

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

No. F.DE.15 (143)/PSB/2019/ 1872-1876

Dated: 22/2/2019

Order

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

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

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

"27....

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

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

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

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Pragati Public School, Sector-13, Ph-II, Dwarka, New Delhi (School Id: 1821193)** 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 March 24, 2018. Further, school was also provided an opportunity of being heard on July 11, 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, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were evaluated 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". On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, it is noted that the School has treated the Development fee amounting Rs. 58,13,339, Rs. 66,03,887 and Rs. 67,91,438 as revenue receipt in FY 2014-15, 2015-16 and 2016-17 respectively. Thus, the School is in contravention of clause 14 of the order dated 11.02.2009. Thus, the School is directed to comply the requirements of aforesaid

clause 14 of order dated 11.02.2009 and treat the Development fund as capital receipt. The School is directed to make necessary adjustment in Development fund account and General reserve fund account with the aforesaid amounts.

- II. As per clause 2 of Public Notice dated May 4, 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 the way of collecting the Building Fund or Development Charges. Accordingly, the costs relating to construction of building should have been borne by the society and not by the school.

Further, as per Rule 177 of DSER, income derived by an 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.

Thus, as per Rule 177 of DSER, 1973 capital expenditure can be made from the savings only. However, as per the audited financial statements for FY 2014-15, 2015-16 it is noted that the School funds have been utilised for purchase of land and for construction of building. Thus, the expenditure incurred by the School is in contravention of aforesaid provisions. Therefore, amount utilised for land and building is recoverable from the Society and accordingly, has been considered in the calculation of funds availability of the School. The details of utilisation of school funds for land and building are as follows:

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(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Land	80,99,864	1,96,568	-	82,96,432
Building	6,78,005	-	1,79,51,509	1,86,29,514
Total				2,69,25,946

- 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 India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is observed that school is charging earmarked levies in the name of activities fees, Science fees and Computer fees from the students but these levies are not charged on 'no profit no loss' basis as school is earning surplus from these levies. Further, the school is not following fund-based accounting in respect of these earmarked levies. Accordingly, the School is directed to make necessary adjustments the general reserve with the amount of surplus from these earmarked levies.

- IV. On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is noted that the school fund has been utilised for payment of interest on loan taken for purchase of vehicles. As per Rule 177 of DSER, 1973 the fee, in the first instance is to be utilised for meeting the pay, allowances and other benefits admissible to the employees of the school. However, the School has purchased the vehicles without complying the requirements of Rule 177 of DSER, 1973. Thus, the school fund utilised for payment of interest is to be recovered from the Society and has been considered in the calculation of funds availability. The details of interest paid on loan are as follows:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Interest Paid	6,59,103	5,14,920	4,21,175	15,95,198

Further, it is also noted that School funds have been utilized for payment of loan taken for purchase of Vehicles. During discussion, the School was asked to provide the details of vehicle purchased, amount of loan taken and amount of loan repayment in FY 2014-15, 2015-16 and 2016-17. However, School has not submitted any detail in this regard. Therefore, in the absence of information by School, no adjustment has been considered in the calculation of funds availability. The School is directed to provide the details of Vehicle loan, number of Vehicles purchased, amount of loan taken and amount of loan repaid in FY 2014-15, 2015-16 and 2016-17 within the time stipulated in the order. Further, the School may

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also be instructed to not utilise school fund for payment of loan taken and interest thereon.

- V. As per Rule 172 of DSER, 1973, no fee contribution or other charge shall be collected from any student by the trust or society running any recognised school whether aided or not. Every fee, contribution or other charge collected from any student by recognised school shall be collected in its own name and a proper receipt shall be granted by the school for every collection made by it. Further, as per Rule 175 of DSER, 1973, the accounts with regard to the school fund or the recognised unaided fund shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fees, collections of specific purposes, endowments, gifts, donations, contributions to Pupil's fund and other miscellaneous receipts. However, on review of audited financial statements, it is noted that the Vehicles are reflecting in the fixed assets schedule while the corresponding income is not reflecting in the Income and expenditure account of the School. It is pertinent to note that expenditure relating to transportation is reflecting in the Income and expenditure account. Therefore, the School is directed to determine and record the income from transportation for FY 2014-15, 2015-16 and 2016-17 and for subsequent years in its financial statements.

