

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

No. F.DE.15 (200)/PSB/2019 /1185-1189

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, **Vidya Niketan Public School, Nanak Pura Moti Bagh New Delhi (School Id: 1719118)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> 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 April 04, 2018. Further, School was also provided opportunity of being heard on June 08, 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 receipts 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 year 2014-15, 2015-16 and 2016-17, following observations were noted:
  - a. The school has treated Development fee as revenue receipts in financial year 2014-15, 2015-16 and 2016-17 which is in contravention of aforesaid clause 14 of order dated 11.02.2009. Development fees charged by the school during the FY 2014-15, 2015-16 and 2016-17 is as under:

2357

(Figures in Rs.)

S. No	Financial Year	Amount
1	2014-15	4,26,000
2	2015-16	3,45,000
3	2016-17	3,78,850
<b>Total</b>		<b>11,49,850</b>

b. School has not created depreciation reserve fund equivalent to the depreciation charged in the revenue account which is in contravention of aforesaid clause 14 of order dated 11.02.2009.

c. As per school, it has not maintained separate bank account for development fee collected from students.

II. 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. Also, as per recommendation of Duggal Committee there are four categories of fee that can be charged by a school. The first category of fee as defined by the Committee is "registration fee and all One Time Charges" levied at the time of admission such as admission fee and caution money. 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 and fixed the amount of admission fee at Rs. 200 per student.

However, on review of fee structure submitted along with return filed under Rule 180 under DSER, 1973, it is noticed that at the time of admission, school has been collecting development fee of Rs. 5,000 and maintenance charges of Rs. 3,500 from each student. Charging of fee in contravention of order dated 15.12.1999 and 11.02.2009 clearly present that the fee charged by school is in nature of capitation fee. Thus, school is in contravention of section of 13(1) of Right to Education Act, 2009. The school may be directed to stop the collection of these charges.

III. On review of audited financial statements, it is noticed that 'Fees Refunded' has been paid in FY 2015-16 and 2016-17 amounting Rs. 14,000 and Rs. 87,424 respectively. Further, during FY 2016-17 school has made the 'Provision for excess fee' to be refunded amounting Rs. 11,74,754. As per school, this provision for excess fee refundable is on account of Order of Justice Anil Dev Singh Committee wherein school was found to collect excess fee in contravention of Directorate's order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009. It would not be reasonable that current funds of the school be utilised for making refund of excess fee collected in past. This would result into additional burden on current students. Accordingly, fee already refunded needs to be recovered from Society. School is directed to make necessary adjustments in general reserve.

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 India and 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 is observed that the school has charged earmarked levies namely transport fee, activity fees, computer fees, science fees, karate fees and student fund from the students but was not charged on 'no profit no loss' basis. During the period under evaluation, school has earned surplus on account of transportation fee, activity fees, computer fees, science fees, karate fees and student fund. Thus, the school has not followed fund-based accounting in respect of earmarked levies namely smart class fees charged from the students. Therefore, school is directed to make necessary adjustments in the general reserve.

- V. 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. 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 that activity fees, computer fees, science fees, karate fees, maintenance charges and student fund have been charged from each student in the school and thus, school has contravened the aforesaid recommendation and orders. Thus, School is directed to stop the collection of activity fees, computer fees, science fees, karate fees, maintenance charges and student fund.

#### **Other Irregularities:**

- I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and as per the condition of the land allotment letter, school is required to provide 25% admission to the children belonging to EWS/DG category at the entry level. The DDE, District may look into this matter. The details of admission provided under EWS/ DG category are as under:

2.559

Particulars	2014-15*	2015-16*	2016-17*
Total no. of students in school	282	281	297
Total EWS students	35	39	40
% of EWS students to total no. of students	12.41%	13.88%	13.47%

\*These figure are taken from return filed by the school in compliance of Rule 180 of DSER, 1973.

- ii. As per Section 10(1) of Delhi School Education Act, 1973 "The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in schools run by the appropriate authority". However on review of audited financial statements of the school for the financial year 2014-15, 2015-16 and 2016-17, it was observed that school is not making any provision for gratuity and provision for retirement benefit during the said years, thereby not complying with the above mentioned provisions.

**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. 1,09,51,065** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 1,22,71,470**. This results in deficit of **Rs. 13,20,405**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	6,89,162
Add: Investments as on 31.03.17 as per audited Financial Statements	6,85,335
Add: Excess fee refunded during the financial year 2015-16 recoverable from Society	14,000
Add: Excess fee refunded during the financial year 2016-17 recoverable from Society	87,424
<b>Total</b>	<b>14,75,921</b>
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)	91,71,225
Add: Other income for 2016-17 as per audited Financial Statements	3,03,919
<b>Estimated availability of funds for 2017-18</b>	<b>1,09,51,065</b>
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	1,22,71,470
<b>Estimated Deficit</b>	<b>13,20,405</b>

- 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,

"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.

Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **Vidya Niketan Public School, Nanak Pura Moti Bagh New Delhi (School Id: 1719118)** 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 7<sup>th</sup> 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 capital

2.361

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  
Vidya Niketan Public School,  
Nanak Pura Moti Bagh, New Delhi (School Id: 1719118)

No. F.DE.15 ( 226)/PSB/2019 / 1185-1189

Dated: 29/03/19

**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