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

No. F.DE.15 (180)/PSB/2019/ 1100-1104 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 the order dated 23.10.2017 of this Directorate, **Delhi Public School, Vasant Kunj, New Delhi – 110070 (School Id: 1720149)** 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 25, 2018. Further, school was also provided opportunity of being heard on June 13, 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 submitted by the school on May 30, 2018 and June 18, 2018 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/13/14550-14555 dated 27.04.2017 issued by the Directorate of Education regarding the fee increase proposal for academic session 2016-17, the School was given certain directions to comply with but the school has challenged the aforesaid order before the Hon'ble High Court of Delhi vide Writ Petition No. W.P. (C) 7481 of 2017 and has clarified during discussion that it would submit the compliance report as per the direction of 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. The school has stopped the collection under the head of "Development Fee" w.e.f. FY 2013-14 because development fee cannot be used freely rather its utilization has to done in accordance with the provision of clause 14 of the order dated 11.02.2009. Thus, instead of collecting fee in the name of Development Fee, the school has added new component in the name of "Operational Charges" under the head Annual Charges so that the school can utilise this collection freely. The total annual charges of the school are Rs. 19,200 out of which Rs. 10,440 are being collected in the name of "Operational charges". Thus, the contention of the school of not collecting development fee from the students is not correct as 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.

III. As per clause 2 of public notice dated May 04, 1997 "School not to charge Building Fund and Development Charges when the building is complete or otherwise, as it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the property of the society. Therefore, the students should not be burdened by way of collecting Building Fund or Development Charges".

Further, as per Rule 177 of DSER, 1973 Income derived by an unaided recognised schools by way of fees shall be utilised at 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. The savings referred to above shall be arrived at after providing for the following:

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.

During FY 2015-16, the school has paid Rs. 1,76,30,000 to society towards the loan taken from society for construction of building in the earlier years. Thus, instead of the society meeting its liability, the school funds were utilised for construction of building which is in contravention of clause 2 of public notice dated 04.05.1997. Therefore, the school is directed to recover the aforesaid amount from the society.

Further, the balance of Inter school/ Society account of Rs.72,02,119 as on 31.03.2017 appearing in the financial statements of the school includes Rs.71,06,467 payable to society as interest on the aforesaid loan taken for construction of building. Since, this interest payable is on account of loan given by the society for construction of building therefore, the school is directed not to utilise the school funds for payment of interest on the aforesaid loan.

Further, the financial statement of the school reflecting the Lease Hold Land which is being amortised in FY 2015-16 and 2016-17. As the land was originally allotted to the society, therefore the cost of the land and lease amortisation should be reflected in the books of the society and not in the books of the school. Therefore, the school is directed to make necessary adjustment in the General Fund account with the amount amortised on lease hold land. The details of amortization made by the school are as under:

(Figures in Rs.)

Particulars	As per Audited FS for FY 2015-16	As per Audited FS for FY 2016-17	Total
Amortization of Leasehold Land – Current Year	5,27,426	5,27,426	**10,54,852**
Amortization of Leasehold Land – Prior Period	75,66,451	-	**75,66,451**
Total			**86,21,303**

IV. 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 the 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 Fund was debited twice with the amount of depreciation, first at the time of charging depreciation on fixed assets and second at the time of creating depreciation reserve fund. Thus, depreciation reserve fund would form part of the General Fund because it was created out of General 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 Fund 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 Fund	27,93,422	-	-	**27,93,422**
Depreciation Reserve Fund out of Income and Expenditure Appropriations	18,90,419	41,16,383	28,45,414	**88,52,216**
Total	**46,83,841**	**41,16,383**	**28,45,414**	**1,16,45,638**

V. 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, the school should have created the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of 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 Utilisation account separately as required by para 99 due to which the balance of Development Fund of Rs. 12,53,30,047 as on 31.03.2017 reflecting in the financial statements is not correct because it includes notional amount which is not available for utilisation. Therefore, the school is directed to make necessary adjustment in Development Fund account and Development Fund utilization account for the amount of assets purchased out of Development Fund.

VI. The financial statements of the school reflect Rs. 3,93,50,000 and Rs. 11,00,62,176 (including interest earned on investment) under the head "Facility Expansion Fund" which was created through General Fund in FY 2015-16 and through Income and Expenditure account in FY 2016-17 for meeting the expansion plan relating to additional construction of rooms, additional storey, hostel and other important school facilities, purchase of land and construction of new school building, purchase/ replenishment of heavy items like vehicle, DG set/ Electrical items which relate to building, renovation of existing school buildings, various process improvement and cost reduction initiatives which include projects like solar energy, science lab innovation, technology advancement for school education. Since, this fund has been created out of the school funds therefore, it would form part of the free reserves available with the school.

