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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 (630)/PSB/2018 | 30527-30531   Dated: 14.12.2018

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, **Bhatnagar International School, Sector B, Pocket-10, Vasant Kunj, New Delhi-110070 (School Id: 1720145)** 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 03, 2018. Further, School was also provided opportunity of being heard on May 03, 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. The school has not shown the utilisation of Fixed Assets purchased out of Development fee resulting overstatement of Development Fund balance at the end of the financial year. Therefore, the school is directed to make necessary adjustment in the Development Fund account and also directed to create Development Utilisation Fund account in its books. The details of Fixed Assets purchased out of Development Fund are as under:

(Figures in Rs.)

S.no.	Particulars	Amount
1	Assets purchased out of Development Fund in FY 2014-15	1,11,42,067
2	Assets purchased out of Development Fund in FY 2015-16	1,20,31,536
3	Assets purchased out of Development Fund in FY 2016-17	96,64,338
	Total	**3,28,37,941**

II. As per Para 99 of Guidance note - 21 on "Accounting by School" issued by 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 cognizance from the above para, the school should have transferred the depreciation on the assets purchased out of development fee from Development Utilisation Fund account to Income and Expenditure account. However, on review of Audited Financial Statements, it has been noted that the school has transferred depreciation on the fixed assets purchased out of the development fee from Development Fund account to General Fund account which is not in compliance of para- 99 of Guidance Note. Therefore, the school is directed to follow para – 99 of Guidance Note and also make necessary adjustments in Development Fund account & Development Utilisation Fund account.

The details of depreciation transferred from Development Fund to General Fund are as under:

(Figures in Rs.)

S.no.	Particulars	Amount
1	Depreciation charged on the assets purchased out of the development fund in FY 2014-15 transferred from development fund to general fund	61,27,692
2	Depreciation charged on the assets purchased out of the development fund FY 2015-16 transferred from development fund to general fund	66,96,757
3	Depreciation charged on the assets purchased out of development fund transferred from development fund to Income & Expenditure a/c	97,83,792
	Total	**2,26,08,241**

III. 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;

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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.

However, on review of Audited Financial Statements for the FY 2014-15 to 2016-17, it has been observed that, the school has purchased Buses of Rs.81,92,040 , Rs.51,57,010 and Rs.25,93,341 in FY 2014-15, 2015-16 and 2016-17 respectively despite of having deficit in all the three financial years. Further, the school has neither maintained investment against Gratuity and Leave Encashment as per the requirement of Accounting Standard -15 nor maintained 10% reserve fund. Therefore, it is construed that, the school is not complying with the provisions of Rule 177 of DSER. Accordingly, the same has not been considered for evaluation of fee increase proposal and thus the school is directed to recover Rs.1,59,42,391 from the society.

IV. 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely fashion study fee, tech method fee, transportation charges, physical education fee, riding fee, cooling fee, science fee and computer fee from the students but these fees are not charged on 'no profit no loss' basis as school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has generated surplus on account of tech method fee and physical education fee and incurred deficit against all other earmarked levies. Further, school was not following fund based accounting for these earmarked levies. 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 comprise 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. 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.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services. And if, the services is extended to other 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 to stop collecting separate charges in the name of the "fashion study fee, tech method fee and physical education fee".

V. The school has paid remuneration to Director amounting to Rs.43,20,000 in FY 2014-15, 2015-16 and 2016-17 respectively. Since, this is an honorary post, therefore, the remuneration paid to director is disallowed and accordingly the school is directed to recover the same from the society. Further, the school is directed to stop paying Director's Remuneration with the immediate effect.

VI. 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. However, the school has made provisions for Gratuity and Leave Encashment on the basis of management estimate and not on the basis of actuarial valuation, as required by Accounting Standard (AS) 15. So, 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 same could not be quantified. The Auditor of the school has also qualified its Auditor's Report on the same. Therefore, school is directed to follow Accounting Standard-15.

Other Irregularities

I. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, and s.no. 18 of land allotment letter which provides for 25% reservation to children belonging to EWS category. The admission allowed under EWS category in FY 2014-15, FY 2015-16 and FY 2016-17 was as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1,426	1,333	1,405
EWS Students	134	135	141
% of EWS students	9.40%	10.13%	10.04%

Hence, the school is directed to follow the provisions of order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 along with the conditions specified in the land allotment letter.

II. The school was charging depreciation as per the rates prescribed under Income Tax Act, 1961 till the end of financial year 2015-16. Thereafter, it has started charging depreciation rates as prescribed by the Guidance note on "Accounting by Schools" issued by ICAI. But the impact of change in depreciation rate has not been disclosed in the financial statements. The Auditor of the school has also raised this issue in the 'Emphasis of Matter' paragraph. Therefore, the school is directed to disclose the retrospective impact of such change in the financial statement.

III. The fixed assets have been categorise under three categories in the financial statements i.e. assets purchased out of general fund, assets purchased out of development fund and assets purchased out of 'Technology Method Fund'. Assets purchased out the general fund and out of the development fee have been shown at the gross value whereas assets purchased out of the technology fund have been shown at the written down value in the financial statements. Therefore, school is not following uniform practice for presentation of fixed assets and thus, the school is directed to follow either net method or gross method for accounting of fixed assets.

