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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 (264)/PSB/ 2019/ 1380-1384

Dated: 29/03/2019

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that 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, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 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 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court 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 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. 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) read along 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 response to this directorate's circular dated 23 Oct 2017 referred to above, **Basava International School (School ID-1821222), Site no. 1, Sector-23, Dwarka, Delhi-110075** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format 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 Chartered Accountants at HQ level who has evaluated the fee increase 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 through email. Further, school was also provided opportunities of being heard on 16 August 2018 at 10:00 AM and 5 September 2018 at 10:00 AM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted. Additionally, a visit was made at the school by the Chartered Accountant evaluating the fee increase proposal submitted by the school on 25 Oct 2018 to gather and review information/data relevant for evaluation of the proposal.

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

A. Financial Discrepancies

1. The Manager of the school is not entitled to any payment whatsoever from the school funds. However, from the records submitted by the school and taken on record, it was noticed that the school paid salary of INR 8,57,160 during FY 2014-2015, INR 9,98,008 during FY 2015-2016 and INR 10,82,166 during FY 2016-2017 totalling to INR 29,37,224 to the Manager. During personal hearing, the school explained that it has paid salary to the Manager because she is also acting as full-time General Manager of the school.

Considering that the school has paid salary for the honorary position of Manager, the amount of INR 29,37,224 paid to the Manager during FY 2014-2015 to 2016-2017 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from the Manager/ Society within 30 days from the date of this order. The school is further directed not to pay any amount to the Manager subsequently.

2. Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial

assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." The school was instructed by the Directorate through Order No. F. DE-15/ACT-I/WPC-4109/PART/13/887 dated 4 September 2017 to make provision for gratuity based on actuarial valuation as required by Accounting Standard 15 issued by ICAI.

While the school has obtained actuarial valuation report regarding its liability towards retirement benefits (gratuity and leave encashment) as on 31 Mar 2017, the provisions made by the school for retirement benefits in its financial statements for FY 2016-2017 were not in agreement with the actuarial valuation report. The school under-recorded the provision for Gratuity as detailed below:

| Head | As per Actuarial Valuation of 31 Mar 2017 (INR) | Provision created in books of account of school as on 31 Mar 2017 (INR) | Short Provision Amount (INR) |
|----------|---|---|------------------------------|
| Gratuity | 1,11,75,167 | 72,73,708 | 39,01,459 |

The school explained that short provision was made in view of huge deficit of the school in the last two years. The school is hereby directed to ensure that the provision of retirement benefits in its books of account reconciles with the liability determined in actuarial valuation report.

Further, it was noted that the school has not obtained any actuarial valuation of its liability towards leave encashment. Also, the school has not created any provision in books of account regarding its liability towards leave encashment. The school is also directed to obtain actuarial valuation for leave encashment and record its corresponding provision in its books of account.

This being the first time the school has obtained the actuarial valuation of its liability towards gratuity, and has deposited an amount of INR 31,59,682 with LIC in group gratuity cash accumulation plan during FY 2016-2017. The value of investment made with LIC by the school has been considered for deriving the fund position of the school (enclosed in the later part of this order) for the FY 2017-2018, as it is the year of implementation of recommendations of 7th CPC. The remaining balance of liability should be invested in plan-assets that qualify as 'Plan Assets' as per AS-15 over the period of next five years.

B. Other Discrepancies

1. As per clause (ii)(c) of Para 47 of Guidance Note 21 issued by the Institute of Chartered Accountants of India, "if a non-monetary asset is received free of cost, it should be recorded at a nominal value of INR 1". It was noticed that the school had capitalised the building and buses in its books of account during FY 2016-2017 amounting INR 3,96,42,691 and INR 33,89,372 respectively by creating a corresponding 'Corpus Fund' of equivalent amount and reflected the same on the liabilities side of the financial statement for FY 2016-2017. The school explained that these assets have been transferred to the school by the society on account of which these assets were capitalised by the school at the depreciated value of these

assets in the books of account of the society. However, the school did not submit any evidence of transfer of ownership in the name of the school for the assets capitalised by it or the documentation relating to value of the assets.

Also, from the audited financial statements of the school for FY 2016-2017, it was noted that the school charged depreciation on building and buses and reported the same as expense in the income and expenditure account. Thus, resulting in charging of depreciation on assets not owned by the school.

The school has not followed the accounting treatment reported in Guidance Note 21 as mentioned above. Accordingly, the school is instructed to reverse the entry of capitalisation of building & buses and depreciation charged on building & buses from its financial statements. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

2. The school had collected increased fee from students of class 4th in FY 2016-2017, class 4th & 5th in FY 2017-2018 and class 4th to 6th in FY 2018-2019 without prior approval of the Directorate. Whereas, post evaluation of fee increase proposal for FY 2016-2017 submitted by the school, the school was directed not to increase the fee vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/887 dated 4 September 2017. The school explained that there is no increase in the fee paid by these students (of class 4 in FY 2016-2017 promoted to class 5 in FY 2017-2018 and then promoted to class 6 in FY 2018-2019) as compared with the fee paid by them in previous classes. The school further explained that it did not decrease the fee after the students were promoted to next class and has submitted the proposals for fee increase to DOE accordingly. The school is directed not to increase the fee of any class without prior approval of the Directorate.

The fee collected by the school has been duly considered while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order).

3. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/13/ 887 dated 4 Sep 2016 issued to the school post evaluation of the proposal for fee enhancement for FY 2016-2017 included an observation regarding Fixed Assets Register not maintained by the school. The school is yet to prepare the Fixed Assets Register (FAR) for keeping track of fixed assets purchased by it. The school should prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place.

During the personal hearing, school mentioned that it will start preparing FAR from FY 2018-2019 onwards. The school is directed to prepare the FAR with relevant details mentioned above. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."

Para no. 22 of Order No. F.DE./15(56)/ Act/2009/778 dated 11 Feb 2009 states "Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."

Sub-rule 3 of Rule 177 of DSER, 1973 states "Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levies in the form of transport fees and swimming fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been incurring losses (deficit) which has been met from other fees/income. This was also mentioned in DOE's order No. F. DE-15/ACT-I/WPC-4109/PART/13/887 dated 4 September 2017. Details of calculation of deficit, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

| Earmarked Fee | Income (INR) | Expenses (INR) | Surplus (INR) |
|---------------|--------------|----------------|---------------|
| | A | B | C=A-B |
| Transport Fee | 1,04,03,100 | 1,05,04,475* | (1,01,375) |
| Swimming Fee | 7,05,500 | 7,51,500 | (46,000) |

* Includes depreciation on vehicles

The school explained that no surplus was earned from any of the earmarked levy collected by the school, hence, the school did not maintain separate fund for earmarked fee.

The school is hereby directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from

students. Unintentional surplus/ deficit, if any, generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and ensure that earmarked levies are collected on no-profit no-loss basis.

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 INR 9,71,68,526 out of which cash outflow in the year 2017-18 is estimated to be INR 11,34,56,849. This results in net deficit of INR 1,62,88,323. The details are as follows:

| Particulars | Amount (INR) |
|--|---------------------|
| Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017) | 29,60,419 |
| Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017) | 39,20,080 |
| Total Liquid Funds Available with the School as on 31 Mar 2017 | 68,80,499 |
| Add: Fees and other incomes for FY 2017-2018 (as per the audited financial statements of FY 2017-2018 submitted by the school) | 9,12,70,883 |
| Add: Recovery of salary paid to Manager during FY 2014-2015 to 2016-2017 from society [Refer Financial Finding No. 1] | 29,37,224 |
| Estimated Availability of funds for FY 2017-2018 | 10,10,88,606 |
| Less: Specific funds (with DoE and CBSE) | 7,60,398 |
| Less: Retirement Benefits - Gratuity Fund [Refer Financial Finding No. 2] | 31,59,682 |
| Net Estimated Funds Available for FY 2017-2018 | 9,71,68,526 |
| Less: Expenses for FY 2017-2018 (as per the audited financial statements of FY 2017-2018 submitted by the school) [Refer Note 1] | 9,85,79,778 |
| Less: Arrears of salary as per 7th CPC for the period Jan 2016 to March 2018 (as per the computation of 7th CPC submitted by the school) | 1,48,77,071 |
| Estimated Deficit | 1,62,88,323 |

Notes:

1. Per the audited financial statements for FY 2017-2018 submitted by the school, the school had incurred total expenditure (both revenue and capital) during the FY 2017-2018 of INR 10,81,28,475 (excluding arrears of salary as per 7th CPC amounting INR 1,48,77,071, which has not been recorded in its audited financial statements). All the expense heads as per the audited financial statements of FY 2017-2018 have been considered. However, the following two adjustments were made in the expenses for FY 2017-2018 before considering in the fund position:

| Particulars | FY 2016-2017 | FY 2017-2018 | Amount allowed | Amount Disallowed | Remarks |
|--------------|--------------|--------------|----------------|-------------------|---|
| Depreciation | 70,10,238 | 70,42,740 | - | 70,10,238 | Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered. |

| Particulars | FY 2016-2017 | FY 2017-2018 | Amount allowed | Amount Disallowed | Remarks |
|--|--------------------|------------------|-------------------|----------------------|--|
| Retirement benefits- gratuity provision | 42,49,260 | 25,05,957 | - | 25,05,957 | The school has only created a provision without actually depositing any amount with LIC during FY 2017-2018. Hence, the provision has not been considered. |
| Total | 1,12,59,498 | 95,48,697 | - | 95,48,697 | |

- ii. It seems that the school may not be able to meet its budgeted expenses from the existing fee structure and accordingly, it should utilise its existing funds/reserves and other resources. In this regard, Directorate of Education has already issued directions to the schools vide circular no. 1978 dated 16 Apr 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 instructions 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 materials were put before Director of Education for consideration and who after considering all material on record has found it appropriate to allow increase in tuition fee by 15% with effect from April 2019.


Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **Basava International School (School ID-1821222), Site no. 1, Sector 23, Dwarka Delhi-110075** has been accepted by the Director of Education with effect from April 2019 and the school is hereby allowed to increase 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 prescribed percentage from the specified date.
2. To rectify the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
3. To ensure implementation of recommendations of 7th CPC in accordance with Directorate's order dated 25 Aug 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. 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.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 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

To:

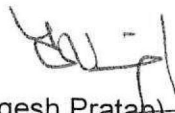
The Manager/ HoS
Basava International School
School ID 1821222
Dwarka, Delhi-110075

No. F.DE.15 (264)/ PSB/ 2019/ 1380 - 1384

Dated: 29/03/2019

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 Spl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


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