

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

No. F.DE.15 (635)/PSB/2018/30522-30526 . Dated: 14.12.18

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, **Vishal Bharti Public School, A- 1 Block, Paschim Vihar, New Delhi -110063 (School Id: 1617190)** 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 24, 2018. Further, School was also provided opportunity of being heard on June 18, 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. While reviewing the financial statement of the school for FY 2014-15 and FY 2015-16, following anomalies were observed which raises question on the reliability of the financial statement:
 - a. During the FY 2014-15 the school has purchased assets out of Development Fund amounting to Rs.57,20,148 however this amount was not adjusted against Development Fund.
 - b. During the FY 2015-16, the assets purchased out of Development Fund has not been shown in the balance sheet. Further, in FY 2015-16, amount of Rs.57,20,148 used for purchase of fixed assets in FY 2014-15 out of Development Fund (as mentioned in the earlier point) has been reduced from the Development Fund account as well as from opening value of fixed assets.

Therefore, with respect to the above two points, it can be construed that the assets purchased in FY 2014-15 and FY 2015-16 out of development fee has not been shown as addition by the school in the financial statement. Moreover, the school has failed to provide fixed assets register. Hence, it cannot be verified, whether the assets were actually

purchased or not and therefore, it appears that the school has diverted its funds. Accordingly, the same has been adjusted for evaluation of fee increase proposal.

The details of fixed assets purchased out of development fund are given below:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	Total
Fixed Assets purchased out of development fund	57,20,148	71,15,295	1,28,35,443

II. On review of audited financial statement for the FY 2015-16, following irregularities have been noted:

- Previous year figure of FY 2014-15 in respect of additions made in Development Fund and assets purchased out of Development Fund has been changed as compared to the figures appearing the financial statement for FY 2014-15. The details of changes in opening balances are as under:

(Figures in Rs.)

Particular	Figures of FY 2014-15 as per financial statement of FY 2014-15	Figures of FY 2014-15 as per financial statement of 2015-16	Difference
Opening balance	-	-	-
Add:- Development Fee Received	59,80,060	60,60,336	80,276
Less:-Assets purchased out of development fee	-	58,00,424	(58,00,424)
Closing balance	59,80,060	2,59,912	57,20,148

- Previous year figures of FY 2014-15 shows that the school has purchased fixed assets out of development fee for Rs.58,00,424 whereas, according to the details submitted by the school during the discussion for FY 2014-15 assets purchased out of development fund was Rs.57,20,148.

III. As per clause 2 of public notice dated 04.05.1997, construction of building is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other association because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to construction of building should have been borne by the society and not by the school. However, on review of the financial statement of the school it has been observed that the school had incurred Rs.61,15,421/- , Rs.36,35,285/- and Rs.53,92,374/- in FY 2014-15, 2015-16 and 2016-17 respectively for construction of building from the school fund which is in contravention of the aforesaid clause. Therefore, the school is directed to recover the amount of Rs.1,51,43,080/- (Rs.61,15,421/-, Rs.36,35,285/- and Rs.53,92,374/-) from the society.

IV. As per clause 14 of order no. F.DE./15(56)/Act/2009/778 dated 11.02.2009, 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 account. The school was not maintaining Depreciation Reserve Fund during FY 2014-15 which is a contravention of the aforesaid clause. Further, the school started maintaining depreciation reserve fund from FY 2015-16 onwards, however, during the first year of the maintenance of the same i.e. FY 2015-16, it has not considered retrospective impact of previous year figures due to change in the accounting policy which is a non-compliance of GAAP.

V. 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, it has been observed that school has created development utilisation account in FY 2016-17 for the first time but has not treated the same as deferred income to the extent of cost of assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Therefore, the school is directed to follow para 99 of the above mentioned guidance note and make necessary adjustments in the General fund Account balance and Development Utilisation Fund balance.

VI. The school has increased tuition fee and development fee for 1st Standard in FY 2016-17 without obtaining prior approval of DOE which is a contravention of the order dated 19.01.2016 issued by the Hon'ble High Court of Delhi and land allotment letter. Further, in the fee reconciliation statement, only lump sum amount collected under different heads of fee has been reflected. The school has not submitted detailed reconciliation of fee. The summary of fee increased by the school are as under.

Category of Fee	Classes	FY 2015-16	FY 2016-17
Tuition Fee	Class I	11,688	13,767
Development Fee	Class I	1,164	2,061

VII. 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.

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, health & hygiene charges, safety and security charges, smart class charges, science fee and computer 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 transport fee and smart class fee and incurred deficit against all other earmarked levies. Further, the school has not followed fund based accounting for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

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 comprise 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. Based on the aforesaid recommendation, the school should stop collection of smart class fee with the immediate effect.

