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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(421)/PSB/2018/1020-1023

Dated: 05/10/2018

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 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 2017-18. 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 where it has been directed by the Hon'ble Delhi High Court that the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding 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

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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, **Modern Era Convent School, B-1, JanakPuri, New Delhi - 110058 (School Id: 1618188)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 has 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 an opportunity of being heard on May 07, 2018 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 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, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. 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 accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account. However, on review of audited financial statement for the FY 2014-15, 2015-16 and 2016-17, it has been observed that:
  - a) The school has not maintained depreciation reserve fund equivalent to the depreciation charged in the revenue account which is in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.
  - b) The school has not maintained separate bank account for development fund, resulting non- compliance with clause 14 of order dated 11-02-2009.

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- II. On review of audited financial statements for FY 2014-15 and 2015-16, fixed assets purchased out of the development fund are not reflected on the face of balance sheet. Further, school has failed to submit fixed assets register, which implies that assets purchased out of development fund amounting to Rs.1,82,962 , Rs.8,63,775 and Rs.3,57,030 during FY 2014-15, 2015-16 and 2016-17 respectively were diverted and accordingly appropriate adjustment has been made in the calculation of fund position of the school.
- III. In respect of earmarked levies, school is required to adhere 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 & others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

In FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely i.e. transportation fee and smart class from the students but these levies was not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account smart class and incurred deficit on account of transportation fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, the school is directed to follow fund based accounting.

#### Other Irregularities:

- The School has provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation basis in contravention of AS-15- Employee Benefits for FY 2014-15, 2015-16 & 2016-17. There could be an impact on the financials of the school, had the provision been done on the basis of actuarial valuation. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.
- On review of Receipts and Payment account of the financial year 2014-15, 2015-16 and 2016-17, it has been noted that, the school has recorded certain heads of accounts in its receipts and payments which should not form part of the receipts and payments account. Details of such heads are given below:-

Particulars	(Figures in Rs.)		
	2014-15	2015-16	2016-17
<b>Receipts</b>			
Depreciation	-	4,85,291	11,65,844
Provision for Gratuity Fund	-	9,98,933	9,60,070
Provision for Leave Encashment	-	39,07,141	2,75,927
Reserve Fund for Salary	-	-	5,00,000
Increase in other Current Liabilities	-	-	1,61,171



<u>Payments</u>			
Depreciation	-	4,85,291	11,65,844
Provision for Gratuity Fund	-	9,98,933	9,60,070
Provision for Leave Encashment	-	39,07,141	2,75,927
Provision for Salary Reserve	-	-	5,00,000
Increase in other Current Assets	-	-	60,605

Hence, in view of the abovementioned facts, it appears that, the school has not prepared its financial statements in accordance with the format prescribed by DoE in Appendix-II of the order dated 16.04.2016. Further, during discussion, school was asked to submit clarification for the above treatment but school has failed to provide any clarification. Therefore, school should prepare its financial statement in the format prescribed in Appendix-II of order dated 16.04.2016.

- III. Based on our review of audited financial statements for the FY 2016-17, it has been noted that, the school has collected development fee from the students but the same has not been reflected in the receipt and payment account of the school. Further, during discussion, school has explained that the same was done inadvertently as amount collected during the year was equal to the amount spent during the year. Therefore, school should avoid such kind of practice.
- IV. The school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, which provides for 25% reservation to children belonging to EWS and DG category at the entry level. The details are as follows:

Particulars	2014-15	2015-16	2016-17
Total Students	-	1076	1054
EWS Students	-	163	173
% of EWS students	-	15.15%	16.41%

- V. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). School should follow the depreciation rates as prescribed the Guidance Note-21 "Accounting by Schools".

**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 2017-18 amounting to Rs. 5,97,23,196 out of which cash outflow in the year 2017-18 is estimated to be Rs. 3,98,84,069. This results in net surplus of Rs.1,98,39,127. The details are as follows:

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Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,94,85,370	
Investments as on 31.03.17 as per Audited Financial Statements*	74,56,551	
Assets procured out of development fund during FY 2014-15 to 2016-17 but not shown as addition in the Fixed Assets in Audited Financial Statements	14,03,767	
Less: Investment against salary reserve fund in the joint name of Modern Era Convent School and Director of Education	12,72,194	
<b>Available Fund</b>	<b>2,70,73,494</b>	
Add: Fees of 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)	3,09,77,035	
Add: Other Income of 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)	16,72,667	
<b>Estimated availability of funds for FY 2017-18</b>	<b>5,97,23,196</b>	
Less: Budgeted expenses for the session FY 2017-18 (After Adjustment)	3,98,84,069	Note 1
<b>Net Surplus</b>	<b>1,98,39,127</b>	

\*School has made provision for gratuity and leave encashment as at 31-03-2017 amounting to Rs.92,36,289 and Rs.49,96,373 respectively in its financial statement and has not earmarked/blocked its investment against the same, hence, has not been considered for evaluation of fee increase proposal.

#### Adjustments:

**Note 1:** Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17 or has proposed new head of expenditures which was not there in the FY 2016-17, for which the school has neither provided any reasons for such unusual increase nor it has provided any explanation/ justification.

Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10% and expenditure under new heads have not been considered in the evaluation of fee increase proposal.

Particulars	FY 2016-17	FY 2017-18	Amount Allowed	Amount Disallowed
Computer Expenses	-	9,00,000	-	9,00,000
Building Repair & Maintenance	1,05,972	5,00,000	1,16,569	3,83,431
<b>Total</b>	<b>1,05,972</b>	<b>14,00,000</b>	<b>1,16,569</b>	<b>12,83,431</b>

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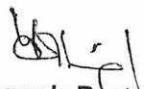
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Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

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 the order shall be viewed seriously.

This is issued with the prior approval of the Competent Authority.

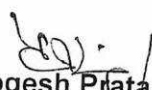
  
(Yogesh Pratap)  
Deputy Director of Education  
(Private School Branch)  
Directorate of Education, GNCT of Delhi

To  
The Manager/ HoS  
Modern Era Convent School,  
B-1, JanakPuri, New Delhi - 110058 (School Id: 1618188)

No. 1020 - 1023  
Copy to:

Dated: 05/10/2018

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