

154

1766

154

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

No. F.DE.15 (115)/PSB/2019/1877-1881

Dated: 22/2/2019

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, **Rich Harvest Public School, A-1 Block, Janak Puri, New Delhi – 110058, (School Id: 1618179)** 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 July 17, 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 shall be treated as capital receipt and the collections under this head along with income generated from the investment made out of this fund, will be kept in separately maintained development fund account. Further, the development fee shall be utilized for the purpose of supplementing the resources for purchase, up gradation and replacement of furniture, fixture and equipment. Further, the development fee shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts. However, following observations have been noted:

- a. The school has treated development fee as revenue receipt in the FY 2014-15, 2015-16 and 2016-17 in contravention of aforesaid order dated 11.02.2009. Therefore, the school is directed to make adjustment to capital account and create development fund with the amount received in the respective financial years.

Following are the details of development fee received during FY 2014-15, 2015-16 and 2016-17:

(Figures in Rs.)

Development Fee Collected	Amount
FY 2014-15	48,23,470
FY 2015-16	58,06,805
FY 2016-17	57,17,100
Total	1,63,47,375

- b. The school is not maintaining Depreciation Reserve Fund as required by clause 14 of the order dated 11.02.2009 in all the previous financial years. Therefore, the school is directed to comply with clause 14 of the order dated 11.02.2009.
- 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 India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school is charging earmarked levies namely transport fee, lab charges/ science fee, activity fee, assignment fee and computer fee but these fees are not charged on 'no profit no loss' basis. The school has earned surplus from lab charges/ science fee, activity fee, and computer fee and incurred deficit from transportation charges and assignment fee. Further, the school is not following fund based accounting for earmarked levies. Therefore, the school is directed to make adjustment to capital account for the surplus/deficit incurred on these earmark levies.

- III. As per Section 18(4) of DSEA, 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed. However, the school has purchased Honda city car of Rs. 13,58,576 in FY 2015-16 by taking loan from Kotak Mahindra Bank in contravention of

y
h.

aforesaid section. Since owning luxury car is not a prerequisite for running the school, the amount spent on it is disallowed. Therefore, the school is directed to recover from society the purchase cost of luxury car and the interest paid on loan taken for the same. Further, school is also directed to make adjustment to the capital account for the interest charged in the income and expenditure account.

- IV. As per Rule 177 of Delhi School Education Rules, 1973, savings, if any of the school can only be utilised by the school for meeting capital expenditures. However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that school funds have been utilised for purchase of vehicles in contravention of Rule 177 of DSER, 1973. School has taken loan for purchase of vehicles and the burden of the loan along with interest thereon was imposed on each student of the school. Therefore, the school is directed to recover from society the principal and interest paid on loan during FY 2014-15 to 2016-17. Further, the school is directed to make adjustment to capital account for interest charged in the income and expenditure account. Details of payments made are stated below:

(Figures in Rs.)

Particulars	HDFC Bus Loan 1	HDFC Bus Loan 2	Total
Principal repaid during FY 2014-15 to 2016-17	13,22,712	13,22,712	26,45,423
Interest paid during FY 2014-15 to 2016-17	2,59,758	2,59,758	5,19,517
Total	15,82,470	15,82,470	31,64,940

Other Irregularities:

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE District is directed to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below.

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Strength	1,684	1,853	1,861
EWS Students	212	259	270
% EWS students to total strength	13%	14%	15%

- II. As per rule 180 of the Delhi School Education Rules, 1973 every unaided recognised private school shall prepare and submit financial statements in accordance with Appendix II of said rules. However, the school has not prepared

its financial statements as per aforesaid rule. Therefore, the school is directed to comply with Appendix II of rule 180 of DSER, 1973.

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. **6,39,89,123** out of which cash outflow in the year 2017-18 is estimated to be Rs. **5,90,56,387**. This results in net surplus of amounting to Rs. **49,32,736**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	(22,810)
Investments as on 31.03.17 as per audited Financial Statements	7,49,904
Less: Fixed Deposit in the joint name of Dy Director of Education and school	(4,62,268)
Add: Amount recoverable against purchase of Honda city car in FY 2015-16.	13,58,576
Add: Amount recoverable against interest paid on loan taken from Kotak Mahindra Bank in FY 2015-16 for purchase of Honda city car	1,40,108
Add: Recoverable against principal and interest paid on loan taken from HDFC Bank in FY 2014-15	31,64,940
Total	49,28,450
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)	5,88,30,550
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)	2,30,123
Estimated availability of funds for FY 2017-18	6,39,89,123
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 & 2	5,90,56,387
Net Surplus	49,32,736

Note 1: It is noted that the school has overestimated the budgeted expenditure for 'Annual Function Expenses' which is 73% higher than the actual expenditure incurred in FY 2016-17 and accordingly, amount of Rs. 4,17,602 in excess of 10% of the actual expenditure has not been considered as the school has not provided reasonable justification for such increase in expenditure. Also, School has introduced new heads of expenditure in the year of implementation of recommendations of 7th CPC. School has failed to provide reasonable justification for such introduction

4

of new heads of expenditure. However, 50% of the proposed expenditure has been considered and the balance expenditure have been disallowed. The details of such expenditures are as under:

(Figures in Rs.)

Particulars	As per budget submitted by school for FY 2017-18	Allowance	Disallowance
Library Expenses	2,00,000	1,00,000	1,00,000
Unprojected Expenses	2,00,000	1,00,000	1,00,000
Play Ground Maintenance	6,50,000	3,25,000	3,25,000
Terrace repair	7,10,000	3,55,000	3,55,000
Auditorium Renovation	4,75,000	2,37,500	2,37,500
Total	22,35,000	11,17,500	11,17,500

Note-2: The school has proposed capital expenditure in FY 2017-18 amounting to Rs. 29,15,560 and as per school submission, capital expenditure of Rs. 18,90,560 have not been incurred in FY 2017-18. Thus, the same has not been considered for evaluation of fee increase proposal. The details of such capital expenditure are given below:

(Figures in Rs.)

Particulars	As per budget submitted by school for FY 2017-18
Senior School Washroom	3,40,000
Generator	6,50,000
Computer	3,50,000
EMI of office vehicle	5,50,560
Total	18,90,560

- 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.”

h

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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Rich Harvest Public School, A-1 Block, Janak Puri, New Delhi – 110058, (School Id: 1618179)** 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 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. 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.



- 1773
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.

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

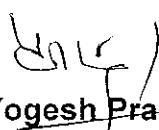
To
The Manager/ HoS
Rich Harvest Public School,
A-1, Block, Janak Puri,
New Delhi – 110058, (School Id: 1618179)

No. F.DE.15 (115)/PSB/2019 / 1877-1881

Dated: 22/2/2019

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