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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 (248)/PSB/2019/1395-1399

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

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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, **The Sovereign School, House No. PKT-17, Street No. PH-III, Sector- 24, Rohini, New Delhi -110085 (School Id: 1413292)** 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 26, 2018. Further, School was also provided opportunity of being heard on July 13, 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 May 4, 1997 states that "It is the responsibility of the society who has established the school to raise such 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". Additionally, Hon'ble High Court of Delhi in its Judgement 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 10.02.2005 issued by this Directorate states that "Capital expenditure cannot constitute a component of financial fee structure".

Moreover, as per Rule 177 of DSER, income derived by an unaided private 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 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.

On review of financial statements, it has been observed that the school has paid Rs.2,87,77,978 towards repayment of principal and Rs.1,82,03,762 towards interest thereon during FY 2014-15 to 2016-17. The aforesaid loan was taken for construction of building and purchase of vehicle before the FY 2014-15. Further, the society has also infused Rs.2,43,35,929 towards capital contribution and Rs. 13,51,08,110 towards unsecured loan till FY 2016-17 for meeting cost of construction and repayment of loan and interest. Considering this fact, the school is directed not to repay the outstanding balance of the society of Rs. 13,51,08,110 (Unsecured Loan) appearing in the financial statements as on 31.03.2017 and convert this amount as capital contribution towards the construction of school building. Further, the amount of interest which has already been charged to income expenditure account is directed to adjust against the general fund. The summary is as under.

Particulars	(Figures in Rs.) Amount
Contribution from society as on 31-03-2017	2,43,35,929
Add: balance of unsecured loan taken from society as on 31-03-2017	13,51,08,110
Less: Cost of Building as on 31-03-2017	10,38,30,609
Less: Repayment of Secured and Unsecured Loan during FY 2014-15 to 2016-17	2,87,77,978
Less: Payment of interest on above loan during FY 2014-15 to 2016-17	1,82,03,762
Excess contribution from the society.	86,31,690

- II. 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 for specific purpose shall be spent only for such purposes;
 - c. Judgement of Hon'ble Supreme Court of India in the case of Modern School vs. Union of India & others, which specifies that every non-profit organisation, are required to maintain its account on the basis of fund-based system of accounting.

On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely smart

class fee, transportation charges, science fee and health and hygiene fee 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 smart class fee, transportation charges and health and hygiene fee and incurred deficit on account of science fee. Therefore, the school is directed to adjust the surplus /deficit on account of these earmarked levies in the general fund account.

The summary of the surplus/ deficit on these earmarked levies during FY 2014-15 to 2016-17 as provided by the school is as under:

(Figures in Rs.)

Particulars	Total Income	Total Expenditure	Surplus/ (Deficit)
Smart Class Fee	1,13,00,631	53,38,847	59,61,784
Transport Fee	1,02,55,138	95,80,831	6,74,307
Science Fee	1,95,700	3,78,713	(1,83,013)
Health & Hygiene	75,63,532	57,74,095	17,89,437
Total	2,93,15,001	2,10,72,486	82,42,515

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 levies are to be collected only from the user students availing the facilities and if, the services are extended to all students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from the Annual Charges. Accordingly, the School is directed not to charge a separate levy in the name of Smart Class Fee and Health and Hygiene Fee with the immediate effect.

- III. As per Para 99 of Guidance note – 21 on "Accounting by School" issued by ICAI, relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrance 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 cognizance from the above para, it is noted that in FY 2014-15, 2015-16 and 2016-17 the School was not maintaining Development Utilization Fund.

Instead of creating development utilisation fund the school was transferring the equivalent amount of assets purchased out of development fund to general reserve resulting overstatement of general reserve balance. Further, the school has not transferred the amount of depreciation charged on the assets purchased out of development to the credit of income and expenditure account. Hence, the school is directed to make necessary adjustments in the development fund account, development utilisation account and general reserve account.

Details of fixed assets purchased out of development fund are as under:
(Figures in Rs.)

Particulars	Fixed Assets purchased out of development fund	Depreciation charged on the assets purchased out of development fund
FY 2014-15	66,41,882	7,25,632
FY 2015-16	-	6,85,860
FY 2016-17	65,51,306	9,50,176
Total	1,31,93,188	23,61,668

- IV. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections 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". On review of the audited financial statements for the FY 2015-16, it has been observed that school has utilized development fee of Rs. 78,48,165 for repair and maintenance of building and furniture and fixtures in financial year 2015-16 which is in contravention of clause 14 of the order dated 11.02.2009 and therefore, the school is directed to make necessary adjustments in the development fund and general fund accounts.

Other Irregularities

- I. 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 the condition specified in the Land allotment letter which provides for 25% reservation to children belonging to EWS category in admission. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. As per School, the details of number of EWS students and total students in FY 2014-15, FY 2015-16 and FY 2016-17 are as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	835	915	958
EWS Students	179	199	214
% of EWS students	21.44%	21.75%	22.34%



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II. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, School is directed to apply the depreciation rates as prescribed in the Guidance Note-21 "Accounting by Schools".

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. 8,91,72,418** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 9,29,12,254**. This results in deficit of **Rs. 37,39,836**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,20,27,136
Investments as on 31.03.17 as per Audited Financial Statements	4,42,244
Less: Outstanding balance of Bank Overdraft as on 31-03-2017	7,65,336
Less: Development fund balance as on 31-03-2017	15,64,382
Less: FDR in the joint name of Secretary of CBSE and the Sovereign School	1,42,244
Less: Provision for gratuity as on 31-03-2107	25,60,000
Total	74,37,418
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)	7,89,54,489
Add: Other income for FY 2016-17 as per Audited Financial Statements	27,80,511
Estimated availability of funds for FY 2017-18	8,91,72,418
Less: Budgeted expenses for FY 2017-18 (after making adjustment) Refer Note- 1 to 3	9,29,12,254
Estimated Deficit	37,39,836

Adjustments:

Note 1: Under the following heads the School has proposed higher expenditures as compared to the actual expenditure incurred in the previous financial year. The school has not provided any satisfactory explanation or justification for such unusual increase in these expenditures. Therefore, considering the rate of inflation these expenditures have been restricted to 110% of the actual expenditure incurred in the FY 2016-17. The summary of expenditure disallowed is as under:

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(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Difference	% change	Amount disallowed
Building Repair & Maintenance	24,72,812	33,96,870	9,24,058	37%	6,76,777
Sports Expenses	6,77,742	11,57,857	4,80,115	71%	4,12,341
Total	31,50,554	45,54,727	14,04,173		10,89,118

Note- 2: The amount of Rs.50,45,599 proposed by the school for construction of building has not been considered in the evaluation of fee increase proposal since, as per Clause 2 of Public Notice dated May 4, 1997 states that "It is the responsibility of the society who has established the school to raise such 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".

Note- 3: The school has not proposed for salary arrear in the budget submitted for the FY 2017-18. However, based on the reply submitted by the school, salary arrear for the period 01-01-2016 to 31-03-2018 has been considered in the above table for 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 findings 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 10% from 01 April 2019.

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **The Sovereign School, House No. PKT-17, Street No. PH-III, Sector- 24, Rohini, New Delhi -110085 (School Id: 1413292)** has been accepted by the Director of Education with effect from April 01, 2019 and the School

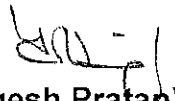
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is hereby allowed to increase the tuition fee by 10%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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
The Sovereign School,
House No. PKT-17, Street No. PH-III, Sector- 24,
Rohini, New Delhi -110085 (School Id: 1413292)


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No. F.DE.15 (248)/PSB/2019 | 1395-1399

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