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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 (183)/PSB/2019/1025-1029 Dated: 14/3/2019

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, **G.D. Goenka Public School, Sector- B, Vasant Kunj, New Delhi- 110070 (School Id: 1720133)** 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 05, 2018. Further, School was also provided opportunity of being heard on July 09, 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 Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified educational expenses and creation of 10% reserve.

However, the audited financial statements of the school as on 31.03.2017 reflects liability towards gratuity and leave encashment for Rs. 7,35,97,300 against which school has not earmarked fund as per the AS-15. But the school has claimed that it has separated amount of Rs. 4,75,00,000 against the aforesaid liability. Further school has taken loan from various financial institution in previous years for purchase of equipment's, cars and buses without meeting its statutory liabilities. The school has paid interest on above loan out of the school fund before earmarking the requisite amount against gratuity and leave encashment. Also, the school has not created 10% reserve fund. Therefore, it is a clear contravention of Rule 177 of DSER.1973. Hence, the interest amount paid on these loan is added in the calculation of availability of fund and accordingly, the school is directed to recover Rs.80,71,836 from the society. Details of payment of interest on loan on are as follows:

Particulars	Interest Amount
FY 2014-15	42,25,715
FY 2015-16	27,54,874
FY 2016-17	10,91,247
Total	**80,71,836**

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 it has been noted that the school has utilised the development fee for repayment of loan which was taken for purchase of Equipment's, Buses, and Cars, 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 make necessary adjustments in the Development Fund Account.

Details of repayment of loan out of development fee are as under:

Particulars	Amount
FY 2014-15	1,73,85,046
FY 2015-16	1,54,68,585
FY 2016-17	1,00,04,608
Total	**4,28,58,239**

III. As per section 18(4) of DSEA, 1973 read with Rule, 176 & 177 of DSER 1973, Income derived by unaided schools by way of fees should be utilized only for such educational purposes as may be prescribed. But it has utilised school fund for purchase of Luxury Car of Rs.17,25,468 and Rs.15,40,596 by taking loan from financial institutions during the FY 2014-15 and 2015-16 respectively. Hence, the cost of car is directed to be recoverable from the society and therefore, the same has been included in the calculation of fund availability of the school.

IV. The audited financial statement of the school as on 31-03-2017 reflecting Rs.1,04,68,825 as recoverable from G.R. Goenka Educational Society on account of merger with Shree Bal Kishan Education and Social Welfare Society. Hence, the same has been included in the calculation of fund availability of the school.

V. In FY 2014-15, 2015-16 and 2016-17, fixed assets purchased out of the development fund is not reflected on the face of balance sheet. The assets purchased out of the development fund are first shown as addition in the fixed assets schedule and then adjusted against development fund as utilisation of development fund account. Due to this adjustment made by the school, the effect of additions made during the year become nullified and resulting understatement of fixed assets balance on the face of the financial statement.

Moreover, it has also been noted that the school is paying loan instalments from the development fund which has also been adjusted against the particular group of the assets resulting understatement of fixed assets value on the face of the financial statement. Thus, the school is not preparing and presenting its financial statements as per the Generally Accepted Accounting Principles. Accordingly, the school is directed to prepare and present its financial statements as per the GAAP and submit the compliance report within the stipulated time mentioned in the order. In case the school do not comply with the above instruction the amount of assets purchased out of development fund and repayment of loan out of the development fund shall be treated as fund availability with the school. Following are the details of Fixed Assets purchased and Loan repaid out of the development fund:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Loan Repaid	1,73,85,046	1,54,68,585	1,00,04,608
Fixed Assets Purchased	1,17,86,720	1,35,52,687	1,46,16,860

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 & 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 has been noted that the school has charged earmarked levies in the name of lab charges, transport fee, health/hygiene and security fee, refreshment charges and ID card charges from the student. But these levies are not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit from these levies. During the period under evaluation, school has generated surplus on account all its earmark levies. Further, the school is not following the fund-based accounting in respect of these earmarked levies 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.

Further, 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 five hundred rupees shall be charged. However, on review of the fee structure of the school it has been noted that the school is charging one time transport security charges of Rs.25,000 from the students who is availing the transport facilities of the school as security deposit in FY 2014-15 ,2015-16 and 2016-17.

In addition to this, the School is collecting the transportation fee of Rs.3,300 per month from the user students irrespective of distance. Therefore, there are extra financial burden on the students who are coming from the less distance. So, the school is directed to determine it transportation fee as per clause 22.

