

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

No. F.DE.15 (638)/PSB/2018/ 30502 - 506

Dated: 14/12.2018

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, **Max Fort School, Sector-7,Dwarka,New Delhi-75 (School Id: 1821225)** 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 in this process of evaluation, necessary records and explanations were also called from the school vide email dated April 05, 2018. Further, school was also provided an opportunity of being heard on June 27, 2018 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.

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. In respect of earmarked levies, school is required to comply with:
 - a. 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;
 - b. Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
 - c. 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 transportation charges, computer fees, meal charges, health & hygiene charges and earmarked levies 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 generated surplus on transportation charges, computer fees, meal charges, health & hygiene charges and deficit on account of earmarked levies. Further, the school is not following the

fund-based accounting in respect of these earmarked levies collected from the students. Therefore, the surplus/deficit arising in respect of these earmarked levies needs to adjusted against General Fund by school.

II. In FY 2014-15, 2015-16 and 2016-17, following irregularities were noted:

- a. In response to discussion held on 27th June, 2018, school has submitted statement of utilization of development fee for the following, however on review of fixed asset schedule, assets purchased out of development fund during FY 2014-15, 2015-16 and 2016-17 were not reflected on the face of balance sheet and thus the financial statement are not prepared by the school in proper manner in accordance with the generally accepted accounting principles. Details of utilization are as under:

(Figures in Rs.)	
Particulars	Amount
FY 2014-15	
Furniture & Fixtures	1,35,15,349
FY 2015-16	
Furniture & Fixtures	1,16,63,882
FY 2016-17	
Furniture & Fixtures	1,74,67,998
Projector & LCD Boards	9,31,403
Computers & Printers	6,47,147
Science Lab Equipment	5,29,315
Swings & Sports Equipment	14,96,166
Water Dispenser	3,73,500
Building Maintenance	3,39,188
Total	4,69,63,948

- b. The school is also not charging depreciation on assets acquired out of development during FY 2014-15 to 2016-17.

Further, on review of Fixed assets register and copy of invoices of the purchase it is noted that the Fixed assets register was not maintained in proper manner. Quantitative details, type of assets, nature of assets, depreciation charged and location of assets have not been mentioned in the fixed assets register. Even the complete Fixed assets register was not submitted. Accordingly, school is directed to prepare its Fixed assets register in proper manner and to submit the same along with physical verification report (duly conducted by an independent Chartered Accountant) with its fee proposal for the next year.


- III. As per Section 18(4) of DSEA, 1973, Income derived by unaided schools by way of fees shall be utilised only for such educational purposed as may be prescribed. However, in FY 2015-16 and 2016-17 the school has utilised school fund for purchase of Luxury cars namely Ecosport and XUV-500 for Rs. 10,64,700 and Rs.

15,37,000 respectively. Purchase of luxury cars cannot be construed as expenditure for educational purposes. Therefore, these amounts are recoverable from society and the same has been considered as fund available with the school.

- IV. In FY 2014-15, FY 2015-16 and FY 2016-17, the school has paid remuneration to School Director amounting Rs.12.30 lacs, 13.50 lacs and 14.74 lacs respectively. The post of director is not defined under the recruitment rules for the government and government aided school and therefore, the amount paid to Director cannot be allowed. Thus, this amount is to be recovered from the society. Therefore, the aforesaid amount, which has already been paid from the school's funds, is to be adjusted from General Reserve by school and has been considered as fund available with the school.
- V. As per clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11/02/2009, no caution money / security deposit of more than five hundred rupees shall be charged. However, the school has collected transport deposit from students during FY 2014-15, 2015-16 and 2016-17 as security deposit for bus. Therefore, the school should discontinue such levy.
- VI. 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.

Also, as per Rule 177 of DSER, income derived by an unaided 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;
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- d) Co-curricular activities of the students;
- e) Reasonable reserve fund, not being less than ten percent, of such savings.

However, in FY 2015-16 and 2016-17, school has utilized school fund for Building amounting to Rs.5,00,03,684 and Rs. 93,37,812 respectively in contravention of aforesaid clause 2 of Public Notice and Rule 177 of DSER, 1973. Therefore, these amounts are recoverable from society as it is responsibility of society who has established the school and have been considered as part of fund available with the school.

- VII. 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. However, school has utilised its funds for repayment of loan taken for purchase of Bus despite of having deficit in all three financial years. During the last three financial years the School has paid Rs.64,83,113 towards principal amount of loan and Rs.20,21,299 towards interest thereon from the school fund without complying with the requirement of Rule 177 of the DSER, 1973. Therefore, it is now recoverable from society and has been considered as part of fund available with the school. Therefore, school is directed to make necessary adjustments in General Fund and to recover this amount from society. Summary of repayment of loan and interest thereon are given below:

(Figures in Rs.)

Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	11,53,594	28,52,294
FY 2015-16	3,87,446	19,95,033
FY 2016-17	4,80,259	16,35,786
Total	20,21,299	64,83,113

Apart from the aforesaid loan, school has also taken overdraft facility from bank and unsecured loan from individuals and societies. The purpose of these loans have not been explained or justified by the school and school funds also been utilised for the purpose of interest paid on these loans. In the absence of details of purpose of loan, repayment of loan has not been added back in the funds available while the interest paid thereon is an additional burden on the school funds and therefore, the same may be recovered from the society. School is directed to make necessary adjustments in General Reserve and to recover the interest amount from society. The details of these loans and interest paid thereon are as follows:

(Figures in Rs.)

Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	6,75,383	-

Particulars	Interest paid during the year	Amount of loan repaid
FY 2015-16	5,63,753	74,52,047
FY 2016-17	20,94,353	2,52,26,879
Total	33,33,489	3,26,78,926

VIII. It is also noted that the school has taken term loan from Axis Bank amounting Rs. 300,82,192 in FY 2016-17 for capital expenditure. Major part of additions in buildings have already been made in FY 2015-16. Thus, it is clear that school funds have been utilised for capital expenditure and new loan has been taken for future capital expenditure. As per Rule 177 of DSER, 1973 read with 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 and should come out of the savings of the school only. Thus, repayment of loan for capital expenditure and charging of interest thereon has implication on the school funds which is in contravention of aforesaid Rule and order. School may be directed to follow Rule 177 and not to incur any capital expenditure out of the said new loan. Also, no burden of interest on loan can be allowed to be made out of school funds.

IX. As per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprise 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 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 "Health and Hygiene charges" 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 the head of "Health and Hygiene charges".

Other Irregularities:

- I. The school is charging depreciation rates as per the Income Tax Act, 1961 instead of depreciation rates recommended in Appendix 1 to the Guidance Note 21 "Accounting by School."

- II. The school has made provisions for Gratuity and leave encashment for non teaching staff on the basis of management estimate and not on the basis of actuarial valuation, as required by Accounting Standard (AS)-15 issued by ICAI. Thus, there could be an impact on the financials of the school, had the provision been done on the basis of actuarial valuation. In the absence of the actuarial valuation report, the same could not be quantified and therefore, has not been considered in the calculation of fund availability of the school.
- III. As per clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11/02/2009, Caution money collected by the school shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving from the school along with interest thereon. But the school has refunded only the amount of caution money to the students at the time his/ her leaving from the school in contravention of the aforesaid clause.
- IV. As per audited financial statements of the school it is noted that the 'Establishment Expenditure' incurred is lower than 'Other Expenditures' incurred by the school. It is generally noted that in school major expenditure of the school is related to establishment expenses paid to staff of the school. Thus, the school is directed to look into the details of its expenditure in coming years.
- V. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 which provides for 25% reservation to children belonging to EWS/DG category. The admission allowed under EWS/DG category in FY 2014-15, FY 2015-16 and FY 2016-17 is as under.

Particulars	FY2014-15	FY2015-16	FY2016-17
Total students	2354	2506	2735
Total number of EWS	173	186	209
% of EWS to total number of students	7.35%	7.42%	7.64%

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 Rs. 36,52,52,772 out of which cash outflow in the year 2017-18 is estimated to be Rs.28,79,20,406. This results in surplus of funds amounting to Rs. 7,73,32,366. The details are as follows:

Particulars	Amount (Rs.)
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	39,38,590
Investments as on 31.03.17 as per audited Financial Statements	9,09,956
Less: Fixed Deposit in the joint name of DOE and manager, Maxfort	

Particulars	Amount (Rs.)
School	4,12,941
Less: Fixed Deposit in the joint name of CBSE and manager, Maxfort School	4,97,015
Add: Amount recoverable against Building	5,93,41,496
Add: Amount recoverable against Luxury Car- (Eco-sport and XUV)	26,01,700
Add: Interest disallowed against loan on School Bus	20,21,299
Add: Amount recoverable against Bus loan	64,83,113
Add: Amount recoverable against Salary paid to Director in FY 2014-15	12,30,000
Add: Amount recoverable against Salary paid to Director in FY 2015-16	13,50,000
Add: Amount recoverable against Salary paid to Director in FY 2016-17	14,74,500
Add: Interest paid on Other loans during FY 2014-15, 2015-16 and 2016-17	33,33,489
Total	8,17,74,187
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)	28,14,87,813
Other income for FY 2016-17 as per audited Financial Statements	19,90,772
Estimated availability of funds for FY 2017-18	36,52,52,772
Less: Budgeted expenses for the session 2017-18 (after making adjustment) (Note 1, 2 and 3)	28,79,20,406
Net Surplus	7,73,32,366

Adjustment:

Note 1: The school has made provisions for Gratuity and leave encashment for non-teaching staff 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. In the absence of the actuarial valuation report, the same could not be considered in the above calculation.

Note 2:

- a) 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 and creation of 10% reserve. However, school has utilised its funds for repayment of loan against Bus despite of having deficit in all three years. Therefore, proposed interest on loan amounting Rs. 1,20,00,000 has not been considered in the evaluation of fee increase proposal for FY 2017-18.

- b) Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17 or has proposed new head of expenditures which was not there in the FY 2016-17, for which the school has neither provided any reasons for such unusual increase nor it has provided any explanation/ justification. Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10% and expenditure under new heads has/have not been considered in the evaluation of fee increase proposal. The details of such expenditure are as under:

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Difference	%Change	Amount disallowed in excess of 10%
Sports Expense	19,99,308	87,50,000	67,50,692	338%	65,50,761
Computer & Projector Maintenance	24,90,214	80,00,000	55,09,786	221%	52,60,765
Total	44,89,522	1,67,50,000	1,22,60,478	273%	1,18,11,526

Note 3: The school has proposed capital expenditure amounting Rs. 3,90,00,00 for construction of Building which has not been considered in the evaluation of fee increase proposal in accordance with the clause 2 of public notice dated 4 May, 1997 and Rule 177 of DSER, 1973.

- 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.

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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 is to recover Rs. 7,78,35,597 from society on account of loan repayment, building construction, interest payments, purchase of luxury car as already been mentioned in this order. 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 **Max Fort School, Sector-7, Dwarka, New Delhi-75 (School Id: 1821225)** 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:

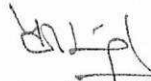
1. Not to increase any fee in pursuance to the proposal submitted by school for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the 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.



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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

To
The Manager/ HoS
Max Fort School,
Sector-7, Dwarka, New Delhi-75
(School Id: 1821225)

No. F.DE.15 (138)/PSB/2018/ 30502-506

Dated: 14.12.2018

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