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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 (231)/ PSB/2019/ 1220 - 1224 Dated: 29/03/19

ORDER

WHEREAS, this Directorate vide its order no. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that 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, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 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 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court 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 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. 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) read along 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 response to this directorate's circular dated 23 Oct 2017 referred to above, **Banasthali Public School (School ID-1618185), Vikas Puri, Delhi-110018** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format 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 Chartered Accountants at HQ level who has evaluated the fee increase 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 through email. Further, school was also provided an opportunity of being heard on 26 July 2018 at 2:00 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification 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 thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Discrepancies

1. Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states *"An enterprise should determine the present value of defined obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."* The school was also directed by DoE through its Order no. F.DE-15/Act-I/WPC-4109/Part/13/961 dated 13 October 2017 to provide for retirement benefits in the books of accounts.

   While the school has invested in group gratuity scheme of LIC of India and based on the intimation provided by LIC, the liability of the school towards gratuity was derived by LIC as on 1 Jan 2018 on the basis of actuarial assumptions. However, the provision for gratuity in the books of account of the school was not in accordance with the actuarial valuation computed by LIC. It was noted that the school reversed the provision of gratuity upon deposit of amount with LIC, which is an incorrect accounting practice, as the school did not reflect the value of investments in its books of account. The school reflected short provision for gratuity in its financial statements as detailed in table below:

Particulars	Amount (INR)
Liability determined by LIC as on 1 Jan 2018 (as per LIC's intimation) (A)	53,10,837
Provision of gratuity as on 31 March 2017 (as per audited financial statements for FY 2016-2017) (B)	13,83,963
Under Provisioning of liability as on 31 March 2017 (A-B)	39,26,024
Fund Value of Group Gratuity Scheme with LIC as on 1 Jan 2018	46,96,563

Also, it was noted that the amount paid towards group gratuity scheme was adjusted from the provision of gratuity instead of recording the same as investment and did not reflect the fund value of the scheme as on 31 Mar 2017 as an asset in its audited financial statements for FY 2016-2017. Thus, the school had understated both the asset and liability towards retirement benefits in its financial statements for FY 2016-2017. Also, the school had not made provision for leave encashment and has not obtained actuarial valuation for liability towards leave encashment. The school is directed to obtain actuarial valuation for liability towards leave encashment. Further, the school is directed to accurately disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statements.

The investments made by the school towards liability for gratuity and the expenses towards retirement benefits budgeted by the school for FY 2017-2018 have been considered while deriving the fund position of the school (enclosed in the later part of this order).

2. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary, it should be taken once and at the nominal rate of INR 500 per student in any case, and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further, Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money, thus 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 the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   Order No. F. DE-15/ACT-I/WPC-4109/PART/13/961 dated 13 October 2017 issued to the school post evaluation of proposal for enhancement of fee for the FY 2016-2017 noted that the school had not booked the non-refunded caution money belonging to ex-students as income for the next financial year.

   On review of the financial statements of FY 2016-2017, it was noted that the school recorded entire balance of caution money payable as on 31 Mar 2017 as income in FY 2016-2017 including the caution money belonging to the students who are still studying in the school as on 31 Mar 2017. During the personal hearing, school mentioned that it had erroneously booked the balance of caution money balance as on 31 Mar 2017 as income during FY 2016-2017. Thus, based on the explanation provided by the school, the school should reverse the income recorded in respect of caution money belonging to existing students of the school. Based on the details provided by the school, the amount to be refunded to students after adjusting the income towards unclaimed caution money, as declared by the school amounting to INR 448,500 has been considered while deriving the fund position of the school (enclosed in the later part of this order).

