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

No. F.DE.15 (216)/PSB/2019/1268-1269

Dated: 29.3.2019

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, **Saraswati Bal Mandir, A-2, Paschim Vihar, New Delhi - 110063(School Id: 1617181)** 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 26, 2018. Further, School was also provided opportunity of being heard on July 06, 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, 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 FY 2014-15, 2015-16 and 2016-17, it has been noted that the school has utilised development fee for meeting revenue expenditures which is in contravention of clause 14 of order dated 11.02.2009. Therefore, the school is directed to make adjustment to Development Fund account and General reserve. The details of revenue expenditure incurred out of development fee are as under:

Particulars	(Figures in Rs.)		
	FY 2014-15	FY 2015-16	FY 2016-17
Administrative expenses	18,00,357	16,14,259	5,52,490
Computer Education	-	1,05,735	1,60,121

Smart Board expenses	-	-	75,936
Total	18,00,357	17,19,994	7,88,547

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, the 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 should have transferred the amount to the credit of Income and Expenditure account in proportion to the depreciation charged every year. However, it is noted that School has not created any deferred income account i.e. Development- Utilisation Account with the amount of utilisation for fixed assets and thus, not transferred any amount to the credit of Income and Expenditure account in proportion of depreciation charged. It is also noted that separate balance sheet, Income and Expenditure account and Receipt and Payments account has been prepared for the Development Fee during FY 2014-15, 2015-16 and 2016-17. As per Order No. F.DE-15/Act-I/WPC-4109/part/13/7905-7913 dated 16.04.2016, the School is directed to prepare its financial statements in accordance with the formats prescribed in the order and Guidance Note- 21 as issued by ICAI.

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, in FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levy namely computer fee from the students but this fee is not charged on 'no profit no loss' basis as the school has earned surplus from computer fee.. Further, the school is not following fund based accounting for earmarked levy. Therefore, the school is directed to make adjustment to General reserve for surplus earned on computer fee.

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 levies 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. The school has also collected Pupil Fund and PTA Fund from students. Accordingly, the school is directed not to charge Pupil fund, PTA fund from all students and computer fee from the students of class I 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 in 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 details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	385	384	381
EWS Students	9	17	21
% of EWS Students	2%	4%	6%

- II. The following observations were noted in relation to caution money:
 - a. As per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (un-refunded more than 30

days) belonging to ex-students shall be reflected as income for the next financial year. However, school has shown the un-refunded caution money as liability. Further, school has not provided details of number of students left in FY 2014-15 to FY 2016-17 and hence no financial impact of the same could be ascertained.

- b. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving from the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon. Therefore, the school is directed to comply with clause 18 of order dated 11.02.2009.
- III. 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, the school is directed to comply with the accounting standard issued by ICAI.
- IV. 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".
- V. 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 fee receipts submitted by the school, it has been observed that the school had increased Tuition Fee 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. Therefore, the school is directed to roll back the increase fee or adjust the excess amount collected by the school against the future fee receivable from the students.
- VI. 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. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee

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Benefits for FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.

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. 1,78,63,990** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 1,87,05,337**. This results in deficit of **Rs. 8,41,347**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	14,02,589
Investments as on 31.03.17 as per audited Financial Statements	7,95,544
Less: FDR in the joint name of Dy Director Education and School	7,95,544
Total	14,02,589
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)	1,24,12,885
Add: Other income 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)	40,48,516
Estimated availability of funds for FY 2017-18	1,78,63,990
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1	1,87,05,337
Estimated Deficit	8,41,347

Note 1: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

(Figures in Rs.)					
Particulars	2016-17	2017-18	Net Increase	% Change	Disallowed
Smart Class Expenses	3,900	1,26,000	1,22,100	3131%	1,21,710
House Keeping Expenses	1,51,709	2,50,000	98,291	65%	83,120

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Particulars	2016-17	2017-18	Net Increase	% Change	Disallowed
Buildings	1,96,245	10,00,000	8,03,755	410%	7,84,131
Total	3,51,854	13,76,000	10,24,146	291%	9,88,961

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, 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 **Saraswati Bal Mandir, A-2, Paschim Vihar, New Delhi - 110063 (School Id: 1617181)** 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.

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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
Saraswati Bal Mandir,
A-2, Paschim Vihar,
New Delhi - 110063 (School Id: 1617181)

No. F.DE.15 (206)/PSB/2019 / 1268 1269

Dated: 29-3-2019

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