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 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.

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-21"Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note- 21.

II. Following irregularities are noticed in respect of caution money:

   a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. But the School has refunded only principal amount of caution money without interest thereon and not as per the aforesaid clause 18 of the order dated 11.2.2009.

   b. 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 amount of un-refunded caution money belonging to ex-students shall be reflected as income in 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. However, the school has not considered the amount of un-refunded cation money as income in its proposed budget.

Therefore, the school is directed to comply with the provisions of clause 18 of the order dated 11.2.2009 and Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010.

III. The school has not written off the depreciation on the assets sold during FY 2014-15 to 2016-17 which is not as per the Generally Accepted Accounting Principles. Hence, the school is directed to prepare its financial statements as per the Generally Accepted Accounting Principles.

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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.38,89,84,289** out of which cash outflow in the year 2017-18 is estimated to be **Rs.35,69,21,365.** This results in surplus of funds amounting to **Rs.3,20,62,924.** The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	53,51,070
Investments as on 31.03.17 as per Audited Financial Statements	9,70,00,000
Add: Amount recoverable from the Society for purchase of cars **"Refer observation III of financial irregularity"**	32,66,064
Add: Amount recoverable from the Society for payment of interest on Loan **"Refer observation I of financial irregularity"**	80,71,836
Add: Amount appearing in the financial statement as recoverable from the Society on account of merger **"Refer observation IV of financial irregularity"**	1,04,68,825
Less Development Fund balance as on 31-03-2017	1,87,50,538
Less: Caution Money balance as on 31-03-2017	12,10,000
Less: Transport security balance as on 31-03-2017	4,06,68,900
Total	**6,35,28,357**
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)	32,05,65,055
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)	48,90,877
Estimated availability of funds for the FY 2017-18	**38,89,84,289**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) **(Refer Note- 1 to 4)**	35,69,21,365
Net Surplus	**3,20,62,924**

Adjustments: -

Note- 1: The school has provided for Rs.7,35,97,300 against gratuity and leave encashment in the financial statement as on 31-03-2017 and also proposed Rs.2,31,28,256 in the budget on the basis of actuarial valuation report. But, as per the actuarial report, the value of plan assets is Nil, which indicates that the school has not earmarked investment against these provisions. Since, the school has sufficient fund, therefore, the school is directed to earmark investment against gratuity and leave encashment in the phased manner over the period of 4 years as per the AS- 15.

Note- 2: Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17 for which the school has not provided any justification for such unusual increase in the expenditures. Therefore, expenditures in excess of 10% have not been considered in the evaluation of fee increase proposal. Further, the management of the school is required to monitor these expenditures. Details of expenditures disallowed are as under:-

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase/ (Decrease)	% Change	Amount disallowed
Service Charges (Transport Staff)	2,67,97,030	3,56,05,133	88,08,103	33%	61,28,400
Service Charges	8,76,150	20,09,455	11,33,305	129%	10,45,690
Repair & Maintenance	71,61,939	90,00,000	18,38,061	26%	11,21,867
Total	**3,48,35,119**	**4,66,14,588**	**1,17,79,469**		**82,95,957**

Note- 3: School has proposed capital expenditure of Rs.40,00,000 for Swimming Pool in contravention of clause 2 of public notice dated 04-05-1997 hence, not considered in evaluation of fee increase proposal.

Note- 4: The school has proposed for repayment of loan amounting Rs.56,67,385 out of development fee which is in contravention of clause 14 of order dated 11-02-2009, hence not considered for evaluation of fee increase proposal.

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 incurred Rs.32,66,064 for purchase of luxury car and Rs.80,71,836 for payment of interest on the loan taken for purchase of cars and buses in FY 2014-15 to 2016-17. Also, the school has a recoverable balance of Rs.1,04,68,825 from the society as on 31-03-2017. Therefore, the school is directed to recover **Rs.2,18,06,725** 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 **G.D. Goenka Public School, Sector- B, Vasant Kunj, New Delhi- 110070 (School Id: 1720133)** 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.

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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
G.D. Goenka Public School,
Sector- B, Vasant Kunj,
New Delhi- 110070 (School Id: 1720133)

No. F.DE.15 (183)/PSB/2019 /1025 - 1029 Dated: 14/3/2019

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-1
(Private School Branch)
Directorate of Education, GNCT of Delhi