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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 (16)/PSB/2019/1040-1044 Dated: 14/3/2019

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, **G.D. Goenka Public School, Pocket-B, Sector-9, Rohini, Delhi - 110085 (School Id: 1413275)** 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 April 26, 2018. Further, school was also provided opportunity of being heard on June 08, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, 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. However following observations have been noted:

   a. The school has utilised development fee for renovation of building for Rs. 24,16,957 in FY 2014-15, Rs. 86,34,397 in FY 2015-16 and Rs. 69,41,402 in FY 2016-17 in contravention of clause 14 of the order dated 11.02.2009. Further, as per reply submitted by the school in response of discussion held with the school, it has clarified that the aforesaid expenditure was incurred for addition to the existing building and was in the nature of capital expenditure. Thus, the school is directed to make adjustment to development fund for the amount of expenditure spent on building.

Further as per clause 2 of the Public Notice dated 4 May 1997 state "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 should 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 unaided recognised schools 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, the school is directed to recover Rs. 1,79,92,756 for the amount of capital expenditure incurred by school on construction of building and thus has been included in the calculation of fund position of the school.

Moreover, the financial statement of the school was under stated by the amount of expenditure incurred on construction of building. Therefore, the school is directed to prepare and present its financial statement in accordance with the generally accepted accounting principle for the next financial year.

b. Further, the school has also utilised development fee for purchase of library books for Rs. 80,586 in FY 2014-15 to FY 2016-17 in contravention of clause 14 of the order dated 11.02.2009. Therefore, school is directed to make necessary adjustment in Development Fund account and Development Fund utilised account. The amount utilised by the school for purchase of library books are as under:-

(Figures in Rs.)

Particulars	**2014-15**	**2015-16**	**2016-17**	**Total**
Library Books	23,346	15,759	41,481	80,586

II. As per section 18(4) of DSEA 1973, fees/funds collected from the parents/students shall be utilised strictly in accordance with prescribed rules. No amount whatsoever shall be transferred from school to the society. Further, as per clause 2 of the Public Notice dated 4 May 1997 state "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the

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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 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 unaided recognised schools 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. However, following observations have been noted:

a. The school has taken secured loan from Indian Overseas Bank of Rs. 4.7 crore in FY 2010-11 and Rs.1.85 crore in FY 2011-12 for redevelopment of school building.
b. During FY 2014-15, the school has repaid Rs. 1,62,09,538 against the aforesaid loan as per receipts and payment account.
c. And in FY 2015-16, the remaining outstanding loan of Rs. 4,28,21,553 has been squared off by taking another loan from kotak Mahindra bank. Since, the loan got sanctioned in the name of Society. Out of which Rs. 3,25,23,998 has been transferred by the society to school which is appearing under the head "Unsecured Loan taken from Society" in the financial statement of the school.
d. During the FY 2015-16 and 2016-17 the school has repaid Rs. 1,02,97,565 and Rs. 9,84,228 against the aforesaid loan.

Accordingly, the school is directed to recover principal and interest paid by the school during FY 2014-15, 2015-16 and 2016-17. Further, the school is also directed to make adjustment to General Fund for the amount of interest charged to Income & expenditure account during FY 2014-15, 2015-16 and 2016-17. The details of principal repayment and interest payment on the loan is as under:

(Figures in Rs.)

Particulars	**2014-15**	**2015-16**	**2016-17**	**Total**
Principal repayment	1,62,09,538	1,02,97,565	9,84,228	**2,74,91,331**
Interest on term loan	78,48,971	49,39,891	57,47,397	**1,85,36,259**

III. On analysis of the budgeted expenditure of the school, it has been noted that following heads of expenditure appear to be higher as compared to the actual expenditure incurred during previous year or is being introduced under new head which was not there in the previous year. Therefore, the school management is directed to monitor the relevance and exercise the control over these expenditures. The details of such expenditure are as follows:

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(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase	% Change
Professional charges	81,25,671	1,42,00,000	60,74,329	75%
Function & Festivals	23,21,996	34,50,000	11,28,004	49%
Printing & Stationary	24,53,943	51,00,000	26,46,057	108%
Repair & maintenance				
Garden	4,73,048	11,25,000	6,51,952	138%
Furniture	17,38,068	44,65,300	27,27,232	157%
Computer	-	10,00,000	10,00,000	100%
Electric	6,04,461	16,80,000	10,75,539	178%
Total	**1,57,17,187**	**3,10,20,300**	**1,53,03,113**	**97%**

IV. 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, during FY 2014-15, 2015-16 and 2016-17, the school is charging earmarked levies namely transport fee, health & hygiene fee, lab & IT fee and safety & security fee 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 earned surplus on account of health & hygiene fee, safety & security fee and incurred deficit in respect of transportation charges and lab & IT fee. Therefore, school is directed to make adjustment to General Fund for the amount of surplus/deficit on these earmark levies.

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 such service/facilities has been extended to all the students of the school, the separate charges should not be collected because it would get covered or clubbed either with Tuition Fee or with Annual Charges.

