

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

No. F.DE.15 (228)/PSB/2019 / 1210-1214

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, **North-Ex Public School, Pocket – G/27, Sector - 3, Rohini, Delhi - 110085 (School Id: 1413273)** 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 27, 2018. Further, School was also provided opportunity of being heard on September 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. As per Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "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 income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.

During FY 2016-17, school has transferred the closing balance of development fee of Rs. 8,71,200 to income and expenditure account to meet salary expenses which is in contravention of clause 14 of order dated 11.02.2009. Therefore, the school is directed to comply with clause 14 of order dated 11.02.2009.

- II. 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

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managing committee for meeting capital or contingent expenditure of the school or for one or more of the specified education expenses after creation of 10% reserve.

During FY 2012-13, the school has taken secured loan for purchase of buses and has utilised school funds of Rs. 23,18,824 towards principal repayment and Rs.25,718 towards interest payment before meeting 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 directed to make an adjustment in general fund account in respect of interest paid on loan. The summary of payment of loan and interest thereon is given below:

(Figures Rs.)				
Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Repayment of bus loan	7,17,874	7,98,173	8,02,777	23,18,824
Interest paid on loan	-	8,581	17,137	25,718

- 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has collected transport fee, activity charges, computer lab charges and E-learning charges from the students. These fees are charged on 'no profit no loss' basis except Transport Fee as the school has incurred deficit on Transport Fee. Further, the school has not followed fund based accounting in respect of earmarked levy as specified in Guidance Note - 21. Therefore, the school is directed to make adjustment to General Fund for deficit incurred on transport fee.

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 the collection of separate earmarked levies in the name of Activity charges, Computer Lab charges and E-learning charges.

Other Irregularities:

- I. During FY 2016-17, fixed assets are reflected in the financial statements under two categories i.e. assets purchased out of General Fund are reflected at the written down value and whereas assets purchased out the development fund are reflected at cost. Thus, the financial statements reflect the amount of fixed assets under two group. Therefore, the school is directed to follow GN-21 "Accounting by School" issued ICAI in respect of preparation and presentation of financial statements.
- 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 provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2015-16 and 2016-17. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.
- III. The 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, the un-refunded caution money (un-refunded more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. However, school has shown the un-refunded caution money as liability. Further, school has not provided details of number of students left in FY 2014-15 to FY 2016-17 and hence no financial impact of the same could be ascertained.
 - b. 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 form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon. Therefore, the school is directed to comply with clause 18 of order dated 11.02.2009.
- IV. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well 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. Therefore, DDE District is directed to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below.

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Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total strength	714	740	673
EWS	98	122	131
% EWS students to total students	14%	16%	19%

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. 2,72,60,404** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 2,64,96,113**. This results in deficit of **Rs. 2,28,819**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	16,15,967
Investments as on 31.03.17 as per audited Financial Statements	-
Add: Recoverable from society against payment of principal and interest taken on loan for purchase of bus	23,44,542
Less: Caution money as on 31.03.2017	6,13,520
Less: Development fee received during FY 2017-18 (Net of capital expenditure for FY 2017-18)	5,87,625
Total	27,59,364
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)	1,94,93,415
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)	44,20,000
Estimated availability of funds for FY 2017-18	2,66,72,779
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	2,69,01,598
Estimated Deficit	(2,28,819)

Note 1: The school has proposed provision for gratuity of Rs. 3,00,000 in budget for FY 2017-18 which has 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 who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 5% from 01 April, 2019.

AND WHEREAS, it is also noticed that the School has taken loan for purchase of bus and has incurred Rs. 23,44,542 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. 23,44,542 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 **North-Ex Public School, Pocket – G/27, Sector - 3, Rohini, Delhi - 110085 (School Id: 1413273)** 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 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.

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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
North-Ex Public School
Pocket – G/27, Sector - 3, Rohini
Delhi - 110085 (School Id: 1413273)

No. F.DE.15 (228)/PSB/2019 / 1210 - 1214

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