

108

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

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DIRECTORATE OF EDUCATION

(PRIVATE SCHOOL BRANCH)

OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (285)/PSB/2019/1510-1514

Dated: 04/04/19

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:-

1260
"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, **Mahashai Chunilal Saraswati Bal Mandir, L- Block, Hari Nagar, New Delhi - 110064 (School Id: 1514091)** 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, a very rigorous and systematic process of evaluation has been followed by this Directorate by appointing teams of Chartered Accountants at HQ level who has 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 in this process of evaluation, necessary records and explanations were also called from the school vide email dated March 27, 2018. Further, school was also provided an opportunity of being heard on July 16, 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 clarification 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 by the team of Chartered Accountants. The key findings of the evaluation are as under:

Financial Irregularities

- I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the development fee shall be treated as capital receipt and it should be utilized for the purpose of supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, on review of audited financial statement for the Financial Year 2015-16 and 2016-17, it has been noted that the school has utilised development fee for meeting revenue expenditures in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed to make necessary adjustment in the development fund account and general fund account. Details of revenue expenditures incurred out of development fee are as under:

| Particulars | FY 2014-15 | FY 2015-16 | FY 2016-17 |
|--|-----------------|------------------|------------------|
| Computer Education Expenditures | 5,32,500 | 13,14,250 | 18,71,250 |
| Other Repair and Maintenance | 41,381 | - | 5,40,530 |
| Audit Fee | - | - | 17,375 |
| Building Repair and Maintenance | - | - | 4,950 |
| Furniture and Fixture Repair and Maintenance | - | - | 24,572 |
| Total | 5,73,881 | 13,14,250 | 24,58,677 |

- II. 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 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 cognisance from the above para, it has been observed that school has not created Development Utilisation Account since, it has prepared separate balance sheet, Income and Expenditure account and Receipt and Payments account for the Development Fee during FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to follow the Guidance Note- 21.

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 is charging earmarked levies namely transport fee, science fee, computer fee, IT & assignment fee and activity fee from the students but these fees are not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus in respect of aforesaid earmarked levies. Further, fund based accounting has not been followed by the school for these earmarked levies. Therefore, the school is directed to adjust the surplus on these earmarked levies against the general reserve to determine the correct position of the general reserve.

Moreover, on review of financial statement submitted by the school, it has been noted that the school was collecting Pupil fund and PTA fund. 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 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 facilities and if, the services are extended to other 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 Annual Charges accordingly school is directed not to charge separate levy for these facilities in the name of IT & Assignment fee, Activity fee, Pupil fund and PTA fund from all the students and computer fee from the students of class VI to X.

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 condition specified Land 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 Students | 1276 | 1235 | 1190 |
| EWS Students | 158 | 130 | 121 |
| % of EWS Students | 12% | 11% | 10% |

- 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. However, the school has provided for Gratuity and Leave Encashment of Rs.1,45,87,497 as on

31-03-2017. The society has taken a group gratuity scheme of LIC for gratuity whereas provision for leave encashment was made on the basis of management estimates. Further, during discussion the school has explained that it has not made any investment against the liability of gratuity and leave encashment. Therefore, the school is directed to follow Accounting Standard 15.

III. On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities have been noted:

a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. However, on review of Financial Statements, it has been observed that the school is being refunding only principal amount of caution money without interest thereon which is in contravention of clause 18 of the order dated 11.2.2009. Therefore, the school is directed to follow the provision of clause 18 of the order dated 11.2.2009.

b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010, after the expiry of 30 days, the amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, the school has not considered the amount of un-refunded caution money as income in its proposed budget. Therefore the school is directed to follow the provision of Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010.

IV. The school is not charging depreciation on building to the income and expenditure account in any of the FY 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 in understatement of surplus/deficit as appearing in the financial statements. Therefore, school is directed to comply with the accounting standard issued by ICAI.

- V. The school is charging depreciation as per 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 "Accounting by School".
- VI. On review of fee receipts submitted by the school, it has been observed that the school has increased Tuition Fee in FY 2016-17.

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. 7,06,67,032** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 6,80,56,253**. This results in net surplus of **Rs. 26,10,779**. The details are as follows:

(Figures in Rs.)

| Particulars | Amount |
|--|--------------------|
| Cash and Bank balances as on 31.03.17 as per Audited Financial Statements | 1,21,16,153 |
| Investments as on 31.03.17 as per Audited Financial Statements | 26,36,209 |
| Less: Outstanding balance of bank overdraft as on 31-03-2017 | 7,24,037 |
| Less: Caution money balance as on 31-03-2017 | 17,08,650 |
| Less: Development Fund received during FY 2016-17 (Refer Note-1) | - |
| Less: Fixed Deposit with Bank in the joint name of DDE and Manager of School | 8,54,532 |
| Less: Fixed Deposit with Bank in the joint name of Chairman CBSE and Manager of School | 1,64,940 |
| Total | 1,13,00,203 |
| 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) | 5,83,16,775 |
| Add: Other income for FY 2016-17 as per Audited Financial Statements | 10,50,054 |

| | |
|---|--------------------|
| Estimated availability of funds for FY 2017-18 | 7,06,67,032 |
| Less: Budgeted expenses for the session 2017-18 (Refer Note- 2 to 4) | 6,80,56,253 |
| Estimated Net Surplus | 26,10,779 |

Adjustments:

Note- 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can be charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "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. Since, the school is not following all the conditions of clause 14 of the order dated 11.02.2009. Therefore, the same has not been considered in the calculation of fund position of the school.

Note-2: The school has not proposed the salary arrears of 7th CPC amounting Rs.1,07,49,718 in the budget however, the same has been considered for evaluation of fee increase proposal.

Note-3: The amount proposed by the school for Rs.15,00,000 towards leave encashment has not been considered for evaluation of fee increase proposal since, the same is not supported by the actuarial valuation report.

Note- 4: As per 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". Further, Rule 177 of DSER, 1973, states that the 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. Based on aforesaid provisions and considering

the year of implementation of 7th CPC, the amount proposed by the school of Rs.20,00,000 towards purchase of bus has not been considered in 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, 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 **Mahashai Chunilal Saraswati Bal Mandir, L- Block, Hari Nagar, New Delhi - 110064 (School Id: 1514091)** 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 charge fee as per the existing fee structure of the school.
4. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
5. 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.
6. 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.
7. 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 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

Mahashai Chunilal Saraswati Bal Mandir,

L- Block, Hari Nagar, New Delhi - 110064 (School Id: 1514091)

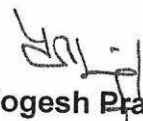
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F. DE. 15 (285) / PSB / 2019 / 1510 - 1514

Dated: 04/04/19

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