B. Other Discrepancies

1. The school had collected increased fee from students of class 2nd during FY 2016-2017 (increase of 47% in tuition fee, increase of 110% in annual charges and reduction of 9% in development fee). Whereas, post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the school was directed to increase fee by 10% vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/961 dated 13 October 2017. The school explained that after approval of the fee increase proposal for FY 2016-2017 by the Directorate, the fee paid by students of class 2nd (after promotion from class 1st) actually increased by 10% as compared with the fee paid by them in class 1st. Further, the school mentioned that after promotion of these students from class 2nd to class 3rd in FY 2017-2018, same fee as collected from them during FY 2016-2017 has been charged, though prima facie, it will also appear that increased fee has been collected from them though old fee structure of school has been updated every year to ensure that fee paid by students after promotion to next class is not less than what they paid in previous year.

   The school is directed not to increase the fee of any class without prior approval of the Directorate. Basis the fund position of the school, the fee collected by the school has been duly considered while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order).

2. The school has prepared a Fixed Assets Register (FAR) that only captures asset name, date of receipt and quantity. The school should also include details such as supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

   During the personal hearing, school mentioned that it will make recommended changes from FY 2018-2019 onwards. The school is directed to update the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

3. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

   Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

   Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

   Also, earmarked levies collected from students are a form of restricted funds, which, according to the Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

   Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

   From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of transport fee, computer fee and additional subject fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school. Details of calculation of surplus, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	**Income (INR)**	**Expenses (INR)**	**Surplus (INR)**
	A	B	**C=A-B**
Transport Fee^	32,34,600	31,82,329	52,271
Computer Fee	2,57,400	*-	2,57,400
Additional Subject Fee	3,94,600	*-	3,94,600

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

* School did not provide any details of expenses incurred during FY 2016-2017 against the earmarked levy collected students.

The school explained that annual charges are not sufficient to meet the revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting revenue expenditure on account of which fund balance of earmarked levies could not separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from the students. Unintentional surplus, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis.

4. Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*Where the fund is meant for meeting capital expenditure, upon incurrence 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.*"

Basis the presentation made in the audited financial statements for FY 2016-2017 and scheme of entries explained by the school during personal hearing, it was noted that upon utilization of development fund by purchase of fixed assets, the school debited development fund and credited bank account with the purchase cost of the assets. Accordingly, fixed assets purchased out of development fund were not included in the value of fixed assets reported in the audited financial statements of the school.

Similarly, fixed assets purchased out of transport fund were also not included in the value of fixed assets reported in the audited financial statements of the school.

However, the school submitted details of fixed assets purchased out of development fund and transport separately. This being a procedural finding, the school is instructed to make necessary rectification entries relating to development fund, fixed assets and transport fund to comply with the accounting treatment indicated in the Guidance Note and include the value of all fixed assets purchased by the school in its subsequent audited financial statements.

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 year 2017-2018 amounting to INR 4,18,43,016 out of which cash outflow in the year 2017-2018 is estimated to be INR 5,02,82,959. This results in net deficit of INR 84,39,944. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	31,47,710
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	2,35,729
Investment against retirement benefits (gratuity) with LIC as on 31 Mar 2017 (as per receipt if investment) [Refer Financial Finding No. 1]	46,96,563
Total Liquid Funds Available with the School as on 31 Mar 2017	**80,80,002**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	4,12,04,471
Add: Arrears of tuition Fee to be recovered (As per the budgeted financial statements of FY 2017-2018) [Refer Note 2]	14,31,400
Gross Estimated Available Funds for FY 2017-2018	**5,07,15,873**
Less: Specific funds (with CBSE) (as per the audited financial statements of FY 2017-2018)	2,25,729
Less: Development fund [Refer Note 3]	35,02,065
Less: Retirement Benefits - Gratuity [Refer Financial Finding No. 1]	46,96,563
Less: Retirement Benefits - Leave Encashment Fund [Refer Financial Finding No. 1]	-
Less: Caution Money Fund [Refer Financial Finding No. 2]	4,48,500
Net Estimated Available Funds for FY 2017-2018	**4,18,43,016**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 4]	5,02,82,959
Estimated Deficit	**84,39,944**

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 along with the amount of fee increase allowed by DoE in FY 2016-2017 (arrears remaining to be collected by the school of INR 14,31,400) will at least accrue during FY 2017-2018.
2. The school was allowed by DoE to increase its fee by 10% vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/961 dated 13 Oct 2017. Arrears of tuition fee remaining to be collected from students as per budgeted income and expenditure account of FY 2017-2018 has been added to the available funds, as this would be additional collection by the school not included in the income of FY 2016-2017 (as per audited financial statements).
3. The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total

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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 1,24,29,455 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in one year (FY 2016-2017) from students has been considered for deriving the fund position of the school, which is considered sufficient basis the spending pattern of the school in past.

4. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 6,51,17,627 (including arrears of salary amounting INR 1,01,87,627 as per 7th CPC), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, some of the expenses heads as budgeted were considered, while other expense heads were restricted to 110% of the expense incurred during FY 2016-2017 giving consideration to general rise in cost/inflation and especially because FY 2017-2018 is the year of implementation of 7th CPC where additional financial burden of increase salary of staff is already there. Therefore, certain expenses in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal. The same were discussed during personal hearing with the school.

Particulars	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
Salaries & wages	2,29,65,660	2,80,00,000	22,965,660	50,34,340	Considered same as FY 2016-17.
Staff welfare	3,59,603	3,50,000	3,95,564	1,94,436	Reasonable justification for such increase in the expenditure was not provided by the school. Accordingly, budgeted expense restricted to 110% of the expense incurred during FY 2016-2017
Student welfare		2,40,000			
Promotional expense-(Advertising expenses)	1,75,837	5,50,000	1,93,421	3,56,579	
Electricity and water charges	4,27,419	5,50,000	4,70,161	79,839	
Audit Fee & accounting charges	2,70,130	4,00,000	2,97,143	1,02,857	
Property tax/ ground tax	5,01,551	6,00,000	5,01,551	98,449	
Annual function	1,07,840	15,00,000	1,18,624	13,81,376	
Building maintenance	51,94,538	80,00,000	32,02,935	47,97,065	Considered to the extent of actual expenditure, as declared by the school basis ledger account submitted by the

Particulars	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
					school for FY 2017-2018.
Scholarship	15,200	50,000	-	50,000	Scholarship is a charge on savings of the school derived in accordance with Rule 177. Not considered the same as school is having deficit.
PCM Lab expenses	39,756	1,50,000	-	1,50,000	This relates to construction/ renovation, which is not allowed from development fund, but from savings derived under Rule 177 compliance of which has not been ensured by the school. Thus, this expense has not been considered.
Renovation of Amphitheatre & classes	-	10,00,000	-	10,00,000	
Basket-ball court	-	15,00,000	-	15,00,000	
House-keeping & Security	15,14,518	20,00,000	18,96,000	1,04,000	Considered on the basis of agreements with service provider submitted by the school.
Gratuity Premium	-	6,00,000	6,14,274	(14,274)	Considered to the extent of actual amount paid by the school during FY 2017-2018 basis payment receipt of LIC.
Total	**3,15,72,052**	**4,54,90,000**	**3,06,55,332**	**1,48,34,668**	

ii. It seems that the school may not be able to meet its budgeted expenses from the existing fee structure and accordingly, it should utilise its existing funds/reserves and other resources. In this regard, Directorate of Education has already issued directions to the schools vide circular no. 1978 dated 16 Apr 2010 that, "All schools must, first of all, explore

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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 findings noted (appropriate instructions 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 materials were put before Director of Education for consideration and who after considering all material on record has found it appropriate to allow increase in tuition fee by 15% with effect from April 2019.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **Banasthali Public School (School ID-1618185), Vikas Puri, Delhi-110018** has been accepted by the Director of Education with effect from April 2019 and the school is hereby allowed to increase tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEA, 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 the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate's order dated 25 Aug 2017.
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.

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Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of Section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 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
Banasthali Public School
School ID 1618185
Vikas Puri, Delhi-110018

No. F.DE.15 (231)/ PSB/2019/ 1220-1224 Dated: 29/03/19

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 Spl. 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