VII. 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 i.e. transport fee, science fee, almanac, computer fee, activity fee-NIE/NTSS/STSC, annual day receipts, extra coaching fee, board examination fee, examination fee, hostel fee and medical fee from the students but these levies were not charged on 'no profit no loss' basis. During the period under evaluation, school has earned surplus on account of transport fee, science fee, almanac, computer fee, other activity fee- NIE/NTSS/STSC, extra coaching fee, examination fee, hostel fee and medical fee and incurred deficit on annual day receipts and board examination fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, the school is directed to make adjustment to General Fund for surplus/deficit incurred in respect of earmarked levies.

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 provisions, the earmarked levies should be collected from the user students only availing the services/ facilities and if such service/facilities has 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, the school is directed to look into the matter and stop the collection of separate earmarked levies in the name of almanac, computer fee, other activity fee- NIE/NTSS/STSC, annual day receipts, extra coaching fee, board examination fee, examination fee, hostel fee and medical fee from the students. It is also noted that the school has collected PT Association fund and Management Fund from students. In view of aforesaid recommendations of Duggal Committee, these fees are not covered under the head of fee recommended by the Committee. Thus, school is directed to stop collection of PT Association fund and Management Fund.

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 the actuarial valuation report are nil which means the school has not earmarked investment towards the gratuity and leave encashment as required by AS-15. In DoE order No. F.DE-15/Act-I/WPC-4109/Part/13/14550-14555 dated 27.04.2017 issued by the Directorate of Education regarding the fee increase proposal for academic session 2016-17, the investments against gratuity and leave encashment have not been considered as part of funds available with the school. Further, since sufficient funds are available with the school, the school is directed to make earmarked investments with LIC (or any other agency) so as to protect statutory liabilities.

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 as well as condition specified in land allotment letter which provides for 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. The admission allowed by the school 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 strength	3,884	3,937	3,954
EWS students	282	350	425

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
% of EWS students to total strength	7%	9%	11%

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, the details are as follows:

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 statement. 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. 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, the school has not complied with clause 18 of order dated 11.02.2009. Therefore, the school is directed to comply with the requirements of clause.

III. As per audited financial statements for the FY 2014-15, 2015-16 and 2016-17, auditor has used "Limitation of use" of its report paragraph which states " These financial statements have been prepared solely to enable the society to prepare its financial statement in accordance with the accounting principles generally accepted in India for the schools and in accordance with Accounting standards issued by the Institute of Chartered Accountants of India and not to report on the school as a separate standalone entity". Therefore, in view of above-mentioned circumstances financial statements submitted for evaluation of fee increase proposal for the academic session 2017-2018 have restricted use. The school is directed to do away with the restriction on immediate basis so that financial statements can be used by the DoE.

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. **91,70,16,774** out of which cash outflow in the year 2017-18 is estimated to be Rs. **50,99,66,000**. This results in surplus of funds amounting to Rs. **40,70,50,774**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	82,79,230
Investments as on 31.03.17 as per audited Financial Statements	58,55,37,798
Add: Repayment of loan for construction of building in contravention to clause 2 of public notice dated May 4, 1997 (Point III of Financial irregularities)	1,76,30,000
Less: Development Fund as on 31.03.2017 (net of utilisation for fixed assets) (Point V of Financial irregularities)- (Rs. 12,53,30,047 - 2,23,38,428)	10,29,91,619
Less: Depreciation Reserve Fund as on 31.03.2017 (Point IV of Financial irregularities)	-
Less: Provision for Gratuity (Point VIII of Financial irregularities)	-
Less: Provision for Leave Encashment (Point VIII of Financial irregularities)	-
Less: Fixed Deposit with Bank in the joint name of DDE and Manager, Delhi Public School	60,95,184
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, Delhi Public School	7,14,191
Total	**50,16,46,034**
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)	36,73,85,083
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)	4,79,85,657
Estimated availability of funds for FY 2017-18	**91,70,16,774**
Less: Budgeted expenses for the session 2017-18	**50,99,66,000**
Net Surplus	**40,70,50,774**

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/13/16662-68 dated 04.07.2017, 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.

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 funds have been utilized for payment of loan of Rs. 1,76,30,000 taken from the society for construction of building which is in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from 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 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 Kunj, New Delhi – 110070 (School Id: 1720149)** 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 charge fee as per the existing fee structure of the school

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 & 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.

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. 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).

7. 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 Kunj, New Delhi -110070 (School Id: 1720149)

No. F.DE.15 (180)/PSB/2019/ 1100 - 1104 Dated:

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