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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 (653)/PSB/2018 | 30728-30732

Dated: 19/12/2018

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

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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, **Bloom Public School, C/8, Vasant Kunj, New Delhi- 110070 (School Id: 1720169)** 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 06, 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, 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 the financial statement for the year 2014-15, 2015-16 and 2016-17 the following has been observed:

The school has utilised development fee for purchase of Vehicles and Library Books in FY2014-15 and 2016-17 in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make necessary adjustments and comply with the provisions of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2016-17
Buses	55,50,000	87,97,050

Library Books	-	48,419
Total	55,50,000	88,45,469

- II. As per Para 99 of Guidance note 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 cognisance from the above para, it has been observed that the School instead of creating Development Utilisation Fund account, the whole amount of assets purchased out of the Development Fund account was transferred to General Fund account resulting overstatement of General Fund balance and thus, the school has not complied with the Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to make necessary adjustments and follow the Guidance Note- 21. The amounts transferred from development fund account to General Fund account are as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Transferred from Development fund to General Fund	1,06,84,089	4,64,603	1,35,45,581

- III. 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 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 has charged earmarked levies namely transport fee, sports & activity fee, Lib/Tech/Med/SSW fee, Science fee, special education fee, facility fee and annual day fee from the students. And, not followed fund based accounting as prescribed by Guidance Note 21 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.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the facilities and if, the services are 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 "Lib/Tech/Med/SSW fee, Special Education Fee, Facility Fee and Annual Day Fee".

- IV. As per section 13 of RTE Act,2009, the school should not charge capitation fee from the students at the time of admission, contravention of which shall be punishable with fine which may extend to ten times of the capitation fee charged. However, it has been observed that the school has charged 'Transport Fund' of Rs.2,050 per student from the user students at the time of admission apart from the monthly transport fee. Also, the school has charged Rs.10,000/- per student in the Name of 'Facility charges' at the time of admission from nursery class. Therefore, the school is directed to stop the collection of capitation fee with immediate effect and comply with Section 13 of RTE Act, 2009.

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 the land allotment letter which require to provide 25% reservation to children belonging to EWS category. The admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under.

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1321	1312	1325
EWS Students	169	193	214
% of EWS students	12.80%	14.71%	16.15%

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. Further, DD(E) – District is also directed to look into this matter.

- II. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs.500 per student shall be charged. The caution Money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund.

However, on review of audited financial statement for the FY 2014-15 to 2016-17, it has been observed that the school has not maintained separate schedule bank account for collection of caution money and also not refunded the caution money along with interest accrued thereon which is in contravention of clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. Therefore, School is directed to comply with the direction of clause 18 of the order dated 11.02.2009.

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 un-refunded caution money belonging to ex-students shall be reflected as income for 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. But the school has not considered the amount of unrefunded caution money as its income of the ensuing year. Thus, the school is directed to follow the aforesaid clause while projecting its income for the ensuing financial year.

- III. As per generally accepted accounting principle the closing balance of the previous year should become the opening balance of the following year. However, on review of the audited financial statement of FY 2014-15 to 2016-17, it has been noted that the closing balances of Gratuity Fund and Leave Encashment Fund which was appearing in the FY 2014-15 was not correctly carried forward in the next FY 2015-16. Further, closing balances of FY 2015-16 was not correctly carried forward to FY 2016-17. Therefore, the management of the school is directed to look into the matter and prepare it financial statement error free.
- IV. The school is charging depreciation at the rates prescribed under the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note.

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.21,25,30,425** out of which cash outflow in the year 2017-18 is estimated to be **Rs.12,21,53,315**. This results in surplus of funds amounting to **Rs.9,03,77,110**. 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	48,40,257	
Investments as on 31.03.17 as per Audited Financial Statements	15,24,96,132	
Less: Development Fee received during the FY 2016-17	98,00,418	"Refer Note-1"

Particulars	Amount	Remarks
Less: Investment against Gratuity and Leave Encashment	3,75,69,127	"Refer Note-2"
Total	10,99,66,844	
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)	10,13,08,028	
Add: Other income for FY 2016-17 as per Audited Financial Statements	12,55,553	
Estimated availability of funds for FY 2017-18	21,25,30,425	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	12,21,53,315	"Refer Note-3"
Net Surplus	9,03,77,110	

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 be 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 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. Over several years, the school has accumulated development fund and has reflected the closing balance of Rs.2,58,45,971 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.98,00,418 from students has not been considered as fund available with the school.

Note- 2: 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 determined at the balance sheet date. However, School has provided for Gratuity and Leave encashment in its financial statement as on 31.03.2017 by Rs.3,75,69,127 and has the sufficient investment earmarked against this liability. Therefore, it has been considered in the calculation of fund availability of the school and the school is directed to make the investment as per the requirement of AS-15 within 90 days from the date of receipt of this Order.

Note- 3: The school has proposed for the following Capital Expenditures, which are not considered for evaluation of fee increase proposal, since the FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened. Details of capital Expenditures disallowed are as under:

(Figures in Rs.)	
Particulars	Amount
School Buses & Vehicle	39,50,000
Toilet Renovation	8,50,000
Renovation, Windows, Boundary Wall	22,00,000
Total	70,00,000

- 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Bloom Public School, C/8, Vasant Kunj, New Delhi- 110070 (School Id: 1720169)** 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:

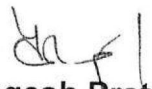
1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-

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
Bloom Public School,
C/8, Vasant Kunj, New Delhi- 110070 (School Id: 1720169)

No. F.DE.15 (653)/PSB/2018 | 30728 - 30732

Dated: 19/12/2018

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