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

No. F.DE.15 (117)/PSB/2019/ 1882-1886 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 the order dated 23.10.2017 of this Directorate, **Delhi Public School, Vasant Vihar, New Delhi (School Id: 1719111)** had submitted the proposal for increase in fee for the academic session 2017-18.

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 May 02, 2018. Further, school was also provided opportunity of being heard on June 25, 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, reply of the school, documents uploaded on the web portal for fee increase and subsequent documents as submitted by the school were evaluated by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

I. As per Order No. F.DE-15/Act-I/WPC-4109/Part/13/868 dated 08.08.2017 issued by the Directorate of Education regarding the fee increase proposal for the academic session 2016-17, wherein the School was given certain directions to comply before submitting the fee increase proposal for the ensuing financial year 2017-18. While the school has applied its fee increase proposal for the academic session 2017-18 without complying the directions of the aforesaid order dated 08.08.2017. The school further submitted that it has challenged the findings of the aforesaid order before the Hon'ble High Court of Delhi vide Writ

Petition No. W.P. (C) 8553/ 2017 and would submit the compliance report as per the direction of the Hon'ble Court. Therefore, the impact of compliance or non-compliance of the direction mentioned in the aforesaid order has not been considered in the evaluation of fee increase proposal for the academic session 2017-18.

II. As per the explanation provided by the school during discussion, it has stopped the collection under the head of "Development Fee" w.e.f. FY 2013-14 because it has limited use as per clause 14 of the order dated 11.02.2009. And instead of collecting fee in the name of Development Fee, the school has introduced new component "Operational Charges" in its Annual Charges so that the school can utilize this collection freely. Thus, the school is continuously collecting the same amount from the students by changing the nomenclature of fee. Therefore, the school is directed to stop the collection of fee under the head "Operational charges" with immediate effect. The components of annual fee as per returns filed under rule 180 of DSER, 1973 are as under.

(Figures in Rs.)

Components of Annual Charges	**FY 2016-17**
Maintenance fee	1500
Assignment/ Learning material	1500
Medical Fee	700
House keeping	1500
Computer fee	1700
Operational Charges	8500
Magazine/ Bulletin Fee	700
Multimedia fee	1500
Activity Fee	2750
Total	**20,350**

III. As per Rule 172 of DSER, 1973, no fee, contribution or other charge shall be collected from any student by the trust or society running any recognised school whether aided or not. Every fee, contribution or other charge collected from any student by recognised school shall be collected in its own name and a proper receipt shall be granted by the school for every such collection made by it. Further, as per Rule 175 of DSER, 1973, the accounts with regard to the school fund or the recognised unaided fund shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fees, collections of specific purposes, endowments, gifts, donations, contributions to Pupil's fund and other miscellaneous receipts.

The school has submitted that the transport facility for the school is operated by DPS – R. K. Puram and all related transport income and expense of DPS- Vasant Vihar are being included in the audited financial statements of the DPS-R. K.

Puram which is not in accordance with the provisions of Rule 172 of DSER, 1973 and Rule 175 of DSER, 1973. Therefore, the school is directed to record all its income expenditure in it books of accounts in terms of Rule 172 and 175 of the DSER, 1973 and follow fund based accounting as per clause 22 of the order dated 110.02.2009 and Guidance Note-21 issued by the Institute of Chartered Accountants of India and recover Rs. 56,56,624 from the DPS-R.K. Puram. The details of transport income and expenditure as provided by the school for the FY 2014-15 to 2016-17 is as under.

(Figures in Rs.)

Particulars	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**Total**
No of students	578	601	615	
Total Students	3,598	3,557	3,538	
Transport Income	1,37,65,024	1,57,92,519	1,54,86,854	4,50,44,397
Expenses apportioned for transport based upon no of students	99,99,841	1,25,00,959	1,68,86,973	3,93,87,773
Surplus/ Deficit	**37,65,183**	**32,91,560**	**(14,00,119)**	**56,56,624**

IV. As per Para 99 of Guidance note on "Accounting by school" issued by the Institute of Chartered Accountants of India (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 the cognizance from the above para, school should have created the 'Development Fund Utilization Account' as deferred income to the extent of cost of assets purchased out of the Development Fund. And then this deferred income should be amortized in proportion to depreciation charged in revenue account. However, the school has not created Development Fund Utilization separately as required by para 99 of the GN-21 due to which the yearend balance of Development Fund as on 31.03.2017 reflecting in the financial statement is not correct because it includes notional amount which is not available for utilization. Therefore, for the purpose of calculation of available fund position of the school, the closing balance of Development Fund as on 31.03.2017 has been reduced by the amount which has been utilized by the school for purchase of assets during FY 2014 -15 to 2016-17. Further, the school also is directed to determine the correct balance of Development Fund account and Development Fund Utilization account in accordance with the Guidance Note-21 issued by ICAI.

