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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 (139) /PSB/2019/1897-1901

Dated: 27/2/2019

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 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 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

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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, **K.R Mangalam World School, H- Block Vikas Puri, New Delhi-18 (School Id: 1618208)** 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 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 06, 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 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 dated August 03, 2018 and August 09, 2018 were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

**Financial Irregularities:**

- I. In respect of earmarked levies, the school is required to comply with:
  - Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis;
  - Rule 176 of DSER, 1973, 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, states 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 has collected transport fee from the students but it is not charged on 'no profit no loss' basis as the school has earned surplus from transport fee. Further, the school has not followed fund based accounting in respect of earmarked levies as specified in GN-21. Therefore, the school is directed to make adjustment to General Fund for surplus earned on transport fee and to follow fund based accounting in respect of earmarked levies.

- II. Cause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009 states that "no caution money / security deposit of more than five hundred rupees shall be charged and the caution money thus, collected shall be kept deposited

in scheduled bank in the name of the concerned school and shall be returned to the student at the time of his or her leaving from the school along with bank interest thereon irrespective of whether or not he/she requests for refund". While the school is collecting security deposit from the student who are availing transport facilities at the rate of Rs. 10,000 per student in FY 2014-15 and at the rate of Rs. 15,000 per student in FY 2015-16 & 2016-17 which is not in accordance with the clause 18 of the order dated 11.02.2009. Therefore, the school is directed to discontinue the collection of security deposit and refund the deposit to user students within the stipulated time mentioned in the order.

- III. As per the explanation provided by the school during discussion, it has stopped collection of "Development Fee" w.e.f. FY 2012-13 because as per clause 14 of the order dated 11.02.2009, the Development Fund can be utilised only supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. On review of the fee structure of the school it has been noted that in order to avoid the compliance of clause 14 of the order dated 11.02.2009, the school has merged its fee structure into one single head i.e. "Fees" so that the school can utilise fee received from the students freely. Thus, the claim of the school for non-collection of development fee is not correct because the school has just changed the nomenclature of its fee structure without effecting the total collection of fee. Thus, the school is directed not to club the portion of development fee with other fee.

- IV. As per Rule 177 of DSER, 1973 income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified educational expenses

However, the school has taken secured loan for purchase of car and bus and has utilised the school funds for repayment of loan and interest thereon before meeting the statutory liability towards the employee benefits as required by Rule 177 of DSER, 1973. Therefore, the school is directed to recover from the society the amount of principal repaid towards loan along with interest thereon. Further, the school is also directed to make adjustment to General Fund for the amount of interest paid on loan. Details of repayment of loan and interest thereon are given below:

(Figures in Rs.)

Particulars	Interest paid	Loan repaid
FY 2014-15	2,00,593	15,60,222
FY 2015-16	1,65,526	11,29,931
FY 2016-17	3,28,216	11,08,237
<b>Total</b>	<b>6,94,335</b>	<b>37,98,391</b>

- V. As per Section 18 (4) DSEA 1973, income derived by unaided schools by way of fees shall be utilized only for such educational purposes as may be prescribed. However, the school has utilized school funds for purchase of luxury car- Verna amounting Rs.13,26,308 in FY 2014-15. Since owning luxury car is not a prerequisite for running the school, therefore, the school is directed to recover the purchase cost of car from society.
- VI. As per sub-section (1) of section 13 of Right to Education Act, 2009, no school or person shall while admitting a child, collect any capitation fee. The school has submitted that it is collecting one-time charge of Rs. 8,000 in FY 2014-15 and Rs. 10,000 in FY 2015-16 and 2016-17 in the name of "Orientation charges" at the time of admission from the new students and is recording these charges on net basis either under the head of "miscellaneous income" if there is surplus or under the head "activity expenses" if there is deficit so this type of collection from the students at the time of admission tantamount as capitation fee. Therefore, the school is directed to stop collection of such onetime charges from the students with immediate effect.

#### Other Irregularities

- I. As per the Guidance Note - 21 on accounting by Schools, school shall charge the depreciation at the rates which are specified in the Appendix - 1 of the Guidance Note - 21. However, school is charging the depreciation as per the rates specified in the Income Tax Act which is in contravention of Guidance Note - 21. Therefore, the school is directed to comply with Guidance Note - 21 issued by the ICAI.
- II. 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. 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-I/WPC-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 had increased the fee in FY 2016-17 without obtaining prior approval from Directorate of Education which is in contravention of aforesaid order.
- III. The school has not maintained fixed asset register. The school has substantial amount of fixed assets (net of depreciation) of Rs. 10,82,48,575 as on March 31, 2017. The value of fixed asset and the quantity of fixed assets cannot be substantiated in the absence of fixed asset register. So in order to have control over the fixed assets, school should prepare fixed assets register containing quantity, type of asset, purchase cost, date of purchase, location, fixed assets identification number, user of fixed assets.
- IV. 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 bank interest to the students at the time of his/ her leaving the school. However, the

school has not refunded interest on caution money to students on leaving of school which is in contravention of above said clause.

- V. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well 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 students	2,387	2,508	2,596
Total number of EWS	326	367	369
% of EWS to total number of students	14%	15%	14%

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. 32,58,77,778 out of which cash outflow in the year 2017-18 is estimated to be Rs. 31,03,81,924. This results in net surplus of amounting to Rs. 1,54,95,854. The details are as under:

Particulars	Figures (Rs.) Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	55,91,232
Investments as on 31.03.17 as per audited Financial Statements	2,05,86,753
Less: Fixed deposit in joint name of Dy Director of Education and Manger of the School	(4,27,766)
Less: Caution money as on 31.03.2017	(4,46,000)
Add: Amount recoverable against Luxury Car- Hyundai Verna (Refer point V of financial irregularities)	13,26,308
Add: Interest on loan against vehicle (Refer point IV of financial irregularities)	6,94,335
Add: Amount recoverable against loan repaid on vehicle loan (Refer point IV of financial irregularities)	37,98,391
<b>Total</b>	<b>3,11,23,252</b>
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)	29,12,92,044
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)	34,62,482

Particulars	Amount
<b>Estimated availability of funds for FY 2017-18</b>	<b>32,58,77,778</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	31,03,81,924
<b>Net Surplus</b>	<b>1,54,95,854</b>

**Note 1:** School has budgeted its salary amounting to Rs. 11,68,63,252 for FY 2017-18 against the actual salary expenses of Rs. 9,62,66,805 in FY 2016-17 and thus, has proposed the increase in salary by 21%. School failed to provide the justification for this increase. Accordingly, only 15% increase has been considered in the above calculations.

**Note 2:** As per judgement of Hon'ble SC in the case of Modern School Vs Union of India and Others, the capital expenditure shall not form part of fee structure of the school. In view of the above, purchase of vehicles of Rs. 48,00,000 proposed by the school in budget 2017-18 has not been considered in 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 7<sup>th</sup> CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, it is noticed that the school has incurred Rs. 13,26,308 for purchase of car and Rs. 44,92,996 towards payment of loan alongwith interest in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from society is Rs. 58,19,304. 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.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education

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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 7<sup>th</sup> 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 **K.R Mangalam World School, H- Block Vikas Puri, New Delhi-18 (School Id: 1618208)** 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 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 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.
4. 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.
5. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
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

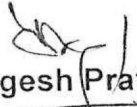
To  
The Manager/ HoS  
K.R Mangalam World School,  
H- Block Vikas Puri, New Delhi-18 (School Id: 1618208)

No. F.DE.15 (139)/PSB/2019/1897-1901

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