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

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No. F.DE.15 (272)/PSB/2019/1190-1194

Dated: 29/03/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized Schools in Delhi' and directed that the private unaided Schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid Schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided Schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal

No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Shadley Public School, Press Colony, G-8 Area, Rajouri Garden New Delhi-110064 (School Id: 1515105)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 28, 2018. Further, School was also provided opportunity of being heard on June 28, 2018 to present its justifications/ clarifications on fee increase

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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**

1. 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, up-gradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged shall be treated as capital receipts 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 separately maintained development fund account." However, on review of audited financial statements for the year 2014-15, 2015-16 and 2016-17, following observations have been noted:

a. The school has utilised the development fee for revenue expenditures which is not in accordance with clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, School is directed to make necessary adjustments in General reserve and development fund account. As per reply submitted the school, the development fund has been utilised for the following revenue expenditures:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
General Repair Maintenance	2,85,624	5,46,835	5,21,199
Vehicle Maintenance	2,54,749	2,60,062	2,87,491
Furniture Repair	3,21,650	2,50,105	3,14,966
Building Repair and Maintenance	10,55,619	16,67,030	17,72,078
Computer Repair	3,75,497	4,34,652	5,00,942
Gardening Expenditure	1,49,177	2,40,686	1,89,710
<b>Sub-total</b>	<b>24,42,316</b>	<b>33,99,370</b>	<b>35,86,386</b>
<b>Total</b>			<b>94,28,072</b>

- b. In FY 2014-15, the school has utilised development fund for additions to building for Rs. 5,45,092 in contravention of clause 14 of order no. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

Further, as per clause 2 of public notice dated May 04, 1997 "School should not to charge Building Fund and Development Charges when the building is complete or otherwise, as it is the responsibility of society who has established the School to raise such funds from their own resources or donations from other associations because immovable property of the School becomes the property of the society. Therefore, the students should not be burdened by way of collecting Building Fund or Development Charges".

As per Rule 177 of DSER, 1973 Income derived by an unaided recognised Schools by way of fees shall be utilised at 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. And, the savings referred to above shall be arrived at after providing for the following:

- 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.

Therefore, construction of building is the responsibility of the Society and shall not be charged from the school's fund. Therefore, the amount of Rs 5,45,092 utilised

by the school for addition to building has been included in the calculation of fund availability of the school with the direction to school to recover this amount from the society.

- c. The school is not maintaining depreciation reserve fund equivalent to the depreciation charged in the revenue accounts which is in contravention of clause 14 of the order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school the school may be directed to comply with the clause 14 of order dated 11.02.2009 if the school wish to collect the development fee in future.

Further, 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, School should have considered the Development fund utilisation account as deferred income to the extent of cost of assets purchased out of Development fund and have transferred the amount to the credit of Income & Expenditure account in proportion to the depreciation charged from this deferred income account. However, it is noted that School has not created 'Development Fund Utilization Account' for the assets purchased out of the Development fund and thus, has not transferred any amount from this utilisation account to the credit of Income and Expenditure account in proportion of depreciation charged during the year. Thus, the School has not followed aforesaid para 99 of the Guidance Note-21: Accounting by Schools as issued by ICAI and is directed to follow the same.

- II. 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, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that the school has charged earmarked levies namely Co-scholastic charges, Cal lab charges, Computer fees and Lab charges 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 Computer fees, Lab charges and Cal lab charges and incurred deficit against the receipts of Co-scholastic charges. The school is not following the fund-based accounting in respect of these earmarked levies collected from the students and thus is directed to follow the same.

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 comprised 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 comprised of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and 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 fee comprised of "Annual Charges" to cover all expenditure not included in the second category and the fourth category comprised 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 services/ facilities of the school. And if, the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered or clubbed either with the Tuition Fee or Annual Charges. Therefore, the school is instructed to stop the collection of separate earmark levy in the name of Cal Lab charges.

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- III. The school has made provisions for gratuity and leave encashment amounting Rs. 87,17,058/- and 22,69,300/- respectively during FY 2016-17 on management estimation basis and not on actuarial valuation basis, as required by Accounting Standard (AS) 15 issued by ICAI. There could be an impact on the financials of the school, had the provision been done actuarial valuation basis. In the absence of the actuarial valuation report, the same could not be quantified.
- IV. On review of the financial statements of the FY 2016-17 it has been noted that Rs. 2,45,900 reflecting under the head 'Loan From Students'. During the discussion, the School has submitted that it had collected this loan from parents for building prior to 2014-15 and the loan amount is being repaid upon parents approach the school for repayment. During the financial year 2014-15, 2015-16 and 2016-17, amount of loan repaid is as follow:

(Figures in Rs.)

Financial year	Amount of loan repaid
2014-15	11,500
2015-16	35,500
2016-17	22,000
<b>Total</b>	<b>69,000</b>

Other Irregularities

- I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and as per land allotment letter, the school is required to provide 25% reservation to children belonging to EWS/Dg category at the entry level. The DDE (District) concerned may look into this matter. However, student enrolment detail as submitted by the school along with return filed under rule 180 is as follow:

Year	2014-15	2015-16	2016-17
Total number of students	906	979	942
Number EWS category Students	57	75	60
Percentage	6.29%	7.66%	6.37%

- II. As per matching concept of generally accepted accounting policies, depreciation should be charged in income and expenditure account. However, while reviewing the

audited financial statements for the year 2014-15, 2015-16 and 2016-17, it was noticed that depreciation in respect of assets purchased out of development fund is not routed through income and expenditure account. Instead it is adjusted against separate fund namely "Fund for fixed assets"

- III. As per rule 172 of the Delhi School Education Rules, 1973, "No fee, contribution or other charge shall be collected from any student by the trust or society running the school." School has admitted that transport facility is managed by the society and transportation charges are collected by the society directly from students. Accordingly, income for FY 2016-17 has been considered as part of school income for FY 2017-18. As per school, the detail of transport fee collected are as follows:

(Figures in Rs.)

