25%	82,651
Printing & Stationery	2,15,869	2,86,900	71,031	33%	49,444
Building Repairs	7,69,878	34,11,200	26,41,322	343%	25,64,334
Total	15,46,973	43,98,100	28,51,127	184%	26,96,430

- 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 who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 7.5% from 01 April, 2019.

AND WHEREAS, it is also noticed that the School has taken loan for purchase of bus prior to FY 2014-15 and has incurred Rs. 8,14,513 towards payment of loan and interest thereon during the period under evaluation which is in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 8,14,513 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 of **Prestige Convent Sr Sec School, Sector - 8, Rohini, Delhi - 110085 (School Id: 1413260)** 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 7.5%. 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
 Prestige Convent Sr Sec School,
 Sector- 8, Rohini
 Delhi - 110085 (School Id: 1413260)

No. F.DE.15 (251)/PSB/2019 / 1325 - 1329

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