IV. The Auditor of the school has given the following issues in its Auditor's Report under the "Emphasis of Matter" paragraph:-

a) The financial statements of the school have been prepared and classification has been carried out as per the format specified in the order of Directorate of Education (DOE), Government of NCT of Delhi vide DOE Order dated 16-04-2016 which is broadly based on the Guidance Note on Accounting by schools issued by the Institute of Chartered Accountants of India. However, the said format does not confirm to certain disclosure requirements as contained in the Guidance Note with respect to current and non-current liabilities, current and non-current investments and cash and cash equivalents. These primarily relate to presentation of assets and liabilities appropriately. In certain cases the school has not complied with such presentational requirements.

b) The Fixed Assets Register is manually maintained by the BIS and is not regularly updated with the value of additions, deletions and location. No Physical verification of Fixed Assets has been conducted by BIS during the year ended 31st March, 2017. The Fixed Asset register maintained by the BIS is not appropriately updated specifying quantities and location or to account for fixed assets which do not exist. The consequential financial impact due to non- reconciliation of fixed assets, that may be required to be made in the fixed assets, if any, on these financial statements is not ascertainable.

Therefore, the Management of the School is directed to look into these matters.

V. On review of financial statements for the FY 2014-15, 2015-16 and 2016-17, it is observed that the school has incurred substantial expenditure on purchase and repair and maintenance of furniture and fixture which is not substantiated by the increase in number of students in these years. It appears that the school is not able to maintain or safeguard its fixed assets in proper manner. Therefore, school management is directed to give immediate attention to safeguard its fixed assets and to monitor its expenditure. Following are the details of the expenditure incurred for purchase and repair and maintenance furniture and fixtures:

(Figures in Rs.)

Particulars	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**
Purchase of Furniture and Fixtures	32,24,004	69,11,593	51,64,998
Repair & maintenance of Furniture and Fixtures	3,90,219	1,07,59,372	1,25,13,500
Number of Students	1,426	1,333	1,405

VII. On review of Financial Statements and Other Documents submitted by the school, following have been observed:

- The Receipts and Payments account submitted by the school for the FY 2014-15, 2015-16 and 2016-17 is unaudited.
- The balance of Rs.(5,36,507) and Rs.12,62,812 appearing in the schedule prepared for Income and Expenditure account during FY 2015-16 and 2016-17 has not been considered on the face of the balance sheet.
- Bifurcation of establishment expenses provided by the school in response to discussion does not corroborate with the figures appearing in the audited financial statements. Therefore, the school should look into the matter and submit the reasons for such differences. Summary of differences are as under. **(Figures in Rs.)**

Particulars	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**
Establishment Expenses as per financial statement	4,79,18,378	4,93,64,108	5,01,79,976
Establishment Expenses as submitted by the school in response to discussion	4,95,01,298	5,75,76,750	6,26,70,387
Difference	**(15,82,920)**	**(82,12,642)**	**(1,24,90,411)**

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.17,12,54,578** out of which cash outflow in the year 2017-18 is estimated to be **Rs.11,37,52,564.** This results in surplus of funds amounting to **Rs.5,75,02,014**. The details are as follows:

(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	21,46,987	
Investments as on 31.03.17 as per Audited Financial Statements	2,33,16,589	

Add: Amount recoverable from the society for Remuneration paid to the Director during FY 2014-15 to 2016-17	43,20,000	"Refer Observation No - VI of Financial irregularities"
Add: Amount recoverable from the Society for purchase of Buses in contravention of Rule 177 of DSER.	1,59,42,391	"Refer Observation No - III of Financial irregularities"
Less: Development Fee Received during FY 2016-17	1,19,39,199	"Refer Note- 1"
Less: FDR against CBSE	6,43,603	
Total	**3,31,43,165**	
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)	12,56,59,372	
Add: Other income for FY 2016-17 as per audited Financial Statements	1,24,52,041	
Estimated availability of funds for FY 2017-18	**17,12,54,578**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	11,37,52,564	"Refer Note- 2 to 4"
Net Surplus	**5,75,02,014**	

Adjustments:-

Note- 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs.3,03,84,202 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in FY 2016-2017 amounting Rs.1,19,39,199 from students has been not considered as fund available with the school.

Note- 2, Details of establishment expenses disallowed for the FY 2017-18

(Figures in Rs.)

Particulars	Amount	Remarks
Difference of Budgeted expenditure v/s Actual expenditure for the FY 2017-18	80,47,947	Refer details given below
Salary Paid to Director	14,70,000	"Refer Observation No –VI of Financial irregularities"
Provision for Gratuity and Leave Encashment basis	26,67,749	Provision for gratuity and leave encashment has not been considered for FY 2017-18 since the same was not supported with the actuarial valuation report.
Net Adjustment	**1,21,85,696**	

Following are the details of Budgeted establishment expenditure and Actual establishment Expenditure submitted by the school for the FY 2017-18:

(Figures in Rs.)

Particulars	Budgeted Amount	Actual Amount	Amount Disallowed
Establishment Expenses (Excluding Arrears)	7,69,02,364	6,88,54,417	80,47,947
Arrear Salary	1,52,12,931	1,52,12,931	-
Total	**9,21,15,295**	**8,40,67,348**	**80,47,947**

Note- 3: Details of Capital and Other Revenue Expenditure submitted by the school for the FY 2017-18:

(Figures in Rs.)

Particulars	Budgeted Amount	Actual Amount	Amount Disallowed
Capital Expenditure	1,35,95,000	1,19,72,965	16,22,035
Total	**1,35,95,000**	**1,19,72,965**	**16,22,035**

Note 4: School has not proposed any amount for depreciation for FY 2017-18 in its proposal and therefore, the same has not been considered.

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.1,59,42,391** for purchase of Buses and **Rs.43,20,000** for payment of Remuneration to the Director. Therefore, the school is directed to recover **Rs.2,02,62,391** 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 **Bhatnagar International School, Sector B, Pocket-10, Vasant Kunj, New Delhi- 110070 (School Id: 1720145)** 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.

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
Bhatnagar International School,
Sector B, Pocket-10, Vasant Kunj, New Delhi- 110070 (School Id: 1720145)

No. F.DE.15 (630)/PSB/2018/30527-30531 Dated: 14.12.2018

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