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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 (671)/PSB/2018/30838-42

Dated: 24/12/18

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

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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, **Holy Innocents Public School, Plot PS/09, Vikas Puri, New Delhi (School Id: 1618232)** 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 April 02, 2018. Further, School was also provided opportunity of being heard on July 11, 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. 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 Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements for FY 2014-15 to 2016-17, it is observed that the school was charging earmarked levies in the name of Transport fee, Science fees and Smart Class fees from the students but these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, the school has earned surplus on all these levies. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.



Moreover, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" which is 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.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services/ facilities of the school. And if, the services is extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either form the Tuition Fee or from Annual Charges. Therefore, the school is directed not charge separate levies in the name of "Smart Class.

II. 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, following observation have been noted:

- ▶ The school has made additions of Rs.1,89,358 and Rs.6,33,856 in FY 2014-15 and FY 2015-16 respectively under the head building in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to recover Rs.8,23,214 from the Society.
- ▶ The school is required to maintain the Depreciation Reserve Fund, equivalent to the depreciation charge to revenue account if it is collecting Development Fee from student. However, the school was not maintaining the Depreciation Reserve Fund till FY 2015-16 and the depreciation on the assets purchased out of development fee was directly charged to Development Utilisation Account without routing it through Income and Expenditure account which is in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed to comply with the provisions of clause 14 of the abovementioned Order.

III. The school has revised the opening balances of FY 2016-17, the reason for such revision has not been disclosed in the Notes to Accounts of the school. Further, the school has failed to provide any explanation/clarification in this regard. Therefore,

the school is directed to provide appropriate explanation/clarification for the revision made in the opening balances of FY 2016-17. The summary of such revision in the opening balances are as under:

(Figures in Rs.)			
Particulars	As per Audited FS for FY 2015-16	As per Previous year figures of Audited Financial Statement of FY 2016-17	Difference in Opening Balance of FY 2016-17
General Fund	2,88,39,577	3,55,84,761	67,45,184
Development Fund	-	-	-
Development Fund Utilization	60,34,236	60,34,236	-
Depreciation Reserve Fund	-	-	-
Caution Money	10,15,615	24,26,115	14,10,500
Other Liabilities	2,15,06,814	2,15,91,579	84,765
Total	5,73,96,242	6,56,36,691	82,40,449
Fixed Assets	1,17,66,153	1,67,49,593	49,83,440
Investments	3,26,46,832	3,36,46,832	10,00,000
Cash and Bank	1,23,20,396	1,35,42,516	12,22,120
Other Current Assets	6,62,862	16,97,750	10,34,888
Total	5,73,96,242	6,56,36,691	82,40,448

- IV. 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 under Rules 176 and 177 of the DSER, 1973. But School has utilised school's fund for purchase of Luxury Car for Rs.14,48,559 in FY 2014-15. Therefore, the School is directed to recover this amount from the society.

Other Irregularities:

- I. The school is charging depreciation at the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note- 21.
- II. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determined at the balance sheet date. However, the school has provided towards the Gratuity and Leave Encashment in its financial statement amounting Rs.1,21,12,396 as on 31-03-2017 on management estimation basis. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.
- III. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be

charged. The caution Money, thus collected shall be kept deposited in a schedule bank in the name of 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 request for a refund.

However, on review of audited financial statement for the FY 2014-15 to 2016-17, it has been observed that the school has not maintained separate schedule bank account for collection of caution money and also not refunded the interest amount along with the principal amount of caution money which is in contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. Therefore, School is directed to comply with the direction of clause 18 of the order dated 11.02.2009.

Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. But the school has not considered the amount of unrefunded caution money as its income of the ensuing year. Thus, the school is directed to follow the aforesaid clause while project its income for the ensuing financial year.