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 the land allotment letter which provides for 25% reservation to children belonging to EWS/DG category. The admission allowed by the school under EWS/DG category in FY 2014-15, FY 2015-16 and FY 2016-17 is as under:-

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1,146	1,315	1,570
EWS Students	140	143	168
% of EWS students	12.22%	10.87%	10.70%

Hence, the school is directed to follow the provisions of order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 along with the conditions specified in the land allotment letter.

- II. The school was charging depreciation at the rates prescribed under Income Tax Act, 1961 till the end of financial year 2015-16. However, in FY 2016-17, school has charged depreciation at the rates prescribed by the Guidance note-21 on "Accounting by Schools" issued by ICAI but the impact of such change

has not been disclosed in the financial statements. Therefore, the school is directed to account for the impact of such change in its financial statement.

- III. As per Clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be charged. The caution Money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, on review of audited financial statement for the FY 2014-15 to 2016-17, it has been observed that the school is being refunding only the principal amount of caution money without any interest thereon to the students, which is a contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. Further, school has stopped collecting caution money from the students from FY 2016-17. School is directed to refund principal amount of caution money along with the interest amount to the students at the time of his/her leaving and shall refund interest amount to those whom only principal amount had been refunded so far.
- IV. 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 un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of receipts and payments of the ensuing year' submitted with return filled under rule 180(1) of DSER, 1973, for the FY 2017-18 it was noted that school has not considered the un-refunded caution money as receipts. In the absence of availability of information of un-refundable caution money belonging to ex-students which can be treated as income, correct/ actual liability of the school cannot be ascertained.
- V. On review of audited financial for FY 2016-17 it has been noted that the school has incurred 45% (approx.) of expenditure towards establishment expenses and 55% (approx.) towards other expenditure whereas the major expenditure of the school should before payment of salaries and staff related expenses. Therefore, the school is directed to incur the expenditures necessitate towards educational purpose and limits its expenditure on other admin purposes.

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.14,02,63,627** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.9,07,06,800**. This results in net balance of Surplus amounting to **Rs.4,95,56,828** for FY 2017-18 after all payments. The details are as follows:

(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	3,97,260	

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Investments as on 31.03.17 as per Audited Financial Statements	9,62,893	
Add: Amount diverted for purchase of fixed assets out of development fee	1,28,35,443	
Add: Amount recoverable from the society for construction of building	1,51,43,080	
Less: Development fund balance as on 31-03-2017	5,296	
Less: Fixed Deposit in the joint name of Manager of the school and CBSE Delhi	3,29,762	
Less: Fixed Deposit in the joint name of Manager of the school and DY. Director of Education	6,33,131	
Total	2,83,70,487	
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)	11,09,70,811	
Other income for FY 2016-17 as per Audited Financial Statements	9,22,329	
Estimated availability of funds for FY 2017-18	14,02,63,627	
Less: Budgeted expenses for FY 2017-18 (after making adjustment)	9,07,06,800	"Refer Note- 1"
Net Surplus	4,95,56,828	

Adjustments:

Note 1: Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the following heads of expenditure have not been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Amount Disallowed	Remarks
Class IV Allied Staff salary	40,81,585	64,59,053	11,52,993	Disallowed in excess of 30%
Provision for Gratuity and Leave Encashment	9,90,985	57,48,621	32,88,519	"Refer note-1(a)"
3 Month Salary Reserve	-	18,48,877	18,48,877	"Refer note-1(b)"
Total			62,90,389	

Note- 1(a) School has provided for gratuity and leave encashment amounting to Rs.57,48,621 for the FY 2017-18, whereas according to actuary valuation report, school should have made provision for gratuity and leave encashment of Rs.24,60,102. Therefore, the excess provision proposed by the school has not been considered for evaluation of fee increase proposal.

Note- 1(b) The school has proposed Rs.1,35,64,210 for Salary Reserve equivalent to 3 months' of salary for the first time. Since this is year of implementation of 7th CPC therefore, the allowance for creation of such reserve would give additional burden on the parents/ student. Hence, it has not been considered in the above calculations.

- 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, since 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 school is hereby directed to make equivalent investments against provision for gratuity and leave encashment with LIC (or any other agency) within 90 days of the receipt of this order.

AND WHEREAS, it is noticed that the school has spent Rs. 1,51,43,080 towards addition to building which is not in line with the provisions of Rule 177 of DSEA&R, 1973 and was in contravention to public notice dated 04.05.1997. Further, Rs.1,28,35,443 has been diverted by the school for purchase of assets out of development fund. Accordingly, the School is required to recover Rs.2,79,78,523 from the society. The amount 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.


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Accordingly, it is hereby conveyed that the proposal of fee increase **Vishal Bharti Public School, A- 1 Block, Paschim Vihar, New Delhi -110063 (School Id: 1617190)** 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 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/violations 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 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

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To
The Manager/ HoS
Vishal Bharti Public School,
A- 1 Block, Paschim Vihar,
New Delhi -110063 (School Id: 1617190)

No. F.DE.15 (635)/PSB/2018 {30522-30526

Dated: 14.12.2018

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