V. In the audited financial statements for FY 2014-15 to 2016-17, it is noted that the fixed assets purchased out of the development fund are reflected at written down value (WDV) and at the same time depreciation reserve fund appeared at the liability side of the financial statements. This implies that General Reserve was debited twice with the amount of depreciation, first time at the time of charging depreciation on fixed assets and second time at the time of creating depreciation reserve fund. Thus, depreciation reserve fund which is reflecting in the financial statement would be form part of the general reserve fund. Further, the depreciation reserve fund, that is to be created equivalent to the depreciation charged in the revenue accounts as per clause 14 of the order dated 11.02.2009, is mere accounting head for appropriate accounting treatment of depreciation in the books of account of the school in accordance with GN-21 issued by ICAI. Thus, the depreciation reserve fund will not have any financial impact in the calculation of fund position of the school and accordingly, has not been considered in the calculation of fund position of the school.

The details of depreciation reserve fund created by the school out of general reserve and out of income and expenditure appropriation account are as follows:

(Figures in Rs.)

Particulars	**As per Audited FS for FY 2014-15**	**As per Audited FS for FY 2015-16**	**As per Audited FS for FY 2016-17**	**Total**
Depreciation Reserve Fund created of General Reserves	85,22,745	-	-	**85,22,745**
Depreciation Reserve Fund out of Income and Expenditure Appropriations	37,00,849	28,62,717	29,99,832	**95,63,398**
Sub-total	**1,22,23,594**	**28,62,717**	**29,99,832**	**1,80,86,143**
Total	**1,22,23,594**	**28,62,717**	**29,99,832**	**1,80,86,143**

VI. 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 and 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 computer fee, other activities, entrance fee, exam assignment fee, house-keeping fee, magazine & bulletin fee, maintenance fee, medical fee and virtual class room fees from the students but these fees are not charged on 'no profit no loss' basis as the school is earning surplus from exam assignment fee, house-keeping fee, magazine & bulletin fee and virtual classroom fee and incurring deficit from maintenance fee. The school has not provided details of expenditure incurred against remaining earmarked levies. Therefore, school is directed to follow fund based accounting and make necessary adjustments in the General reserve account.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprised 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.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if these services/facilities have been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, school is directed to stop separate collection in the name of computer fee, other activities fee, entrance fee, exam assignment fee, house-keeping fee, magazine & bulletin fee, maintenance fee, medical fee and virtual class room fees.

VII. 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.

As per Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12. 1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 states that "Fees/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from Private Recognized Unaided School Fund to the society or the trust or any other institution."

However, on review of audited financial statements for FY 2016-17, it has been noted that under 'Inter School/ Society Current Account (Dr.)', amount of Rs. 5,83,80,072 is recoverable from 'Other School' which is in contravention of Rule 177 of DSER, 1973 and clause 8 of order dated 15.12.1999. Therefore, amount of Rs. 5,83,80,072 has been considered in calculation of fund viability of the school.

VIII. The provision for gratuity and leave encashment has been made by the school on the basis of actuarial valuation report but the plan assets as per actuarial valuation report was nil which means the school has not earmarked investment towards the gratuity and leave encashment as required by AS-15. Further, as per Order No. F.DE-15/Act-I/WPC-4109/Part/13/868 dated 08.08.2017 issued by the Directorate of Education regarding the fee increase proposal for academic session 2016-17, the school was directed to make earmarked investments with LIC (or any other agency) within 90 days of the receipt of the order which has not been complied because the matter is under trial before the Hon'ble High Court of Delhi. Accordingly, no adjustments against the liability towards gratuity and leave encashment have been considered in the calculation of fund position of the school.

