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

(92)

No. F.DE.15 (141)/PSB/2019/1919-1923 Dated: 22/2/2019

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 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, **Kamal Public Sr. Sec. School, D- Block, Vikas Puri, New Delhi (School Id: 1618246)** 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 June 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 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." On review of the audited financial statements of the school it has been observed that the school has utilised development fee for repair and maintenance of the building and purchase of library books which in contravention of clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, School is directed to make necessary adjustments in the development fund and general reserve account. Summary of expenditure incurred by the school in contravention of clause 14 is as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Development fund used for repair and maintenance of building (up-gradation of building)	59,92,897	42,33,149	76,80,878	1,79,06,924
Library Books	19,367	69,456	13,195	1,02,018

II. As per form 2 of Right of Children to Free and Compulsory Education Act 2009, the schools are required to maintain the liquidity in the form of investment for 3

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months' salary and this amount should be invested in joint name of Dy. Director (Education) and manager of the school. However, as per audited financial statements it is noted that the school has first time created the provision for three months' salary reserve amounting Rs. 86,49,294 in the FY 2016-17 without earmarking the fund as per the aforesaid provisions. Therefore, the school is directed to follow the provisions of form 2 of Right of Children to Free and Compulsory Education Act 2009.

III. The school has made provisions for gratuity amounting Rs. 55,18,670 and provision for leave encashment amounting Rs. 36,47,285 in FY 2016-17 on the basis of management estimate and not on the basis of actuarial valuation as required by Accounting Standard (AS) 15 "Employee Benefits" and Guidance Note-21 on "Accounting by School" issued by Institute of Chartered Accountants of India. 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 valuation report the financial impact cannot be quantified. Therefore, the school is directed to comply with the requirements of AS- 15 and Guidance Note- 21.

IV. In respect of earmarked levies, school is required to comply with:

a) 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;
b) Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
c) 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.

However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmark levies in the name of Transport Fee, Smart Class Fee and Software Charges from the students but these fees are not charged on 'no profit no loss' basis. During the period under evaluation, school has earned surplus on all earmarked levies and also the school is not following the fund-based accounting in respect of earmarked levies collected from the students. 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" 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.

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Based on the aforesaid provisions, earmarked Levies are to be collected only from the user students availing the services/ facilities of the school. And if, the services/facilities are 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 to collect separate levy in the name of the "Smart Class Fee and Software Charges" with the immediate effect.

V. As per Rule 177 of Delhi School Education Rules, 1973, Savings, if any, can only be utilised by the school for meeting capital expenditures. However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been observed that school funds were utilised for repayment of loan and interest thereon for purchase of vehicles which is not accordance with the provisions of Rule 177 of DSER, 1973. It may also be noted that so far, the school has neither provided for actual liability towards gratuity nor earmarked the sufficient fund against this provision. Therefore, the school is directed to comply with the provisions of Rule 177, of DSER, 1973 and accordingly, the amount utilised by the school out of the school fund for repayment of loan and interest thereon has been added in the calculation of fund availability of the school. The details of repayment of loan and interest thereon are stated below:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Repayment of Vehicle Loan	12,59,766	9,56,651	2,16,306
Interest on Vehicle Loan	2,03,173	2,71,988	2,49,602
Total	**14,62,939**	**12,28,639**	**4,65,908**
Grand Total			**31,57,486**

Other Irregularities:

I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and as per land allotment letter the school is required to provide 25% reservation to children belonging to EWS/Dg category at the entry level. Since, the school is not complying with the aforesaid order, the concerned DDE district is directed to look into the matter. However, as per student enrolment details in response of email dated 24 March 2018, the admission details provided by the school is as under:

Particular	FY 2015-16	FY 2016-17
Total Students	1816	2336
EWS Students	164	207
% of EWS students	9.03%	8.86%

* School has not provided the details of EWS-student for the FY 2014-15.

