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

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No. F.DE.15 (249)/PSB/2019 / 1400-1404

Dated: 29/03/2019

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, **The Adarsh School, Kirti Nagar, New Delhi (School Id: 1516113)** 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 28, 2018. Further, School was also provided opportunity of being heard on March 04, 2019 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. 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 from collections for specific purpose shall be spent only for such purpose';
 - c) 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, computer fee and examination 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 on account of computer fee and examination fee and incurred deficit on account of transport fee. Further, the school has not followed the fund based accounting. Therefore, the school is directed to adjust the surplus/deficit on these earmarked levies against the general reserve to determine the correct position of the general reserve.

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 provision, earmarked levies have 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 computer fee from the students of Class I to X and examination fee from all the students with the immediate effect.

1.1 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:

S.no.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
1	Total Students	984	953	952
2	EWS Students	120	106	92
3	% of EWS students	12.19%	11.12%	9.66%

- 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 planed asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determined at the balance sheet date. However, the financial statements of FY 2016-17 reflect Rs.92,86,887 towards provision for gratuity and leave encashment which has not been considered in the calculation of fund availability of the school because it was not determined on the basis of Actuary Valuation Report and earmarked investment has not been made for the same. Therefore, the school is directed to provide for employee benefits in accordance with the requirements of Accounting Standard -15.

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

- a. As per clause 18 of the order dated 11.2.2009, 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. On review of the financial statements, it has been noted that the School has not collected caution money from the students during FY 2014-15 to 2016-17 and has refunded only principal amount to the students, at the time of their leaving which is not in accordance with the clause 18 of the order dated 11.2.2009. Therefore, the school is directed to comply with the aforesaid provisions.
- 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 the fee structure for ensuing academic year. But the school has not provided details of unrefunded money belonging to the ex-students, in the absence of which its impact on fund availability cannot be quantified. Therefore, the school is directed to comply with the aforesaid provisions.

IV. The school is charging depreciation as per rates prescribed by Income Tax Act, 1961 and not as per depreciation rates prescribed by the Guidance note on "Accounting by Schools" issued by ICAI. Further, 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 standards as well as Guidance Note- 21 issued by ICAI.

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.3,70,99,267** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.4,49,92,478**. This results in deficit of **Rs.78,93,211**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	40,89,628
Investments as on 31.03.17 as per audited Financial Statements	25,06,534
Less: Outstanding balance of Caution Money as on 31-03-2017	6,25,450
Total	59,70,712

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Fees for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	3,05,52,851
Other income for 2016-17 as per audited Financial Statements	5,75,704
Estimated availability of funds for 2017-18	3,70,99,267
Less: Budgeted expenses for FY 2017-18 (after making adjustment) Refer Note- 1 to 5	4,49,92,478
Estimated Deficit	78,93,211

Adjustments:

Note -1: The school has proposed Rs.41,23,487 towards arrear salary due to implementation of 7th CPC in the budget of FY 2017-18. However, during hearing the school has explained that the total liability of arrears salary as per recommendation of 7th CPC will be Rs.1,98,59,851 for the period from 01-01-2016 to 31-03-2018 which comes to 75% increase over the actual salary paid by the school in FY 2016-17. Therefore, the proposed arrears salary has been restricted to 30% of the actual salary paid by the school during the previous year. Accordingly, excess amount of Rs.1,18,96,121 has not been considered in the evaluation of fee increase proposal. [i.e. Rs.1,98,59,851 – (2,65,45,765*30%)].

Note -2: The school has proposed Rs.3,03,01,986 for regular increase in salary (teaching and non-teaching staff) which is more than 14% of actual salary paid by the school in previous year 2016-17. Therefore, increase proposed by the school in excess of 10% of previous year salary i.e. Rs.11,01,645 has not been considered for evaluation of fee increase proposal.

Note -3: The school has proposed Rs. 27,75,912 for 3 months' salary reserve which has not been considered for evaluation of fee increase proposal since, the school has not earmarked fund in the Joint name of Manager of the school and DY. Director of Education.

Note- 4: Under the following heads the School has proposed higher expenditure as compared to the actual expenditure incurred in FY 2016-17 for which the school has not provided any satisfactory explanation/ Justification. Therefore, keeping in mind that FY 2017-18 is the year of implementation of 7th CPC where the parents/ students are already overburdened. Therefore, expenditure proposed by the school in excess of 10% of the previous year expenditure has not been considered in the evaluation of fee increase proposal.

Particulars	FY 2016-17	FY 2017-18	Increase in budgeted figures	% Increase	Amount Disallowed
Legal & Professional Charges	77,541	2,75,000	1,97,459	255%	1,89,705
Computer Education	2,99,677	30,50,000	27,50,323	918%	27,20,355

Particulars	FY 2016-17	FY 2017-18	Increase in budgeted figures	% Increase	Amount Disallowed
Printing & Stationery	2,50,757	7,10,000	4,59,243	183%	4,34,167
Total	6,27,975	40,35,000	34,07,025		33,44,228

Note -5: 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 February 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.9,25,000 towards capital expenditure has not been considered in 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 15% from 01 April, 2019.

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **The Adarsh School, Kirti Nagar, New Delhi (School Id: 1516113)** 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 15%. 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 Adarsh School,
 Kirti Nagar, New Delhi (School Id: 1516113)

No. F.DE.15 (249)/PSB/2019 /1400-1404

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