

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

No. F.DE.15 (121)/PSB/2019/1030 - 1034

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

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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, **Venkateshwar Global School, Sector 13, Rohini, Delhi - 110089 (School Id: 1413289)** 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 March 26, 2018. Further, School was also provided opportunity of being heard on June 15, 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 2 of public notice dated 04.05.1997 "Construction of building is the responsibility of the society, who has established the school to raise such funds from their own sources or donations from the other association because the immovable property of the school becomes the sole property of the society". Accordingly, cost relating to construction of Building should be borne by the Society and not from the school fund.

However, on review of audited financial statement submitted by the school, it has been noted that, the Society has taken a term loan for construction of school building which is being appearing in the books of the School amounting Rs. 7 Cores in FY 2014-15 and Rs. 2.5 crores in FY 2016-17. Till FY 2016-17, the School has incurred Rs.3,80,74,125 on construction of building and reflecting the same under the head "Capital work in Progress". Further, the school has paid interest of Rs.1,98,79,262 in FY 2014-15 to 2016-17. Therefore, the school is directed to recover Rs.5,79,53,387 from the society for construction of building and repayment of interest on loan and make necessary adjustments in the General Fund account. Following are the details of interest and principal amount of loan repaid during FY 2014-15 to 2016-17:

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(Figures in Rs.)

Particulars	Interest paid during the year	Amount of Loan Repaid	Grand Total
FY 2014-15	70,10,491	1,48,54,191	2,18,64,682
FY 2015-16	65,45,382	1,62,04,572	2,27,49,954
FY 2016-17	63,23,389	1,62,04,572	2,25,27,961
Total	1,98,79,262	4,72,63,335	6,71,42,597

II. As per Section 18(4) of DSEA, 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed under Rules 176 and 177 of the DSER, 1973. However, on review of audited financial statement for the FY 2014-15, 2015-16 and 2016-17, it is observed that the school has taken unsecured loan from various individuals without executing any formal contract. During discussion, school has explained that these unsecured loans were taken for meeting shortfall in the revenue expenditures and other funds requirement. Further, the school has also availed overdraft facility from Kotak Mahindra Bank. Generally, overdraft facility is sanctioned by bank for meeting working capital requirement. Further, as per reply submitted by the school it has been noted that the major part of the overdraft facility was utilised for repayment of unsecured loan and interest thereon instead of meeting working capital requirements of the school. Since, the school has not submitted one to one details for which loans were taken and for which it was utilised. Therefore, the outstanding balance of overdraft facility Rs.2,51,44,421 reflecting in the financial statements as on 31-03-2017 has not been considered for calculation of fund availability. Further, the payment of interest on these loans cannot be construed as an expenditure incurred for educational purpose and therefore, interest paid on these loans has been added back the fund availability of the school. Accordingly, the School is directed to recover Rs.1,28,19,255 from the Society.

Below are the details of interest paid on unsecured loan and Overdraft facility availed by the school in FY 2014-15, 2015-16 and 2016-17.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Interest Paid on Unsecured Loan and Overdraft (Total Interest – Interest paid on Construction of Building)	42,56,447	39,58,525	46,04,283

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

On review of audited financial statements for FY 2014-15 to 2016-17, it is observed that the school was charging earmarked levies in the name of Transport fee, Health

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and Hygiene fee, Refreshment charges, Smart Class Charges and Safety and Security Charges from the students but these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, the school has earned surplus in respect of Refreshment charges, Smart Class Charges and Safety and Security Charges and incurred deficit in respect of Transport fee and Health and Hygiene fee. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

Moreover, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is 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.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services/ facilities of the school. And if, the services is extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either form the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop the collection of separate charges in the name of the "Health and Hygiene fee, Refreshment charges, Smart Class Charges and Safety and Security Charges".

Other Irregularities

- I. 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. However, the school has not provided any amount towards the gratuity and leave encashment in its financial statement during the FY 2014-15 to 2016-17. However, as per Notes to Accounts of the school, the expenses related to gratuity is being accounted for on cash basis. Therefore, the school is directed to comply with AS-15.
- II. The school is charging depreciation at the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note- 21.
- III. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified Land

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allotment letter which provides for 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. The admission allowed by the school under EWS category in FY 2014-15, FY 2015-16 and FY 2016-17 was as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total no. of students in school	1961	2154	2287
Total EWS students	138	181	218
% of EWS students to total no. of students	7.04%	8.40%	9.53%

IV. In FY 2016-17, Rs.75,88,109 is reflecting in the financial statement under the head "Auditorium Furniture Fixture and Equipment WIP". This expenditure has been incurred out of the development fund. Further, the school has explained that, "the renovation work of Auditorium had begun in FY 2016-17 and has been completed in FY 2017-18. As the Auditorium was not completely furnished according to the requirement of the school, it was reflected as WIP in the audited Financial Statement of the School for the FY 2016-17". Since, it is not clear whether, this expenditure constitutes part of building or furniture and fixtures, no adjustment has been made for the same.

