

127

1497

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

No. F. DE-15(417)/PSB/2018/30060-65

Dated: 30/11/18

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 Private Unaided Recognised 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 their online fee increase proposals 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 term, if any, in the letter of allotment regarding the increase of fee by all the Unaided Recognized 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 Recognised 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.

y

S.W-B

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate **MR Vivekananda Model School, Sector 13 Dwarka, New Delhi (School Id: 1821229)** 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, a very rigorous and systematic process of evaluation has been followed by this Directorate by appointing team of 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 3, 2018. Further, school was also provided opportunity of being heard on June 13, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and clarification on various issues noted. However, neither the school submitted any documents nor anyone on behalf of school appeared for the hearing. Further opportunity to the school was given to represent its case by rescheduling the hearing on June 15, 2018. However, on the same date school has sent a letter requesting for an extension. As a result, school was given a new date for hearing on 2nd July, 2018, but once again no one on behalf of the school appeared for the hearing.

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

Financial Irregularities

- I. On review of audited financial statements for the FY 2014-15, FY 2015-16 and FY 2016-17, it was observed that the school has treated Development Fee as revenue receipts. However, as per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, Development Fee, if required to be charged shall be treated as capital receipt. Hence, the same is in contravention of above order. Details of the development fee charged to the students is as below:

2014-15	2015-16	2016-17
42,79,754	47,98,208	51,66,628

- II. Further, as per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, Development Fee, if required to be charged shall be treated as capital receipt and shall be collected only if the school is maintaining Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts. However, on review of audited financial statements for the FY 2014-15, FY 2015-16 and FY 2016-17, it was also observed that the school

has not maintained Depreciation Reserve Fund which is in contravention of abovementioned order.

- III. As per financial statements for the FY 2014-15, the school has a closing balance of unsecured loan for Rs.27,78,555 out of which Rs. 26,57,555 is repaid in the FY 2015-16. However, the same could not be traced in the Receipts and Payments account for the FY 2015-16. Further, the closing balance of unsecured loans as per the financial statements of the FY 2015-16 which was repaid in the FY 2016-17 was also not appearing in the Receipts and Payments account for the FY 2016-17. In the absence of the details provided by the school, the authenticity and purpose of such loan cannot be verified. Hence, the school is hereby directed to provide all the relevant details and documents pertaining to the above-mentioned transactions.
- IV. As per the accounting principles the closing balance of the previous year should match with the opening balance of the following year. However, on review of the financial statements, it has been observed that the closing general reserve balance of the FY 2015-16 amounting to Rs.2,25,10,175 was not correctly carried forward as the opening balance of the FY 2016-17 amounting to Rs.2,31,28,054. This results in difference of Rs 6,17,879. The school is required to explain the reason for such difference.
- V. The school is required to explain the below mentioned contradictions observed between the details provided along with the proposal as compared to the documents provided during the hearing.
 - a. According to the documents provided along with the proposal, the school has made additions in investments of Rs.3,69,254 in FY 2016-17. However, no such investments are made as per the receipts and payment account for the FY 2016-17 shared during the hearing.
 - b. As per details provided by the school along with the proposal, it has shown FDRs of Rs.17,34,269 against Gratuity Fund and Rs.6,54,451 against leave encashment Fund. However, no provisions are made in the financial statements for gratuity and leave encashment

Other Irregularities

- I. The school has submitted statement of FDRs according to which it has investments against Depreciation Reserve Fund, Gratuity Fund, Caution Money Fund, Transport Fund, Staff Welfare Fund, Students' Welfare Fund, Gratuity Fund, EL Encashment Fund. However, neither these Funds are appearing in the financial statements nor any copy of FDRs were furnished by the school in this regard. Hence, school is hereby directed to provide details pertaining to the above-mentioned transactions.
- II. 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 Rs.500 per student shall be charged. The caution Money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, on review of audited financial statements for the FY 2014-15, FY 2015-16 and FY 2016-17, it was observed that the school is treating the caution money collected from the students as its income during the year and no liability

is created for the same in the financial statements. Details of the caution money collected from the students is as below:

2014-15	2015-16	2016-17
1,18,000	1,13,500	1,32,500

Hence, school is hereby directed to adhere to the requirements mentioned in the aforesaid act.

III. The school is not preparing its Financial Statements in accordance with formats prescribed in order dated 16.04.2016. Hence, school is hereby directed to adhere to the format mentioned in the aforesaid order.

IV. A Letter was sent to school on 3rd April 2018 to provide the additional documents. However, no response was received from the school. Further, the school was also called for hearing on various dates as mentioned above at Directorate of Education premises. However, it was noticed that no one on behalf of school appeared for the hearing. Hence, the school is required to furnish details and explanations pertaining to the below mentioned points:

