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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 (271) /PSB/2019 / 1460-1464

Dated: 29/03/19

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

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, **Oxford Senior Secondary School, E Block, Vikas Puri, New Delhi- 110018, (School Id: 1618241)** 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.

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 23, 2018. Further, School was also provided opportunity of being heard on June 29, 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. 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, up gradation 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 in separately maintained development fund account.

However, on review of financial statements of the school, it has been observed that the development fee has been treated as revenue receipt in the FY 2014-15, 2015-16 and 2016-17 which is in contravention of aforesaid order. Therefore, the school is directed to comply with clause 14 of order dated 11.02.2009. The amount of development fee collected by the school is as under:

(Figures in Rs.)	
Development Fee Collected	Amount
FY 2014-15	1,14,80,125
FY 2015-16	1,24,09,215

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Development Fee Collected	Amount
FY 2016-17	1,22,46,640
Total	3,61,35,980

- II. 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 may be prescribed. Additionally, Rule 177 of DSER, 1973 states that income derived by an unaided recognised school 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. However, on review of financial statements of the school, it has been observed that the school bought Luxury car (Innova) by taking loan from ICICI Bank prior to FY 2014-15. Upon which the school has paid Rs. 6,04,048 towards principal repayment and Rs. 74,453 towards interest cost in FY 2014-15 and 2015-16, out of school funds. Therefore, the school is directed to recover the aforesaid amounts from society. Further, the school is directed to make adjustment to General Fund for interest amount charged to income & expenditure account.

Particulars	(Figures in Rs.)		
	FY 2014-15	FY 2015-16	Total
Payment of principal amount	2,97,607	3,06,440	6,04,048
Payment of interest on loan	56,393	18,060	74,453

- III. The school has paid remuneration to Manager amounting to Rs. 53,71,000 during the period FY 2014-15 to 2016-17. Since, this is an honorary post, therefore, the school is directed to stop paying remuneration to manager with immediate effect. Further, the school is directed to make adjustment to General Fund for remuneration paid to manager during the period 2014-15 to 2016-17 and to recover the aforesaid amount from society.

Other Irregularities

- I. The school is not charging depreciation on building to the income and expenditure account in the financial year 2014-15, 2015-16 and 2016-17 as required by Accounting Standard -6 on "Depreciation Accounting" or Revised Accounting Standard -10 "Property, Plant and Equipment" resulting in understatement of surplus/deficit as appearing in the financial statement. Therefore, school is directed to comply with the accounting standard issued by ICAI.
- II. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirements in FY 2014-15, 2015-16 and 2016-17. Therefore, DDE District is directed to look into this matter. The details of total students and EWS students are given below:

Particulars	(Figures in Rs.)		
	FY 2014-15	FY 2015-16	FY 2016-17
EWS students	373	433	487

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Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total students	3553	3563	3558
% of EWS students	10%	12%	14%

- III. As per explained by the school during the discussion at DoE premises, the school is not collecting earmarked levy in the name of transportation fee from students because the school is not providing the transportation facilities to students.
- IV. In the financial statements for FY 2016-17, building worth Rs. 1,54,28,964 appeared against which corresponding capital contribution from the society is not reflecting.
- V. 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 determine at the balance sheet date.

Though, the school has taken group gratuity scheme from LIC for staff but the school has not presented its statutory liability towards gratuity and leave encashment and its corresponding investment in its financial statements. Therefore, the school is required to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15 for staff and present the value of plan assets and liability towards gratuity and leave encashment in the financial statements to reflect true and fair view of the financial statements.

- VI. The following observations were noted in relation to caution money:

- As per Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (un-refunded more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. However, school has shown the un-refunded caution money as liability. Further, school has not provided details of number of students left in FY 2014-15 to FY 2016-17 and hence no financial impact of the same could be ascertained.
- 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 interest to the students at the time of his/ her leaving form the school. However, the school is refunding the caution money to the student at the time of his/ her leaving without interest. Therefore, the school is directed to comply with clause 18 of order dated 11.02.2009.

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 FY 2017-18 amounting to **Rs. 11,17,12,486** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 13,51,99,081**. This results in deficit of **Rs. 2,34,86,595**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	18,67,146
Investments as on 31.03.17 as per audited Financial Statements	19,60,159
Add: Recoverable against remuneration paid to manager/ assistant manager of the school	53,71,000
Add: Amount recoverable against principal repaid on loan taken from ICICI Bank for purchase of car in contravention to Rule 177 of DSER, 1973	6,04,048
Add: Amount recoverable against interest paid on loan taken for purchase of car from ICICI Bank in contravention to Rule 177 of DSER, 1973	74,453
Less: Caution money balance as on 31.03.2017	22,54,500
Less: FDR in the joint name of Dy. Director of Education and Manager of school	7,96,436
Less: FDR in the joint name of Secretary, CBSE and school	4,93,135
Total	63,32,735
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)	10,48,81,425
Add: 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)	4,98,326
Estimated availability of funds for FY 2017-18	11,17,12,486
Less: Budgeted expenses for the session 2017-18 (after making adjustment)- Note 1 and 2	13,51,99,081
Estimated Deficit	2,34,86,595

Note 1: The school has proposed manager's salary and arrears in budget for FY 2017-18 amounting to Rs. 19,12,500 which has not been considered for evaluation of fee increase proposal.

Note 2: The school has proposed salary arrears of Rs. 3,82,48,026 which is 44% of salary paid of the previous year. This excess of salary is due to partial implementation of 6th CPC recommendation as the school was paying DA @ 113% of basic salary instead of 125%. Therefore, 30% of the previous year salary has been considered as arrears salary for the purpose of evaluation of fee increase proposal i.e. 1,33,46,066 [Rs. 3,82,48,026 – (8,30,06,535*30%)]

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

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"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 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 finding noted (appropriate instruction 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 material were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 15% from 01 April, 2019.

AND WHEREAS, it is also noticed that the School has taken loan for purchase of car and has incurred Rs. 6,78,501 towards payment of loan and interest thereon and has paid Rs. 53,71,000 towards remuneration to manager which is in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 60,49,501 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 for academic session 2017-18 of **Oxford Senior Secondary School, E Block, Vikas Puri, New Delhi- 110018, (School Id: 1618241)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

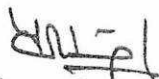
1. Not to increase any fee/ charges other than Tuition fee beyond the percentage approved above.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate order dated 25.08.2017.
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 and others. Therefore, School not to include

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capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.

5. To utilize 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.

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 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

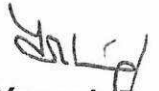
To
The Manager/ HoS
Oxford Sr Sec School
E- Block, Vikas Puri
New Delhi- 110018 (School Id: 1618241)

No. F.DE.15 (271)/PSB/2019 / 1460 - 1464

Dated:

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