V. On review of audited financial statement for the FY 2016-17 it has been noted that the school has incurred 44% of expenditure towards establishment expenses and 56% towards other expenditure whereas the major expenditure of the school should be for payment of salaries and staff related expenses. Therefore, the school is directed to incur the expenditure necessitate towards educational purpose and limits its expenditure on other admin purposes.

VI. The school is incurring heavy amount of expenditure on the Educational and Recreational Expenses/ Education workshop in each of the three financial years. Further, the school has also proposed Rs.1,47,69,795 in the budget of FY 2017-18. The school has not submitted any clarification for such higher amount of expenditure incurred. The school is directed to look into these expenditures. Details are as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Educational and Recreational Expenses/ Education Workshop	2,01,30,545	1,29,63,361	1,11,47,309

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 year 2017-18 amounting to **Rs. 31,51,68,842** out of which cash outflow in the year 2017-18 is estimated to be **Rs. 28,90,25,792**. This results in surplus of funds amounting to **Rs. 2,61,43,050**. The details are as follows:

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(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	24,17,251
Investments as on 31.03.17 as per Audited Financial Statements	6,54,286
Add: Repayment of Loan and interest for construction of building in contravention to clause 2 of public notice dated May 4, 1997 (Refer Observation I of Financial Irregularity)	5,79,53,387
Add: Interest paid on unsecured Loan and overdraft during FY 2014-15 to 2016-17 (Refer Observation II of Financial Irregularity)	1,28,19,255
Less: Fixed Deposit in the joint name of Venkateshwar Global School, Manager and DDE (District)	2,57,404
Less: Fixed Deposit in the joint name of Chairman Venkateshwar Global School & Secretary (CBSE)	2,63,132
Less: Development Fee balance as on 31-03-2017	65,97,112
Total	6,67,26,531
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)	24,69,94,016
Add: Other income for FY 2016-17 as per Audited Financial Statements	14,48,295
Estimated availability of funds for FY 2017-18	31,51,68,842
Less: Budgeted expenses for the session 2017-18 (after making adjustment) (Refer Note- 1 to 3)	28,90,25,792
Net Surplus	2,61,43,050

Adjustments: -

Note -1: The proposed provision towards Gratuity and Leave Encashment of Rs.1,24,71,303 has not been considered for evaluation of fee increase proposal because it was not supported by actuarial valuation report.

Note -2: The School proposed Rs.70,62,193 in its budget for interest on secured loan which was taken for construction of building. Therefore, the same has not been considered in the evaluation of fee increase proposal. Similarly, the interest on unsecured loan proposed by the school amounting Rs.36,00,000 has also not been considered in the above calculation.

Note- 3: 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 been disallowed in the evaluation of fee increase proposals. The details of such expenditures are as under:

Particulars	FY 2016-17	FY 2017-18	Difference	% change	Amount disallowed in excess of 10%
Educational and Recreational Expenses/ Education Workshop	1,11,47,309	1,47,69,795	36,22,486	32%	25,07,755
Refreshment Charges	1,03,79,074	1,24,19,937	20,40,863	20%	10,02,956
Charity & Donation*	-	1,10,000	1,10,000	100%	1,10,000
Total	2,15,26,383	2,72,99,732	57,73,349		36,20,711

*Amount proposed by the school for Charity and Donation has not been considered for evaluation of fee increase proposal since as per Section 18(4) of DSEA, 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed under Rules 176 and 177 of the DSER, 1973.

- 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 utilizing 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 utilized 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 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 made additions to Building WIP for Rs.3,80,74,125 till FY 2016-17. Also, the school has incurred Rs.1,98,79,262 for repayment of interest on loan taken for construction of Building and Rs.1,28,19,255 for payment of interest on unsecured loan and overdraft facility in FY 2014-15 to 2016-

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17. Therefore, the school is directed to recover **Rs.7,07,72,642** 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 **Venkateshwar Global School, Sector 13, Rohini, Delhi - 110089 (School Id: 1413289)** 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 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 rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

This issues with the prior approval of the Competent Authority.


(Yogesh Pratap)

Deputy Director of Education-1
(Private School Branch)

Directorate of Education, GNCT of Delhi

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To
The Manager/ HoS
Venkateshwar Global School,
Sector 13, Rohini, Delhi - 110089 (School Id: 1413289)

No. F.DE.15 (121)/PSB/2019/1030-1034

Dated: 14/3/2019

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-1

(Private School Branch)

Directorate of Education, GNCT of Delhi