Other Irregularities:

I. Following inconsistency has been noticed in the accounting for Fixed assets purchased out of development fund:
   - During 2014-15, the fixed assets purchased was reflected at WDV whereas in FY 2015-16 it was reflected at Cost by taking WDV of 2014-15 as base which is not correct accounting treatment.
   - The school did not charge the amount of depreciation to the Income and Expenditure account in the financial year 2014-15, 2015-16 and 2016-17 as required by Accounting Standard -6 on "Depreciation Accounting" or Revised Accounting Standard -10 "Property, Plant and Equipment" resulting reflection of overstatement of surplus or understatement of deficit in the financial statement. Therefore, school is directed to comply with the accounting standard issued by ICAI.
   - 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 cognisance from the above para, it has been observed that school has not treated the designated fund account as deferred income to the extent of cost of assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Therefore, school is directed to follow Guidance Note-21.

II. 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 the school in FY 2014-15 to FY 2017-18 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 caution money collected shall be kept deposited in a schedule bank in the name of the concerned school. However, school has not deposited caution money in separate bank account.

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III. In FY 2014-15, the school has made provision for gratuity and leave encashment on the basis of management estimates and has not made any investment against it. School has not obtained actuarial valuation for provision for gratuity and leave encashment, which is a non-compliance of Accounting Standard 15 "employee benefits" read with guidance note on "Accounting by School". Further, the school has not created any provisions for gratuity and leave encashment in the FY 2015-16 and FY 2016-17.

IV. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as 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 201-16 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 2015-16 & 2016-17 are given below:

Particulars	FY 2015-16	FY 2016-17
Total Students	910	1051
EWS Students	141	187
% of EWS Students	16%	18%

V. On review of fee structure for FY 2015-16 and 2016-17, it has been observed that the school is collecting one-time charges of Rs. 21,393 in the name of Orientation charges at the time of admission from the new student. Therefore, the school is directed to stop collection of this onetime charges from the student.

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. **20,47,70,452** out of which cash outflow in the year 2017-18 is estimated to be Rs. **14,88,89,370**. This results in net surplus of amounting to Rs. **5,58,81,082**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	**8,38,912**
Investments as on 31.03.17 as per audited Financial Statements	6,21,976
Add: Amount recoverable from society against utilisation of Development Fund on upgradation of building (Point I (a) of Financial irregularities)	1,79,92,756
Add:- Amount recoverable from society against principal repaid on loan taken for construction of building (Point II of Financial irregularities)	2,74,91,331
Add:- Amount recoverable from society against interest paid on loan taken for construction of building (Point II of Financial irregularities)	1,85,45,773
Less: FDR in case of school and Secretary, CBSE	(1,23,144)

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Particulars	Amount
Less: Development fund balance as on 31.03.2017	(6,75,869)
Total	**6,46,91,735**
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)	13,91,90,811
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)	8,87,906
Estimated availability of funds for FY 2017-18	**20,47,70,452**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	**14,88,89,370**
Net Surplus	**5,58,81,082**

Note 1: The school has proposed provision for gratuity in FY 2017-18 on management estimates therefor, the same has not been considered in the evaluation of fee increase proposal because it was not supported by actuarial valuation report as required by AS-15.

Note 2: On analysis of the budgeted expenditure of the school, it has been noted that under the following heads of expenditure, the school is incurring high amount of expenditure as compared to previous year or introduced new head of expenditure which was not there in the previous year. Therefore, the aforesaid expenditure in excess of 10% and expenditure under new head have 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
Professional charges	81,25,671	1,42,00,000	60,74,329	75%	52,61,762
Function & Festivals	23,21,996	34,50,000	11,28,004	49%	8,95,804
Printing & Stationary	24,53,943	51,00,000	26,46,057	108%	24,00,663
Repair & maintenance					-
Garden	4,73,048	11,25,000	6,51,952	138%	6,04,647
Furniture	17,38,068	44,65,300	27,27,232	157%	25,53,425
Computer	-	10,00,000	10,00,000	100%	10,00,000
Electric	6,04,461	16,80,000	10,75,539	178%	10,15,093
Total	**1,57,17,187**	**3,10,20,300**	**1,53,03,113**	**97%**	**1,37,31,394**

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Note 3: School has proposed Rs. 1,48,40,000 in the budget for repayment of loan, which was taken for construction of building, therefore the same has not been considered in the evaluation of fee increase proposal.

Note 4: School has proposed Rs. 27,50,000 in the budget for purchase of vehicles which has not been considered in the evaluation of fee increase proposal

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, it is noticed that the school has incurred Rs. 1,79,92,756 for upgradation of building out of development fund and Rs. 4,60,37,104 towards payment of loan alongwith interest in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from society is Rs. 6,40,29,860. 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.

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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **G.D. Goenka Public School, Pocket-B, Sector-9, Rohini, Delhi - 110085 (School Id: 1413275)** 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:

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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.

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
G.D. Goenka Public School,
Pocket-B, Sector-9, Rohini
Delhi – 110085, (School Id: 1413275)

No. F.DE.15 (16)/PSB/2019 / 1040-1044

Dated: 14/3/2019

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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