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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 (99)/PSB/2019/1473-1477

Dated: 7/2/2019

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

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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, **M.D.H International School, Sector 6, Dwarka, Delhi- 110075 (School Id: 1821216)** 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 27, 2018. Further, School was also provided opportunity of being heard on October 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 11.02.2009, the development fee shall be treated as capital receipt and it should be utilized for the purpose of supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, on review of financial statements for the FY 2014-15, 2015-16 and 2016-17, it is noted that the school has treated its development fee of Rs.35,30,263, Rs.35,86,270 and Rs.37,56,900 respectively as revenue receipts in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Accordingly, the school is directed to comply with clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and make the necessary adjustments in General Reserve fund.
- II. The school has made provisions for Gratuity and leave encashment on the basis of management estimate and not on the basis of actuarial valuation, as required by Accounting Standard (AS) 15 issued by ICAI. There could be an impact on the financials of the school, had the provision been done on the basis of actuarial valuation. However, in the absence of the actuarial valuation report, the same could not be quantified. Therefore, the school is directed to comply with the requirement of AS-15.

III. On review of audited financial statements of the FY 2015-16 & FY 2016-17, it is observed that there is changes in the closing balances of designated funds in comparison to previous years, however, no such changes are reflected in the income and expenditure account of respective year. Further, school has not provided fund movement details for any of the year even after sending multiple reminders. Hence, in the absence of relevant information, no comments can be offered on this issue. Following are the closing balances of all the designated funds for which no information is provided regarding any addition or deduction from the fund:

- a. General reserve fund
- b. Building reserve fund
- c. Gratuity reserve fund
- d. Depreciation reserve fund
- e. Transport reserve fund
- f. Earned leave encashment reserve fund
- g. Caution money fund

Therefore, school is directed to submit the complete information within the prescribed time mentioned in the order for evaluation the fee increase proposal for the ensuing year.

IV. In respect of earmarked levies, school is required to adhere 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 & 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. Information and practice charges, lab charges, medical fees, smart class fee, earmarked levies and transport fee from the students but these levies were not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has earned surplus on account of Information and practice charges, medical fees, smart class fee, earmarked levies, transport fee and incurred deficit on account of lab charges. 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 adjust the surplus/deficit in these accounts against general reserve account.

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. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

However, it is noted that school is collecting fee under the head "medical fees", "smart class fee", and "earmarked levies" from each of the students and that would not fall under earmarked levies as per the recommendation by the committee. Therefore, the school is directed to stop collection of fee under these heads.

- V. On review of financial statements of the FY 2014-15 & FY 2015-16, it is observed that school has purchased vehicles amounting to Rs.19,55,252 and Rs.18,80,000 in the FY 2014-15 and FY 2015-16 respectively. Further the school was asked to provide the detail of addition made under this head but it has not submitted any details even after sending repetitive reminders. Therefore, school is directed to submit the complete information about this addition within the prescribed time mentioned in the order otherwise this amount shall be treated as part of the fund available with the school while evaluating the fee increase proposal for the ensuing year.

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, and s.no. 18 of land allotment letter which provides for 25% reservation to children belonging to EWS category. The DDE, District is directed to look into this matter. The admission allowed under EWS category in FY 2015-16 and FY 2016-17 was as under.

Particulars	FY 2015-16	FY 2016-17
Total Students	1105	1115
EWS Students	102	127
% of EWS students	9%	11%

* For the FY 2014-15, School has not provided complete student strength details.

- II. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in

Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, school is directed to follow the Guidance Note-21 "Accounting by Schools".

- III. On review of financial statements for the FY 2015-16 & 2016-17, it is observed that school has charged depreciation on building in the income and expenditure account and further reversed it by adding the same amount in the general fund. On discussion with the school, it has submitted that since the building is the asset of society therefore school was reversing back the depreciation to the general fund to eliminate the financial impact. It is to be noted here that school has not shown building in its fixed assets schedule. Hence, it is an inappropriate presentation of the building depreciation in the books of account and school is directed to stop showing depreciation on building in its financial statements.
- IV. During discussion, School was asked to provide clarifications and documents for carry out the evaluation of fee increase proposal. However, even after sending multiple reminders school did not submit the following required documents and clarifications.
- Fee reconciliation statement for the FY 2014-15, FY 2015-16 and FY 2016-17
 - Details of utilisation of development fund
 - Exact amount wise details of usage of earmarked levies
 - Details of funds transferred from general fund to various designated funds
 - Details of each designated fund with addition during the year, opening and closing balance.
 - Details of source of building fund

Thus, in the absence of the complete details/ information no comments can be made on the same. Also, school is directed to submit the complete information within the prescribed time mentioned in the order for evaluation the fee increase proposal for the ensuing year.

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

- The total funds available for the financial year 2017-18 amounting to **Rs. 9,33,92,681** out of which cash outflow is estimated to be **Rs. 5,92,33,212**. This results in surplus of funds amounting to **Rs.3,41,59,469**. The details are as follows:

(Figures in Rs.)	
Particulars	Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	31,77,132
Investments as on 31.03.17 as per audited Financial Statements (Note1)	3,80,65,388
Total	4,12,42,520

Particulars	Amount
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)	4,86,43,764
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)	35,06,397
Estimated availability of funds for FY 2017-18	9,33,92,681
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1	5,92,33,212
Net Surplus	3,41,59,469

Note 1: Since, the school has made provisions for Gratuity and leave encashment on the basis of management estimate and not on the basis of actuarial valuation, as required by Accounting Standard (AS) 15 issued by ICAI, investment against gratuity fund amounting to Rs.1,28,01,899 and EL encashment reserve fund amounting to Rs.17,73,767 as on 31.03.2017 is not considered in above calculation. Further, school may be directed to comply AS-15 and earmarked the respective funds as per the requirement of AS-15.

- 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 **M.D.H International School, Sector 6, Dwarka, Delhi- 110075 (School Id: 1821216)** is

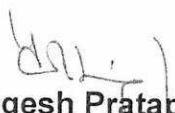
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rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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

(Private School Branch)

Directorate of Education, GNCT of Delhi

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To
The Manager/ HoS
M.D.H International School, (School Id: 1821216)
Sector 6, Dwarka, Delhi- 110075

No. F.DE.15 (99)/PSB/2019/1473-1477

Dated: 7/2/2019

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-1

(Private School Branch)

Directorate of Education, GNCT of Delhi