Other Irregularities

- I. The School has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and S. No. 17 of the Land allotment letter, which provides for 25% reservation to children belonging to EWS and DG category. Since the school is not complying with this direction therefore, the concerned DDE of district may be required to look into the matter. The details of admission allowed during the period is as under:

S. No.	Particulars	FY 2014-15	FY 2015-16	FY 2016-17
1	Total Students	1549	1579	1780
2	EWS Students	164	208	212
3	% of EWS students	10.59%	13.17%	11.91%

- II. It is noted that the School has not provided for gratuity and leave encashment in its books of accounts in accordance with AS-15- Employee Benefits in FY 2014-15, 2015-16 & 2016-17. There could be an impact on the financials of the school, had the provision been done based on actuarial valuation and provided in the books of accounts. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.

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

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- i. The total funds available for the year 2017-18 amounting to Rs. **11,12,03,700** out of which cash outflow in the year 2017-18 is estimated to be Rs. **8,06,32,384**. This results in surplus of funds amounting to Rs. **3,05,71,316**. 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	(5,23,579)	
Investments as on 31.03.17 as per Audited Financial Statements	1,29,86,380	
Add: Amount recoverable from Society against purchase of land and construction of building in contravention of Rule 177 of DSER, 1973 and clause 2 of Public Notice dated 04.05.1997	2,69,25,946	
Add: Amount recoverable from Society against Interest paid on loan taken for Vehicles	15,95,198	
Less: Caution Money balance as on 31.03.2017	12,94,750	
Less: FDR with Director of Education (as per School's submission)	3,05,872	
Less: FDR with Secretary, CBSE (as per School's submission)	2,34,076	
Total	3,91,49,248	
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)	6,98,59,206	
Add: Other income for FY 2016-17 as per Audited Financial Statements	21,95,246	
Estimated availability of funds for 2017-18	11,12,03,700	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	8,06,32,384	Refer Note 1 and 2
Net Surplus	3,05,71,316	

Adjustment:

Note 1: In its budget for FY 2017-18, the School has proposed for salaries amounting to Rs. 7,56,86,400 against the actual expenditure of salaries in FY 2016-17 amounting to Rs. 4,34,27,338. The increase proposed by the School is more than 74%. Considering the implementation of 7th CPC, increase of 30% has been considered and accordingly, Rs. 1,92,30,861 has not been considered in the above calculations.

Note 2: School has proposed for capital expenditure against Building amounting Rs. 57,50,000. As per clause 2 of public Notice dated 04.05.1997, building is the responsibility of the Society. Further, as per Rule 177 of DSER, 1973 read with

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the judgement of Hon'ble Supreme Court of India in the matter of Modern School Vs Union of India and Others, the capital expenditure cannot form part of fee structure. Accordingly, the aforesaid expenditure has not been considered in above calculations.

- 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 expert 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 funds amounting Rs.2,85,21,144 have been utilized for construction of building, purchase of land and for payment of interest. The school is directed to recover these amounts from the Society. The deposits 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Pragati Public School, Sector-13, Ph-II, Dwarka, New Delhi (School Id: 1821193)** is rejected by the Director of Education. Further, the management of said


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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 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.
4. 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.
5. 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).
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 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 order 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

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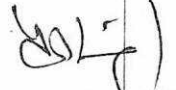
To
The Manager/ HoS
Pragati Public School,
Sector-13, Ph-II, Dwarka, New Delhi (School Id: 1821193)

No. F.DE.15 (143)/PSB/2019/ 1872-1876

Dated: 22/2/2019

Copy to:

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



(Yogesh Pratap)

Deputy Director of Education

(Private School Branch)

Directorate of Education, GNCT of Delhi