

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

1532

No. F.DE.15 (637)/PSB/2018/30497-30501

Dated: 14.12.2018

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.....

4

.....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, **New Delhi Public School, A- Block, Vikas Puri, New Delhi (School Id: 1618227)** 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 05, 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 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 statements for the FY 2014-15, 2015-16 and 2016-17, following observations have been noted:

- a. School has utilised development fee for purchase of bus and library books in contravention of aforesaid clause. School is directed to make necessary adjustments in development fund. The details of mis-utilisation of Development Fund are as under:

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Bus	15,50,926	28,93,932	-	44,44,858
Library Books	12,953	23,040	34,313	70,306
Total	15,63,879	29,16,972	34,313	45,15,164

- b. The school has utilised Development fee amounting to Rs. 10,04,263 for 'Renovation/ Upgradation of Assets (Building)' in contravention of aforesaid clause 14. The school has directly reduced this amount from the Development Fund as this amount was neither capitalised under the head Building nor was appearing in the Income and Expenditure Account in FY 2014-15. Accordingly, school is directed to make necessary adjustments in Development Fund account.

Further, as per clause 2 of public notice dated May 4, 1997, school not to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the property of the society. Therefore, the students should not be burdened by the way of collecting the Building Fund or Development Charges. However, as discussed above school funds i.e. Development Fund was utilised for construction of building. It is also clear that the building becomes the property of the society and thus, any additions to building should be financed by the society only and thus, amount utilised for construction of building needs to be recovered by school from society. Thus, this amount has been considered as part of fund available with the school.

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 & 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, Science fees & Sports fee, Smart class fee and Activity charges from the students but these levies were 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 of Transportation fee, Science fees & sports fee, Smart class fee and

Activity charges. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, school is directed to make necessary adjustments in General Fund for the surplus/deficit in respect of these earmarked levies.

- III. 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. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

However, it is noticed smart class fee and activity charges have been charged from each student in the school and thus, school has contravened the aforesaid recommendation and orders. Thus, school may be directed to stop the collection of smart class fee and activity charges as the same are being charged from each student.

- IV. As per Rule 177 of DSER, income derived by an unaided schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

- a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
- b) The needed expansion of the school or any expenditure of a developmental nature;
- c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;

d) Co-curricular activities of the students;

e) Reasonable reserve fund, not being less than ten percent, of such savings.

However, it is noted that school was not having any savings and has taken loans for purchase of buses over the years. These loans are repaid out of the school funds. The school has utilised its funds for repayment of loan taken for purchase of Bus despite of having deficits in all three years as it has repaid principal amount of loan amounting Rs. 30,70,398 and also, paid interest thereon amounting to Rs. 5,68,993. Thus, it is clear that the school has contravened the provisions of the Rule 177 of DSER, 1973. These amounts are recoverable from society and has been treated as part of fund available with the school. Therefore, school is directed to make necessary adjustment in general fund. Summary of repayment of loan and interest thereon are given below:

(Figures in Rs.)		
Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	1,54,522	8,49,045
FY 2015-16	2,00,092	8,80,039
FY 2016-17	2,14,378	13,41,314
Total	5,68,992	30,70,398

- 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 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".

Taking cognisance from the above para, school should have consider the development fund utilisation account as deferred income to the extent of cost of assets purchased out of development fund and should have transfer the amount to the credit of Income & Expenditure account in proportion to the depreciation charged from this deferred income account.

However, it is noted that school has created 'Development Fund Utilization Account' for the assets purchased out of the development fund. However, school is neither charging depreciation to income and expenditure account and correspondingly nor transferring any amount from 'Development Fund Utilization Account' in proportion of depreciation to the credit of Income and Expenditure Account. It is noted that the school is directly reducing the 'Development Fund Utilisation Account' by the amount of depreciation on assets, which are purchased out of development fund. Thus, it is clear that the school has not followed aforesaid para 99 of the Guidance Note-21 Accounting by schools as issued by ICAI and is directed to follow the same.

4

Other Irregularities:

- I. 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 as per school records are as follows:

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	1,201	1,369	1,422
Total number of EWS	115	146	143
% of EWS to total number of students	9.56%	10.66%	10.56%

- II. The School has provided for gratuity and leave encashment on the basis of management estimates instead of actuarial valuation which is required in accordance with 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.
- III. 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, 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. **6,12,49,907** out of which cash outflow in the year 2017-18 is estimated to be **Rs.4,44,02,276**. This results in surplus of funds amounting to Rs. **1,68,47,631**. 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	56,10,791	
Investments as on 31.03.17 as per audited Financial Statements	72,83,214	
Less: Fixed deposit in joint name of DDE and New Delhi Public School	4,42,005	
Add: Amount recoverable against Building	10,04,263	Note 1

Particulars	Amount	Remarks
Add: Amount of interest disallowed on loan	5,68,993	Note 2
Add: Amount recoverable against repayment of loan	30,70,398	Note 2
Less: Development Fund as on 31.03.2018	24,92,676	
Available Funds	1,46,02,978	
Add: Fees for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	4,55,89,135	
Add: Other income for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	10,57,794	
Estimated availability of funds for 2017-18	6,12,49,907	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	4,44,02,276	Note 3
Net Surplus	1,68,47,631	

Adjustment:

Note 1: As per clause 2 of public notice dated May 4, 1997, school not to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the property of the society. Thus, amount expended for construction of building needs to be recovered from society and thus, added in the fund availability.

Note 2: 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 education expenses and creation of 10% reserve. However, school has utilised its funds for repayment of loan against Bus despite of having deficit in all three years. The school has repaid principle amounting to Rs. 30,70,398 and also paid interest thereon amounting to Rs. 5,68,993. Summary of repayment of loan and interest thereon are given below:

(Figures in Rs.)

Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	1,54,522	8,49,045
FY 2015-16	2,00,092	8,80,039
FY 2016-17	2,14,378	13,41,314
Total	5,68,992	30,70,398

Note 3: As per school submission, the school is neither paying salary arrears for the period 01.01.2016 to 30.06.2017 nor charging any additional fee from students on account of implementation of 7th CPC. Thus, the budgeted expenditure submitted by the school including the impact of 7th CPC to the extent provided by school has been considered in this order.

- 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, it is also noticed that the school has incurred capital expenditure on building amounting to Rs. 10,04,263 and school has also utilised the school fund for the repayment of loan and interest thereon amounting Rs. 36,39,390. These amounts are to be recovered by the school from society. 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **New Delhi Public School, A- Block, Vikas Puri, New Delhi (School Id: 1618227)** 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:




1540

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
New Delhi Public School,
A-Block, Vikas Puri, New Delhi,
(School Id: 1618227)

154/

No. No. F.DE.15 (637)/PSB/2018/ 30497 - 30501

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