

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

No. F.DE.15 (20)/PSB/2018/1463-1467

Dated: 7/2/2019

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 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, **Bosco Public School, Sunder Vihar Paschim Vihar New Delhi - 110087 (School Id: 1617176)** 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 23, 2018. Further, school was also provided opportunity of being heard on May 02, 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 by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities:

- I. As per Rule 177 of DSER, income derived by an unaided 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.

However, it is noted that school has purchased bus by taking loan despite of having deficit in last three financial years. During the period the school has utilised Rs. 25,24,166 in repayment of loan and Rs. 3,09,081 for payment of interest on the aforesaid loan. While, as per Rule 177 of DSER, 1973 the school first of all utilised its fund for payment of salary and its related expenses and thereafter, if there is any saving it can be utilised for meeting capital and contingent expenditure. Thus, the school has not followed true spirit of Rule 177 while purchasing the bus out of the school fund. Therefore, school is required to make necessary adjustments in general fund. This amount is recoverable from society and thus, considered as funds available with the school. Summary of repayment of loan and interest thereon are given below:

(Figures in Rs.)

Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	2,02,926	13,45,971
FY 2015-16	86,390	7,43,650
FY 2016-17	19,766	4,34,545
Total	3,09,081	25,24,166

- II. As per audited financial statements for the FY 2014-15, 2015-16 and 2016-17, it has been noted that school was charging a lump sum amount in the name of "Miscellaneous Fee" from the students. Further, as per clarification provided by the School in response to email dated March 23, 2018, the same has been collected from the students at the time of admission only for the following purposes:

- a. Parents orientation and workshop for new entrants in the school for current and subsequent years; and
- b. To upgrade, enrich and energise the student's in the field of physical education through hop jump play program, launched by physical education and sports solution private limited. This program promoted extensive physical and physiological growth in children with improved professionally competent, age appropriate curriculum, which enables a child to grasp & acquire skill according to his/her individual potential, strength & ability.

Although, during review of audited financial statements for the years 2014-15 to 2016-17, it is noted that no expenditure was incurred on the aforesaid activities over last three years. Further, the Statement of fee submitted by the school to the

Directorate of Education for FY 2014-15, 2015-16 and 2016-17 in compliance of requirements of section 17 (3) of The Delhi School Education Act, 1973, no such fee was mentioned in the Statement of fee. Hence, in view of the above mentioned circumstances, miscellaneous fee collected by the school at the time of admission is to be treated as capitation fee in accordance with provision of Right to Education Act, 2009. Thus, the school is directed to stop immediately the collection of this fee from the students. The details of Miscellaneous fee charged in FY 2014-15 to 2016-17 is as under:

		(Figures in Rs.)
Year	Particulars	Amount
2014-15	Miscellaneous Fee	20,88,120
2015-16	Miscellaneous Fee	16,00,110
2016-17	Miscellaneous Fee	36,25,000
	Total	73,13,230

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.

However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, following points have been observed:

- The school is charging earmarked levies namely transport fee and medical 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 transportation fee and incurred deficit against the receipts of lab charges. School is required to make necessary adjustments in the general fund.
- The school is not following the fund-based accounting in respect of these earmarked levies collected from the students.

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 comprised of "registration fee and all One Time Charges" 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. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

However, it is noticed that the school is Medical fee from all the students which is in contravention of the aforesaid recommendation and orders. Thus, school is directed to stop the collection of Medical fee.

Other Irregularities:

- I. On review of statement showing student strength for the financial year 2016-17 submitted in response of email issued to school for seeking clarification/records dated March 23, 2018, the school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, which provides for 25% reservation to children belonging to EWS category at the entry level. Therefore, the concerned DDE, District may look into this matter.
- II. Security deposit is being refunded by the School to the students leaving the school. However, interest on security deposit is not being paid which is in violation of Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11/02/2009. The school may be instructed to repay the caution money along with interest.

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to Rs. **10,24,59,725** out of which cash outflow in the year 2017-18 is estimated to be Rs. **9,37,85,277**. This results in surplus of funds amounting to Rs. **86,74,448**. The details are as follows:

(Figures in Rs)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	29,12,120
Investments as on 31.03.17 as per audited Financial Statements	1,58,07,640
Add: Amount recoverable from society for payment of loan and interest thereon in contravention of Rule 177 of DSER, 1973	28,33,247
Less: FD with Union Bank of India joint name of Chairman and CBSE	2,29,100
Less: FD with Axis Bank (Caution Money)	5,68,448
Total	2,07,55,460
Fees for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least	8,11,63,200

Particulars	Amount
accrue in 2017-18)	
Other income 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)	5,41,065
Estimated availability of funds for 2017-18	10,24,59,725
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment) (Note 1 and Note 2)	9,37,85,277
Net Surplus (Note 3)	86,74,448

Note 1: School has budgeted for Miscellaneous expenses and Contingencies amounting Rs. 7,00,000 and Rs. 7,50,000 respectively. The school has not clarified the basis and justification for which these amounts had been budgeted. Accordingly, the same has not been considered in this evaluation.

Note 2: The school has budgeted for bus amounting Rs. 10,00,000. Since, the bus facility would not be taken by each students of the school and therefore, the burden of the same cannot be shifted on each student. Further, as per Rule 177 of DSER, 1973 read with judgement of Hon'ble SC of India in Modern School vs Union of India, the capital expenditure shall not form part of fee structure of the school and shall be met out of the savings of the school. Accordingly, these expenses have not been considered.

Note 3: School has submitted that as per actuarial valuation report, the gratuity liability as at 31.03.2017 was Rs. 1,45,26,399 and against which school has provided for Rs. 1,43,68,195 only. Further, for FY 2017-18 school has budgeted for gratuity and leave encashment amounting Rs. 12,00,000 and Rs. 7,00,000 respectively. The basis of budgeted expenses for gratuity and leave encashment is not explained. However, these budgeted expenditures were considered while evaluating the fee proposal of the school. Thus, school is directed to make earmarked investments in a phased manner over period of five years against the provision of gratuity and leave encashment with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect the statutory liabilities.

- 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.

AND WHEREAS, it is also noticed that the school funds have been utilized for repayment of loan taken for purchase of bus and for payment of interest thereon 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. 28,33,247. 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 issuance of this 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 **Bosco Public School, Sunder Vihar Paschim Vihar New Delhi - 110087 (School Id: 1617176)** is rejected by the Director of Education.

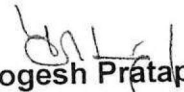
Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school 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 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.
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4. 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.
5. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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 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

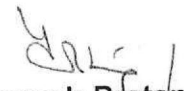
To
 The Manager/ HoS
 Bosco Public School,
 Sunder Vihar, Paschim Vihar, New Delhi - 110087
 (School Id: 1617176)

No. No. F.DE.15 (20)/PSB/2018/1463 - 1467

Dated: 7/2/2019

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
 (Private School Branch)
 Directorate of Education, GNCT of Delhi