II. As per audited financial statements of the school for FY 2015-16 & 2016-17, the accounting policies of the school states that "All types of expenses are recognized as per accrual basis and fee and funds recognized as per cash basis". However, in financial statements fee received in advance and fee receivable are reflecting which signifies that the school is following accrual basis of accounting. Therefore, the school is directed to revisit it accounting policies adopted by it.

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III. As per accounting standard 1, there should be consistency in accounting policies to be followed by the school for similar transactions. On review of audited financial statements for the financial year 2016-17, it was noticed that fixed assets purchased by the school out of development fund are reflected at gross value in balance sheet whereas the other fixed assets are shown by the school on written down value. Therefore, the school is directed to revisit it accounting policies adopted by it.

IV. As per generally accepted accounting policies, depreciation should be charged in income and expenditure account. However, on review of financial statements for FY 2014-15, 2015-16 and 2016-17, it has been noticed that depreciation in respect of assets purchased out of development fund is directly debited to "Development fund utilised against asset" instead of charging against Income & Expenditure account. Therefore, the school is directed to charge depreciation on the assets purchased out of development fee in the income and expenditure account.

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.10,27,84,647** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.9,42,99,396.** This results in net balance of Surplus amounting to **Rs.84,85,251** for FY 2017-18 after all payments. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	98,12,962
Investments as on 31.03.17 as per Audited Financial Statements	4,24,454
Less: FDR against specific Fund (Reserved for DOE)	4,24,454
Less: Development fund balance as on 31-03-2016	23,98,275
Add: Recoverable form society for expenditure incurred on repayment of vehicle loan **(Refer Observation No. V of Financial Irregularity)**	31,57,486
Total	1,14,21,081
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)	9,02,72,065
Add: Other income for FY 2016-17 as per Audited Financial Statements	10,91,501
Estimated availability of funds for FY 2017-18	10,27,84,647
Less: Budgeted expenses for the session 2017-18 after adjustments **(Refer Note- 1 & 2)**	9,42,99,396
Net Surplus	**84,85,251**

Adjustments:

Note 1:

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a) The school has proposed the following expenditure in its budget for the FY 2017-18 which has not been considered in the evaluation of fee increase proposal.

Particulars	FY 2017-18 (Budgeted)
3 months' salary provision	36,75,420
Salary Arrear (net of proposed employee) for the period 01-01-2016 to 31-03-2018 restricted to 30% of previous year salary (1,43,35,108 -15,64,416) – (3,22,97,977*30%)	30,81,299
Gratuity Expenses	10,83,024
Leave Encashment Expenses	7,41,283
Proposed Employees	15,64,416
Total	**1,01,45,442**

- The provision for 3 months' salary reserve has not been considered because the school has not earmarked appropriate investment in the joint name of Dy. Director (Education) and manager of the school as required by form 2 of Right of Children to Free and Compulsory Education Act 2009.
- Salary Arrears proposed by the school has been restricted to 30% of previous year salary for the purpose of evaluation of fee increase proposal.
- Provision for gratuity and leave encashment has not been considered in the evaluation of fee increase proposal because it was not supported by the actuarial valuation report as required by AS-15 on "Employee Benefits" issued by ICAI and Guidance Note- 21.
- While reviewing the calculation of salary arrears as per 7th CPC, it is noted that the school has considered the salaries for 6 new appointment who was not actually appointed by the school. Therefore, the salary for these six new appointments which comes to Rs 15,64,416/- (2,60,736*6) have not been considered in the evaluation of fee increase proposal of the school.

Note 2: The amount proposed by school for loan repayment amounting Rs 14,74,705/- in financial year 2017-18 is not considered in fee increase proposal.

i. 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 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

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recommendations of 7th CPC, the fee increase proposal of the School may not 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 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 Rs.31,57,486 for repayment of vehicle loan in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover the abovementioned amount 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 **Kamal Public Sr. Sec. School, D- Block, Vikas Puri, New Delhi (School Id: 1618246)** 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 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 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.

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 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
Kamal Public Sr. Sec. School,
D- Block, Vikas Puri, New Delhi (School Id: 1618246)

No. F.DE.15 (141)/PSB/2019/ 1919-1923 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