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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 (107-)/PSB/2019/1145-1149

Dated: 25/03/2019

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:-

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(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, **Shah International School, Ambica Vihar, Paschim Vihar, New Delhi – 110087 (School Id: 1617178)** 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 26, 2018. Further, School was also provided opportunity of being heard on May 07, 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 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 separately maintained development fund account. However, on review of audited financial statements the following has been observed.
 - a. The school has utilised development fee for renovation of school building in FY 2014-15, 2015-16 and 2016-17 which is not in accordance with clause 14 of the order dated 11.02.2009. Therefore, the School is directed to make necessary adjustments in the development fund and general fund. Year wise details of amount utilised for renovation of school building is as under:

Particulars	(Figures in Rs.)		
	FY2014-15	FY2015-16	FY2016-17
Renovation of School Building	25,56,297	28,20,478	28,84,685

- b. The school has utilised development fund of Rs.41,73,307, Rs.28,05,439 and Rs.36,98,075 in FY 2014-15 to 2016-17 for purchase of fixed assets. But the assets are not reflecting on the face of the financial statements which indicates that the school has diverted its fund. Therefore, total amount of Rs.1,06,76,821 utilised for purchase of assets out the development fund is directed to be recoverable from the school management and accordingly it has been included in the calculation of fund availability of the school.

II In respect of earmarked levies, school is required to comply with:

Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis.

Rule 176 of DSER, 1973 states 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 & Others states that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements for FY 2014-15 to 2016-17, it has been noted that the school has charged earmarked levies in the name of transport charges, activity fee, smart class fee and AC charges from the student. But these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, school has earned surplus from activity fee, smart class fee and AC charges and has incurred deficit from transport charges. Accordingly, surplus/ deficit earned from these earmarked levies has been adjustment against General Fund Balance. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting in respect of all earmarked levies charged by the school.

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 either from the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop the

collection of separate charges in the name of the "activity fee smart class fee and AC charges" with immediate effect

- III. As per Order No. F. DE-15/ACT-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order No. F. DE-15/ACT-I/WPC-4109/Part/13/6750 dated 19.02.2016, schools which have been allotted land by the land-owning agencies on the condition to seek prior sanction of Director of Education for increase in fee, are required to submit their proposals for prior approval for academic session 2016-17 online through website of the Directorate. The Land allotment letter of the School has a condition not to increase the rate of fee without prior sanction of the Directorate of Education. However, on review of the fee receipts it has been observed that the school had increased Fee under the head Annual Charges in FY 2016-17 without obtaining prior approval from Directorate of Education and thus, has contravened the aforesaid orders issued by the Directorate of Education. The details of Annual Charges collected by the school during FY 2015-16 and FY 2016-17 are as under:

Particulars	Class	(Figures in Rs.)	
		FY 2015-16	FY 2016-17
Annual Charges (per month)	Nur to XII	298	327

Other Irregularities

- On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities have been noted.
- 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. On review of the financial statements, it has been noted that the School has not collected caution money from the students during FY 2015-16 and 2016-17 and has refunded only principal amount to the students at the time of his or her leaving without interest thereon which is not in accordance with the provisions of clause 18 of the order dated 11.2.2009. Therefore, the school is directed to follow the abovementioned provisions.
 - 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 in the calculation of fund availability cannot be quantified. Therefore, the school is directed to follow the abovementioned provisions.
 - 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 financial statements of FY 2016-17 reflect **Rs.84,14,782** towards provision

for gratuity which has not been considered in the calculation of fund availability of the school because it was not supported by the actuary valuation report. Further, the school has not made any provision for leave encashment. Therefore, the school is directed to provide for gratuity and leave encashment in accordance with the requirements of Accounting Standard -15.

- i. The school is charging depreciation on fixed assets as per the rates 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, the School is directed to follow the depreciation rates as prescribed by the Guidance Note-21.
- iv. 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 in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in the matter. The admission allowed under EWS category during the FY 2015-16 and FY 2016-17 is as under:

Particulars	FY 2015-16	FY 2016-17
Total strength	1169	1204
EWS	167	179
% EWS students to total students	14.29%	14.87%

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.8,09,23,714** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.7,25,28,056**. This results in net balance of Surplus amounting to **Rs.83,95,658** for FY 2017-18 after all payments. The details are as follows:

Particulars	(Figures in Rs.)
	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	8,21,122
Investments as on 31.03.17 as per Audited Financial Statements	85,21,129
Add: Amount diverted by the school during FY 2014-15 to 2016-17 (Refer Observation II of Financial irregularity)	1,06,76,821
Less: Development fund balance as on 31-03-2017	68,929
Less: Outstanding balance of Caution Money Fund as on 31-03-2017	9,04,000
Less: Fixed Deposit in the joint name of Secretary CBSE and Manager of School	1,82,661
Less: Fixed Deposit in the joint name of Deputy Director D.O.E. and Manager of School	8,23,594
Total	1,80,39,888

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Particulars	Amount
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) after concession	6,14,46,594
Add: Other income for FY 2016-17 as per audited Financial Statements	14,37,232
Estimated availability of funds for FY 2017-18	8,09,23,714
Less: Budgeted expenses for the session 2017-18 (Refer Note- 1 & 2)	7,25,28,056
Net Surplus	83,95,658

Adjustments:

Note- 1: Gratuity provision of Rs.20,00,000 proposed by the school has not been considered for evaluation of fee increase proposal since, the same is not supported by the Actuarial Valuation Report.

Note- 2: Clause 2 of Public Notice dated May 4, 1997 state 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". Therefore, amount proposed by the school of Rs.34,00,000 for building has not been considered for evaluation of fee increase proposal.

- 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 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 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.

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Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said School.

AND WHEREAS, it is also noticed that the School has shown utilisation of development fund of Rs.1,06,76,821 for purchase of fixed assets but the assets are not reflecting on the face of the balance sheet which indicates that the school has diverted its fund. Therefore, total amount of Rs.1,06,76,821 utilised for purchase of assets out the development fund is directed to be recoverable from the School Management. 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 the 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 **Shah International School, Ambica Vihar, Paschim Vihar, New Delhi – 110087 (School Id: 1617178)** 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 rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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. 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
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/violations will also be attached.

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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
Shah International School,
Ambica Vihar, Paschim Vihar,
New Delhi – 110087 (School Id: 1617178)

No. F DE 151/PSB/2019/1145-1149

Dated: 25/03/2019

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