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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 (185)/PSB/2019/1055-1059

Dated: 14/3/2019

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

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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, **St. Froebel Senior Secondary School, Block A-3, Paschim Vihar, New Delhi-110063 (School Id: 1617184)** 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 28, 2018. Further, school was also provided opportunity of being heard on June 12, 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. Clause 2 of the Public Notice dated 4 May 1997 States that "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building should be incurred and borne by the society and not by the school from the school funds. Further, 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 state that "Capital Expenditure cannot constitute a component of financial fee structure".

Further, as per Rule 177 of DSER, income derived by an unaided school 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. However, following observations have been noted:

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- a. During FY 2014-15, the school has incurred capital expenditure of Rs. 71,80,032 for construction of building out of the school funds despite of not having enough surplus in the said financial year which is in contravention of above mentioned provisions. Therefore, the school is directed to recover Rs. 71,80,032 from society towards the amount utilised by school for construction of building.

(Figure in Rs.)

Particulars	Amount
FY 2014-15	71,80,032
FY 2015-16	1,51,47,511
FY 2016-17	1,37,38,822
Total	3,60,66,365

- b. During FY 2015-16 and 2016-17, the school has also spent Rs. 1,51,47,511 and Rs. 1,37,38,822 on construction of building. To meet the cost of construction, the school has taken loan of Rs. 99,25,000 from HDFC Bank in FY 2015-16 and Rs. 1,52,00,000 from Yes Bank in FY 2016-17. During the said period, the school has paid Rs. 5,57,152 towards principal repayment of loan, Rs. 22,31,540 towards interest thereon and Rs. 2,60,757 towards processing charges of loan out of the school fund. Thus, the amount of Rs. 82,71,960 (as per the table below) which was utilised by the school for construction of building including repayment of principle amount, interest and processing charges is in contravention of clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Therefore, the school is directed the aforesaid amount from the society. Further, the school is also directed to make adjustment in General reserve with respect to interest on loan and processing charges. The details of funds utilised by school are as follows:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17	Total
Capital expenditure incurred	1,51,47,511	1,37,38,822	2,88,86,333
Less: Loan Taken	99,25,000	1,52,00,000	2,51,25,000
Funds utilised out of school funds	52,22,511	-	52,22,511
Add: Loan repayment	3,46,240	2,10,912	5,57,152
Add: Interest on loan	2,74,817	19,56,723	22,31,540
Add: Processing charges	1,08,100	1,52,657	2,60,757
Total Funds utilised out of school funds including interest and processing charges	59,51,668	23,20,292	82,71,960

- 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 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 levies namely transport fee, lab fee, PHE fee and computer from the students but these fees are not charged on 'no profit no loss' basis as school has earning surplus from transport fee and IP/ PHE and Computer fee and has incurred deficit from Lab fee. Further, the school has not followed fund based accounting. Therefore, the school is directed to make adjustment to General reserve for surplus/deficit incurred on these earmarked levies and to follow fund based accounting.

- III. As per AS-6/ Revised AS-10 issued by the ICAI, Depreciation of an asset begins when the asset is available for use. However, it has been observed that in FY 2015-16, the school has charged depreciation on building which was under construction. Therefore, the school is directed to make adjustment to General reserve for the depreciation charged on Building under construction.

Particulars	Amount
FY 2015-16	11,48,961

Other Irregularities

- I. 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 recognized 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 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.
- II. As per the GN-21 on accounting by Schools, school shall charge the depreciation on those rate which is specified in the Appendix – 1 of the GN-21. However, school is charging the depreciation as per the Income tax act which is the contravention of GN-21. Therefore, the school is directed to follow GN-21 issued by ICAI.
- III. 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 form the school. However, the school is refunding the caution money to the student at the time of his/ her leaving without interest thereon which is in contravention of aforesaid clause. Therefore the school is directed to comply with clause 18 of order dated 11.02.2009.

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IV. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. And accordingly The Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-IWPC-5256/16/9352-9359 dated 16.04.2016. However, on review of the fee receipts provided by the school it has been observed that the school has increased fee of following classes in FY 2016-17 without obtaining prior approval from Directorate of Education in contravention of the aforesaid order. 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. The summary of fee increased by the school are as under:

(Figure in Rs.)		
Class	FY 2015-16	FY 2016-17
PP	4,345	4,500
I	3,810	4,345
II	3,410	3,810
IV	2,945	3,410
V	2,340	2,945

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. **8,53,75,215** out of which cash outflow in the year 2017-18 is estimated to be Rs. **7,53,92,000**. This results in surplus of funds amounting to Rs **99,83,215**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	20,37,873
Investments as on 31.03.17 as per audited Financial Statements	5,09,929
Add: Amount recoverable from society against utilisation of school funds for construction of building	71,80,032
Add: Amount recoverable from society towards school funds utilised for construction of building	82,71,960
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, St. Froebel School	1,84,985
Less: Caution money as on 31.03.2017	3,37,500
Total	1,74,77,309

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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)	6,70,15,270
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)	8,82,636
Estimated availability of funds for FY 2017-18	8,53,75,215
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1	7,53,92,000
Net Surplus	99,83,215

Note 1: The school has proposed purchase of vehicles and repayment of loan amounting to Rs.47,70,000 in budget for FY 2017-18 which is not considered for the evaluation of fee increase proposal.

- 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.

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AND WHEREAS, It is also noticed that the School has utilised Rs. 1,54,51,992 towards construction of building in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society. 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.

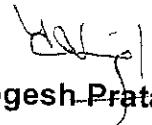
Accordingly, it is hereby conveyed that the proposal of fee increase of **St. Froebel Senior Secondary School, Block A-3, Paschim Vihar, New Delhi-110063 (School Id: 1617184)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee (including nursery and KG) 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 remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order 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 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 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.
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.

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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 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

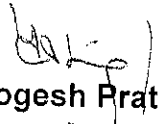
To
The Manager/ HoS
St Froebel Senior Secondary School,
Block A-3, Paschim Vihar,
New Delhi-110063 (School Id: 1617184)

No. F.DE.15 (185)/PSB/2019 / 1055-1059

Dated: 14/3/2019

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