- IV. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified Land allotment letter which provides for 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. The admission allowed by the school under EWS category in FY 2014-15, FY 2015-16 and FY 2016-17 was as under:

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	1769	1791	1837
Total number of EWS	255	276	292
% of EWS to total number of students	14.42%	15.41%	15.90%

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.9,51,97,229** out of which cash outflow in the year 2017-18 is estimated to be **Rs.5,94,88,720**. This results in surplus of funds amounting to **Rs.3,57,08,509**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	1,71,78,538
Investments as on 31.03.17 as per Audited Financial Statements	3,59,79,249
Less: Fixed deposit in joint name of DDE and Holy Innocent Public School	6,51,279

Particulars	Amount
Less: Fixed deposit maintained by Holy Innocent Public School-MCD	16,992
Less: Development Fund balance as on 31-03-2017	17,45,685
Less: Investment for 3 Month's Salary Reserve Fund (Refer Note-1)	65,83,260
Add: Amount recoverable from society against Building (" Refer Observation No -II of Financial Irregularity ")	8,23,214
Add: Amount recoverable from society against Motor car (" Refer Observation No -IV of Financial Irregularity ")	14,48,000
Total	4,64,31,785
Add: 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)	4,55,29,090
Add: Other income for FY 2016-17 as per Audited Financial Statements (Excluding caution money written off) (Refer Note-2)	32,36,354
Estimated availability of funds for FY 2017-18	9,51,97,229
Less: Budgeted expenses for the session 2017-18 (after making adjustment) (Refer Note- 3 to 5)	5,94,88,720
Net Surplus	3,57,08,509

Adjustments: -

Note – 1: As sufficient funds are available, the school is directed to maintain 3 month salary reserve in accordance with provisions of Right to Education Act, 2009, and to submit FDRs in the joint name of Manager of the School and Deputy Director (Education). Accordingly, the amount proposed by the school for salary reserve amounting Rs.30,04,197 has been considered as an expense for the FY 2017-18. And, the investment for an amount equivalent to closing balance of salary reserve fund as on 31-03-2017 amounting Rs.65,83,260 has been considered for calculation of fund availability of the school.

Note- 2: The school has written off liability for caution money which was no longer required in FY 2016-17. Since, this is not a regular income, therefore the same has not been considered for calculation of fund availability for the FY 2017-18.

Note- 3: The school has proposed Rs.2,13,90,807 for salary arrear which is 69% of the previous year salaries. The school had not provided salary to staff as per recommendations of 6th CPC as it was paying Dearness Allowance @ 100% of basic salary instead of 125% due to which the amount of 7th CPC arrears is over estimated. Therefore, 30% of previous year salary has been considered as salary arrear for the FY 2017-18 and the excess amount of **Rs.1,20,33,457** has been disallowed. [Rs.2,13,90,807 – (3,11,91,166*30%)]

Note- 4: The proposed provision towards Gratuity and Leave Encashment of Rs.16,50,000 has not been considered for evaluation of fee increase proposal because it was not supported by actuarial valuation report.

Note- 5: The school has proposed Rs.21,00,000 for Bus in FY 2017-18, which has not been considered for evaluation of fee increase proposal since, this is the year of implementation of 7th CPC where parents are already overburdened.

- 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 utilizing 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 utilized 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 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 made additions to Building for Rs.8,23,214 in FY 2014-15 and 2015-16. Also, the school has incurred Rs.14,48,000 for purchase of Car. Therefore, the school is directed to recover **Rs.22,71,214** from the 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 the order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

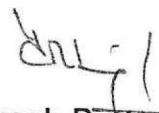
Accordingly, it is hereby conveyed that the proposal of fee increase of **Holy Innocents Public School, Plot PS/09, Vikas Puri, New Delhi (School Id: 1618232)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply 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 rectify all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days 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.
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 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 issues with the prior approval of the Competent Authority.


(Yogesh Pratap)

Deputy Director of Education-1

(Private School Branch)

Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Holy Innocents Public School,
Plot PS/09, Vikas Puri, New Delhi (School Id: 1618232)

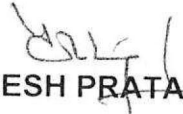
No. F.DE.15 (671)/PSB/2018 | 30838-42

Dated: 24/12/2018

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-1

(Private School Branch)

Directorate of Education, GNCT of Delhi