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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 ( 283 )/PSB/2019 / 1520-1524

Dated: 04/04/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized Schools in Delhi' and directed that the private unaided Schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid Schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided Schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27....

*(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the Schools have been complied with...*

*28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the Schools.....*

*.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."*

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule

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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, **Sulabh Public School, RZ- 83, Mahavir Enclave New Delhi (School Id: 1821168)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7<sup>th</sup> CPC.

AND WHEREAS, in order to ensure that the proposals submitted by the Schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the School very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the School vide email dated April 03, 2018. Further, School was also provided opportunity of being heard on October 08, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, School was further asked to submit necessary documents and clarifications on various issues noted.

AND WHEREAS, the reply of the School, documents uploaded on the web portal for fee increase and subsequent documents submitted by the School were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

**Financial Irregularities**

- i. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee shall be treated as capital receipt and the collections under this head along with income generated from the investment made out of this fund, will be kept in separately maintained development fund account. Further, the development fee shall be collected only if the school is maintaining depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts. However, following observations were noted:
  - a. The school has treated development fee as revenue receipt in the financial year 2014-15, 2015-16 and 2016-17 and has not maintained separate bank account for development fee. Accordingly, the school is directed to make necessary adjustment in the general reserve account and development fund account. Following are the details of development fee received during the financial years 2014-15, 2015-16, 2016-17;

(Figures in Rs.)	
Development Fee Collected	Amount
FY 2014-15	2,40,480
FY 2015-16	2,42,075
FY 2016-17	2,53,750
<b>Total</b>	<b>7,36,305</b>

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- b. The school has not created depreciation reserve fund in the FY 2014-15, 2015-16, 2016-17. Therefore, the school is directed to collect development fee only if it creates depreciation reserve fund equivalent to the depreciation charged to revenue account in accordance with aforesaid clause.
- ii. As per clause 2 of public notice dated May 4th, 1997, School shall not 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 sole property of the Society. Further, as per Judgement of Hon'ble Supreme Court in the case of Modern School Vs Union of India and Others, the capital expenditure cannot form part of financial fee structure of the School.

Also, as per Rule 177 of DSER, 1973 income derived by unaided recognised 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;
- 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, it is noted that the school has incurred Rs.21,80,777 for construction of additional class rooms in FY 2016-17 in contravention of clause 2 of public notice dated May 4th, 1997 read with rule 177 of DSER, 1973. Hence, amount of Rs.21,80,777 utilised out the school funds has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from the society.

**Other Irregularities:**

- i. The school has not maintained fixed asset register. The school has substantial amount of fixed assets (net of depreciation) of Rs. 32,95,468 as on March 31, 2017. The value of fixed asset and the quantity of fixed assets cannot be substantiated in the absence of fixed asset register. To have control over the fixed assets, school is directed to prepare fixed assets register containing quantity, type of asset,

purchase cost, date of purchase, location, fixed assets identification number, user of fixed assets etc.

- ii. As per order of Duggal committee, no admission fee of more than two hundred rupees per student, at the time of admission shall be charged. However, school has charged Rs.330 from students taking new admission in contravention of above mentioned order. Therefore, the school is directed to follow the aforesaid provisions.

**After detailed examination of all the material on record and considering the clarification submitted by the School, it was finally evaluated/ concluded that:**

- i. The total funds available for the FY 2017-18 amounting to **Rs. 1,42,47,453** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 1,85,74,545**. This results in net deficit of **Rs. 43,27,091**. The details are as follows:

<b>(Figures in Rs.)</b>	
<b>Particulars</b>	<b>Amount</b>
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	4,83,612
Add: Recoverable from society building in contravention to the clause 2 of public notice dated May 4, 1997 ( <b>Refer Observation II of Financial Irregularity</b> )	21,80,777
<b>Total</b>	<b>26,64,389</b>
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)	25,48,368
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)	90,34,696
<b>Estimated availability of funds for FY 2017-18</b>	<b>1,42,47,453</b>
Less: Budgeted expenses for the session 2017-18 ( <b>Refer Note- 1</b> )	1,85,74,545
<b>Estimated Deficit</b>	<b>43,27,091</b>

**Adjustments:**

**Note- 1:** The School has proposed Rs.68,41,056 towards arrear salary of 7<sup>th</sup> CPC which is 60% of the actual salary paid in the FY 2016-17. The school has not fully implemented the recommendations of 6<sup>th</sup> CPC due to which the impact on 7<sup>th</sup> CPC arrears salary is high. Therefore, amount of salary arrears proposed by the school has been restricted to 30% of the actual salary paid in the previous financial year. Accordingly, excess amount of Rs. 34,26,512 has not been considered for evaluation of fee increase proposal.

- ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/

reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural findings noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 15% from 01 April, 2019.

AND WHEREAS, it is also noticed that the School has incurred Rs.21,80,777 for construction of additional rooms which is in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover the aforesaid amount 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.

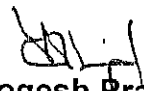
Accordingly, it is hereby conveyed that the proposal of fee increase for academic session 2017-18 of **Sulabh Public School, RZ- 83, Mahavir Enclave New Delhi (School Id: 1821168)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7<sup>th</sup> CPC in accordance with Directorate order dated 25.08.2017.
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India and others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.

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5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

This is issued with the prior approval of the Competent Authority.

  
(Yogesh Pratap)  
Deputy Director of Education  
(Private School Branch)  
Directorate of Education, GNCT of Delhi


To  
The Manager/ HoS  
Sulabh Public School,  
RZ- 83, Mahavir Enclave New Delhi (School Id: 1821168)

No. F.DE.15 ( 283 )/PSB/2019 / 1520-1524

Dated: 04/04/19

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

  
(Yogesh Pratap)  
Deputy Director of Education  
(Private School Branch)  
Directorate of Education, GNCT of Delhi