Financial year	Fees charged
2014-15	26,38,575
2015-16	33,16,800
2016-17	38,66,585
<b>Total</b>	<b>98,21,960</b>

- IV. As per sub section (1) of section 13 of Right to Education Act, 2009, no school or person shall, while admitting a child, collect any capitation fee. On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, it is observed that the school has collected one-time activity charges co- scholastic charges of Rs. 11,400 from the students at the time of admission in contravention of the aforesaid clause. Therefore, school may be directed to stop such collections from the students.

**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. 5,37,34,107** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 5,57,48,894**. This results in deficit of **Rs. 20,14,787**. 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	45,29,791
Investments as on 31.03.17 as per audited Financial Statements	7,06,220
Less: FDR in joint name of school and CBSE	5,13,000
Add: Amount recoverable from Society as funds utilised for building in contravention of Clause 2 of Public Notice dated 04.05.1997 and Rule 177 of DSER, 1973	5,45,092
<b>Total</b>	<b>52,68,103</b>
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)	4,83,34,357
Other income for FY 2016-17 as per audited Financial Statements	1,31,647
<b>Estimated availability of funds for FY 2017-18</b>	<b>5,37,34,107</b>
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment) (refer Note 1 and 2)	5,57,48,894
<b>Estimated Deficit</b>	<b>20,14,787</b>

**Adjustments:****Note 1:**

- a) The provision for Gratuity and leave encashment of Rs 1,14,01,270/- and Rs 25,72,743/- respectively has not been considered in the budget for FY 2017-18, since the same is not supported by actuarial valuation report.
- b) During the financial year 2017-18, school has proposed for provision for 3 months' salary amounting Rs. 96,75,000 for the first time. Being the year of implementation of 7th CPC, the allowance for creation of new reserve would give additional burden on the parents. Also, school has not provided any details of investment being made by the school against that during the financial year 2017-18. Hence the said provision has not been considered in the budget for the financial year 2017-18.

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c) School has proposed for salaries as per 7th CPC amounting Rs. 3,87,00,000. This proposed amount is more than 47% of actual salaries expenditure incurred amounting Rs. 2,63,94,623 in FY 2016-17. The school failed to provide the reason or justification for such substantial increase in budgeted salaries. Thus, increase in Salaries has been considered upto 10% of the previous year salaries and amount of arrears of salaries has been considered upto 30% of the previous year salaries. The balance amount has not been considered. The details of the same are as follows:

(Figures in Rs.)

Particulars	As per audited Income and Expenditure Account for F.Y. 2016-17	As per budget for fee increase submitted by school for F.Y. 2017-18	Net Increase	% Change	Amount disallowed
Salaries/ Teaching Expenses	2,63,94,623	3,87,00,000	1,23,05,377	47%	17,47,528

**Note 2:**

a) Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17, for which the school has neither provided any reasons for such unusual increase nor it has provided any satisfactory explanation/ justification. Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10% have not been considered in the evaluation of fee increase proposal. The details of such expenditures are as follows:



(Figures in Rs.)

Particulars	As per audited Income and Expenditure Account for FY 2016-17	As per budget for fee increase submitted by school for FY 2017-18	Net Increase	% Change	Disallowed
Students Welfare	9,96,301	19,50,000	9,53,699	96%	8,54,069
School Function	11,85,705	18,00,000	6,14,295	52%	4,95,725
Electric & Water Charges	6,31,564	7,60,000	1,28,436	20%	65,279
Ground Rent/ Property Tax	82,250	7,00,000	6,17,750	751%	6,09,525
Telephone & Postage	2,52,745	3,50,000	97,255	38%	71,981
<b>Total</b>	<b>31,48,565</b>	<b>55,60,000</b>	<b>24,11,435</b>		<b>20,96,578</b>

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

*"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."*

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural finding noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may be accepted.

AND WHEREAS, it is also noticed that the school funds have been utilized for construction of building 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. 5,45,092. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance

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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 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 of **Shadley Public School, Press Colony, G-8 Area, Rajouri Garden New Delhi-110064 (School Id: 1515105)** has been accepted by the Director of Education with effect from April 01, 2019 and the School 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:

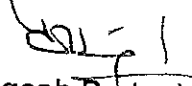
1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7<sup>th</sup> CPC in accordance with Directorate order dated 25.08.2017.
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India and others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.
5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.



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

This is issued with the prior approval of the Competent Authority.

  
(Yogesh Pratap)

Deputy Director of Education  
(Private School Branch)

Directorate of Education, GNCT of Delhi

To

The Manager/ HoS


Shadley Public School, Press Colony, G-8 Area, Rajouri Garden New Delhi-110064  
(School Id: 1515105)

No. F.DE.15 ( 222 )/PSB/2019 / 1190-1194

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