- a. Original fee receipts issued during the financial year 2014-15, 2015-16 and 2016-17 for each class (at least 2 students);
- b. Copy of fee collection registers for the financial year 2014-15, 2015-16 and 2016-17;
- c. Item-wise details/breakup/justification for the proposed increase (or decrease) for all revenue expenditures and capital expenditures as per budgeted statement for session 2017-18 against actual expenditure incurred during 2016-17 along with relevant documents to substantiate its claim;
- d. Copy of FDRs certificate maintained by the school as on 31.3.2017;
- e. Copy of salary payment register (or Pay bill register) for two months before implementation of 7th CPC and two months after implementation of 7th CPC along with proof of disbursements of salaries and arrears;
- f. Copy of TDS return and PF return for the financial year 2016-17.
- g. Statement of surplus or deficit in respect of each earmarked levies namely Transportation Charges, Laboratory Fees, Pupil Fund and science fee, IT Charges others showing collection of fee under these heads and expenditure incurred against that.
- h. Copy of Auditors' Report for the financial year 2014-15, 2015-16 and 2016-17.
- i. Why school has not considered its income under head transport fees, science fee, IT fee, fine, caution fee and prospectus and magazines fees etc. in its budget for session 2017-18.
- j. Why Development Fee is increasing in the budget for session 2017-18, whereas in the proposal there is no change in Development Fee?
- k. Does the school maintain separately the collection of Development Fee and income generated from the investment made from Development Fee account is also transferred to Development Fund account? If yes, please provide the details.
- l. Why it should not be considered that school is making substantial profits on continuous basis from the earmarked levies charged from students? Also, why these earmarked levies are utilised for other revenue expenditures?

- m. School needs to submit the detailed calculation of fee collected during the year 2016-17 (i.e. number of student as per EWS scheme/ other students, fee structure, computation of fee for the year 2016-17 etc.)
- n. Whether the school has filed statement of fees by 31st March for the years 2015-16 and 2016-17 before the commencement of the academic session under section 17(3) of the Act? If yes, please provide the details.
- o. Whether school is collecting donation in any name from the students at the time of admission? If yes, please provide the details.
- p. Is there any complaint of parents against school in relation to fee hike? If yes, whether the same has been duly disposed of?
- q. Detailed calculation of late fee/fine collected during the year 2014-15, 2015-16 and 2016-17.
- r. Clarification is required in respect to some expenses such as Annual Functions, Scholarships, expenses, Concessions / EWS, Uniform, Books & Stationery for EWS etc. Which were not incurred in previous year but are proposed in current year.
- s. Clarification is required in respect of some expenditures such as, IT Expenses, Promotional expenses, Student Welfare Expenses, Depreciation etc which are not proposed to be incurred in current year.
- t. Details with respect to the below mentioned large balances:

(Figures in Rs.)

Account	Financial Year	Nature of head	Amount
Receipts and Payments account	2016-17	Expenses Payable	52,12,593
Receipts and Payments account	2016-17	Students welfare	11,17,802
Receipts and Payments account	2016-17	Building Repairs	15,85,311
Receipts and Payments account	2015-16	Repair and maintenance	42,77,405
Receipts and Payments account	2016-17	Students welfare	15,14,075
Receipts and Payments account	2014-15	Expenses Payable	19,93,348
Receipts and Payments account	2014-15	Students welfare	14,50,583

After detailed examination of all the material on record, it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to Rs. 7,65,46,136 out of which cash outflow in the year 2017-18 is estimated to be Rs. 5,43,87,059. This results in surplus of funds amounting to Rs. 2,21,59,077. The details are as follows:

(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	55,50,961	
Add: Investments as on 31.03.17 as per Audited Financial Statements	69,30,283	
Available Funds	1,24,81,244	
Add: Fees of FY2016-17 as per Audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	6,09,53,124	
Add: Other income of FY2016-17 as per Audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	31,11,768	
Estimated Availability of Funds for 2017-18	7,65,46,136	
Less: Budgeted expenses for the FY 2017-18 (after making adjustment)	5,43,87,059	Refer Note 1 and 2
Net Surplus	2,21,59,077	

*As per the details provided by the school along with the proposal, school has earmarked FDRs against various funds but school has not provided any liability against these funds in the financial statements. Hence, it has been considered as free funds for the purpose of evaluation.

Adjustments:

Note 1: The provision for Gratuity amounting to Rs 5,00,000 has not been considered in the budget for FY 2017-18, since the same is not supported by actuarial valuation report

Note 2: In the absence of the details provided by the School, prima facie from the financial of the School, it is evident that the School has considered revenue for FY 2016-17 (net off Concessions / EWS). For evaluating the fund position, we have also considered the same revenue of FY 2016 -17 which is net off Concessions / EWS. Hence, the same is disallowed separately here in the expenditure:

(Figures in Rs.)

Particulars	As per Budget submitted by the School for FY 2017-18
Concessions / EWS	81,66,260
Uniform, Books & Stationery for EWS	10,00,000

- 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 has been recommended by the team of expert Chartered Accountants that since 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 **MR Vivekananda Model School, Sector 13 Dwarka, New Delhi (School Id: 1821229)** 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:

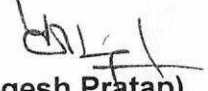
1. Not to increase any fee in pursuance to the proposal submitted by School for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the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

h.

1504

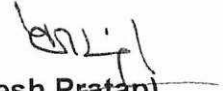
This is issued with the prior approval of the Competent Authority.


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

To
The Manager/ HoS
MR Vivekananda model School,
Sector 13 Dwarka, New Delhi (School Id: 1821229)

No. F. DE. 15(417)/PSB/2018/30060-65 Dated: 30/11/18
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