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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 (272)/PSB/2019/1460-1464

Dated: 29.3.2019

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 order dated 23.10.2017 of this Directorate, **JM International School, Sector-6, Dwarka, Delhi - 110075 (School Id: 1821214)** 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.

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 27, 2018. Further, School was also provided 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 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 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the

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investment made out of this fund, will be kept in a separately maintained Development Fund Account.

However, the school has utilised development fee for purchase of library books of Rs. 1,89,156 in FY 2014-15 and of Rs. 56,601 in FY 2016-17 which is in contravention of aforesaid clause. Therefore, the school is directed to make adjustment in Development Fund and Development Fund utilised account for amount spent on library books and to comply with clause 14 of order dated 11.02.2009.

- 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.

It is noted that in FY 2014-15, 2015-16 and 2016-17, instead of creating development fund utilised account, the school has transferred the whole amounts utilised for purchase of assets out of development fund to General Fund resulting in overstatement of General Fund balance. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Note - 21 issued by ICAI and to make adjustment in General Fund to determine the actual position of General Fund balance. The detail of amount adjusted are as under.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Development Fund utilised	60,38,885	60,82,568	23,04,655	1,44,26,108

- III. Clause 2 of the Public Notice dated 4 May 1997 states that "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this

Directorate states "Capital Expenditure cannot constitute a component of financial fee structure".

As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School.

However, on review of financial statements for FY 2014-15 and 2015-16, it has been noted that school has utilised Depreciation reserve fund for construction of building amounting to Rs. 21,68,489 in FY 2014-15 and Rs.83,081 in FY 2015-16 in contravention of aforesaid order and rule. Therefore, amount of Rs. 22,51,570 has been included in the calculation of funds availability of the school with the direction to the school to recover this amount from society. Further, the school is also directed to make adjustment in Depreciation reserve fund and General Fund to determine the actual position of fund balance

IV. As per Section 18(4) of DSEA, 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed. However, during FY 2015-16 school bought Fortuner car of Rs. 28,12,814 by taking loan from Kotak Mahindra Prime Limited which is in contravention of aforesaid section. Further, the school has paid Rs. 2,50,124 towards interest on the said loan. Therefore, the school is directed to recover Rs. 28,12,814 from society. Further, the school is directed to make adjustment in General Fund for interest paid on loan.

V. 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, in FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely Transport fee, Mind spark program, Meal program,

Computer fee, Curriculum support program and Science Lab fee but these fees are not charged on 'no profit no loss' basis as the school has earned surplus from Mind spark program, Meal program, Computer fee and Science Lab fee and has incurred deficit from Transport fee and Curriculum support program. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General Fund for surplus/ deficit incurred on these earmarked levies and to follow fund based accounting.

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 recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility 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 stop separate collection in the name of Mind spark program and Curriculum support program.

- VI. The school has paid remuneration to Director amounting to Rs. 45,00,000 during the period under evaluation. Since, this is an honorary post, therefore, the remuneration paid to director has been disallowed and is recoverable from the society. Accordingly, this amount has been included in the calculation of fund availability of the school with the direction to the school to recover this amount from society. Further, the school is also directed to make adjustment to General Fund for remuneration paid to director.

Other Irregularities:

- I. The school has utilised its development fund and depreciation reserve fund for purchase of fixed assets more than the funds available in FY 2014-15 and 2015-16 rendering development fund and depreciation reserve fund account balance a negative figure. Details are given below:

Particulars	2014-15	2015-16	2016-17
Development fund	(4,16,065)	(62,936)	49,44,753
Depreciation reserve fund	(6,17,458)	(11,31,482)	(24,39,197)

- II. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE District is directed to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below.

Particulars	2014-15	2015-16	2016-17
Total strength	953	1,001	1,139
EWS students	129	142	164
Ratio of EWS student to total strength	14%	14%	14%

- III. 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. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.
- IV. In respect of caution money the following has been observed:
- a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon which is contravention of

aforesaid clause. Therefore, the school is directed to comply with clause 18 of order dated 11.02.2009

- b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number of student left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined.

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. 10,76,06,339** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 10,32,99,351**. This results in surplus of **Rs. 43,06,988**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	48,63,366
Investments as on 31.03.17 as per audited Financial Statements	4,87,215
Less: FDR in joint name of manager of school and Directorate of Education	(4,87,215)
Add: Amount recoverable from society for construction of building in FY 2014-15 and 2015-16	22,51,570
Add: Amount recoverable from society against purchase of Fortuner car in FY 2015-16	28,12,814
Add: Amount recoverable from society against interest paid on loan taken for purchase of Fortuner car	2,50,124
Add: Amount recoverable from society against salary paid to Director	45,00,000
Total	1,46,77,874
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)	9,24,59,029
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)	4,69,436
Estimated availability of funds for FY 2017-18	10,76,06,339
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	10,32,99,351
Net Surplus	43,06,988

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Adjustments:

Note 1: The Provision for gratuity and leave encashment amounting to Rs. 7,59,000 and Rs. 9,85,000 respectively have not been considered in the budget for FY 2017-18, since the same is not supported by actuarial valuation report.

Note 2: The school has proposed salary reserve amounting to Rs.47,50,000 in FY 2017-18. Since this is a year of implementation of 7th CPC, therefore the allowance for creation of such reserve would give additional burden on the parents / students. Therefore it has not been considered in evaluation of fee increase proposal.

Note 3: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

Particulars	FY 2016-17	FY 2017-18	Net Increase	% Change	Disallowed
Books for EWS students	5,36,726	11,50,000	6,13,274	114%	5,59,601
Examination Expenses	2,60,464	8,95,000	6,34,536	244%	6,08,490
School function expenses	25,35,856	29,75,000	4,39,144	17%	1,85,558
Total	33,33,046	50,20,000	16,86,954		13,53,649

Note 4: The school has proposed interest of Rs. 1,50,000 in budget for FY 2017-18 which has not been considered in the evaluation of fee increase proposal.

Note 5: As per observation VI in financial irregularities, salary has been paid to Director in FY 2016-17 amounting to Rs. 15,00,000. However, Employees wise budgeted salary for FY 2017-18 was not provided. Therefore, keeping in view of the actual salary paid to director in FY 2016-17, the said amount has not been considered in the evaluation of fee increase proposal.

Note 6: The school has proposed following capital expenditure in its budget for FY 2017-18 which has not been considered in the evaluation of fee increase proposal as per the judgement dated 30.10.1998 "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society".

- 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 noticed that the school has incurred Rs. 22,51,570 for construction of building, Rs. 28,12,814 for purchase of car, Rs. 2,50,124 for interest on loan and Rs. 45,00,000 for salary paid to director which are 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 amounts 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 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 **JM International School, Sector-6, Dwarka, Delhi - 110075 (School Id: 1821214)** 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 charge fee as per the existing fee structure of the school
4. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).
5. 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.
6. 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.
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/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 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
JM International School,
Sector-6, Dwarka,
Delhi - 110075 (School Id: 1821214)

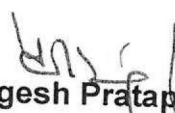
No. F.DE.15 (272)/PSB/2019/1460-1464

Dated: 29.3.2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.

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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