Other Irregularities

I. 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 but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	2014-15	2015-16	2016-17
Total no. of students in school	1517	1532	1500
Total EWS students	260	310	340
% of EWS students to total no. of students	17.14%	20.23%	22.67%

II. On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, following observations have been noted in relation to caution money:

   a. As per the clause 31 of Guidance Note on "Accounting by Schools" issued by the Institute of Chartered Accountants of India, the caution money should be treated as deposit and the amount of caution money refundable to students within 12 months of the financial statement date should be reflected as a 'current liability' in the financial statements. The caution money refundable beyond 12 months of the financial statement date should be shown separately as a liability of long-term nature in the financial statement. Thus, the school is directed to follow Guidance note on Accounting by Schools" as issued by ICAI for presentation of caution money in financial statements.

   b. 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 fee refund voucher, it is noted that interest earned on caution money has not been refunded to the students. Therefore, the school is directed to comply with the requirements of aforesaid provision.

III. 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. On review of fee structure for FY 2015-16 and 2016-17, it has been observed that the school is collecting one time charges of Rs. 15,000, Rs. 3,500 and Rs. 1500 in the name of "Management Fund", "Processing charges" and "Medical check-up on admission" respectively at the time of admission from the new student. This type of collection by the school from the student clearly tantamount as capitation fee.

Therefore, the school is directed to stop collection of such onetime charges from the student.

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 amounts to Rs. **32,56,45,835** out of which cash outflow in the year 2017-18 is estimated to be Rs. **15,13,52,000**. This results in surplus of funds amounting to Rs. **17,42,93,835**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	3,78,76,875
Investments as on 31.03.17 as per audited Financial Statements	14,36,59,903
Add: Recoverable from DPS R.K. Puram against surplus of transport fee – (Refer point III of financial irregularities)	56,56,624
Add: Inter School/ Society current account - (Refer point VII of financial irregularities)	5,83,80,072
Less: Development Fund as on 31.03.2017 (net of utilisation for fixed assets) (Refer Point IV of financial irregularities)	4,92,45,754
Less: Depreciation Reserve Fund as on 31.03.2017 (Refer Point V of financial irregularities)	-
Less: Provision for Gratuity (Refer Point VIII of financial irregularities)	-
Less: Provision for Leave Encashment (Refer Point VIII of financial irregularities)	-
Total	**19,63,27,720**
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)- Refer Note 1	11,46,34,236
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)	1,46,83,879
Estimated availability of funds for FY 2017-18	**32,56,45,835**
Less: Budgeted expenses for the session 2017-18 as per School's submission- Refer Note 2	15,13,52,000
Net Surplus	**17,42,93,835**

Note 1: The school has under stated its income by not disclosing transport income in its financial statements in FY 2016-17. Therefore, the same has been considered for deriving funds availability position of the school

Note 2: School has proposed gratuity and leave encashment of Rs. 3,34,00,000 in its budget for FY 2017-18 out of which Rs. 70,00,000 was related to DPS-Vasant Kunj and balance was pertaining to other schools being managed by the Society. This provisions of Rs. 70,00,000 has not been considered in the evaluation of fee increase proposal of the school because the school has not complied with the directions of order no. F.DE-15/Act-I/WPC-4109/Part/13/868 dated 08.08.2017.

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 Chartered Accountants that since prima facie there are financial and other irregularities and also funds are available with the school to carry out its operations for the academic session 2017-18, the fee increase proposal of the school may not be accepted. Further, as per DOE order No. F.DE-15/Act-I/WPC-4109/Part/13/868 dated 08.08.2017, the school has already implemented the recommendations of 7th CPC and therefore, the aforesaid surplus has been arrived after considering all expenditures proposed by the school except mentioned otherwise.

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 and financial and other irregularities in the school and found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18. 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 contravened provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from DPS R.K. Puram is Rs. 56,56,624 and from society is Rs. 5,83,80,072. 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, since sufficient funds are available with school after meeting all expenditures for the year 2017-18, the school is hereby directed to make equivalent investments against the provision for Gratuity and Leave Encashment with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect statutory liabilities. The provisions for gratuity and leave encashment are to be on actuarial valuation basis.

.Accordingly, it is hereby conveyed that the proposal of fee increase of **Delhi Public School, Vasant Vihar, New Delhi (School Id: 1719111)** is hereby 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 & others. 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 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
Delhi Public School,
Vasant Vihar, New Delhi (School Id: 1719111)

No. F.DE.15 (117)/PSB/2019/ 1882-1886 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