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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 (263) / PSB / 2019 / 1345 - 1349 Dated: 29/03/19

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, **Adarsh World School (School ID-1821233), Sector-12, 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 an opportunities of being heard on 2 August 2018 at 12:00 PM and 13 August 2018 at 02:00 PM 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 26 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. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such 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*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) 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 the financial fee structure.*"

   Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

The financial statements of the school for FY 2014-2015, FY 2015-2016 and FY 2016-2017 revealed that the school has incurred expenditure on construction of building out of school funds and has capitalised building totalling to INR 1,22,79,154 in the aforesaid financial years, which is not in accordance with the aforementioned provisions. Also, these capital expenditures were incurred on the building without complying the requirements prescribed in Rule 177 of DSER, 1973.

Further, order No. F.DE.-15/ ACT-I/ WPC-4109/ PART/13/ 461-465 dated 2 Feb 2017 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that the bifurcation of expenditure on construction and repair of building between revenue & capital was not properly done. It was further noted that the school had reported expenditure on repairs of building amounting to INR 17,20,810 during FY 2015-2016, which was identified as labour cost incurred and was related to construction of the building/ lab. The school explained that along with certain expenses relating to salary of school staff, the labour cost in relation to construction/repair of building was paid by the Society on account of which Society's ledger was credited in the School's books of account.

Based on the explanation provided by the school, the amount reflected as additions to building of INR 1,22,79,154 and INR 17,20,810 towards labour charges/repairs has been considered as capital expenditure, which after adjustment of the liability towards Society reported in the audited financial statements of the school as on 31 Mar 2017 of INR 22,67,134 resulting in net balance of INR 1,17,32,830 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 Society within 30 days from the date of this order.

2. Clause 14 of DoE's Order No. F.DE./15 (56) /Act /2009 / 778 dated 11 Feb 2009 states "*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 investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

From the audited financial statements of FY 2016-2017, it was noted that the school adjusted the amount of depreciation on development fund assets directly from 'fund against asset account' and did not charge depreciation on the assets purchased from development fund in the Income and Expenditure Account with corresponding increase in the depreciation reserve. Accordingly, the school did not comply with the requirements of clause 14 of the afore cited order by not transferring depreciation charged in the revenue accounts to depreciation reserve. Thus, no adjustment has been made in the fund position of the school (enclosed in the later part of this order) in respect of development fund. The school is directed to ensure compliance to the aforementioned order and not to charge development fund from students till the time compliance is ensured.

Also, it was noted that the school had incurred expenditure on construction of building of INR 2,74,000 and purchase of library books of INR 22,943 during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the direction included in above order. Also, refer financial discrepancy no. 1 above. The school is directed to follow DOE instruction in this regard and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment.

B. Other Discrepancies

1. Clause 19 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities.*"

   Further clause 21 of the aforesaid order states "*No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.*"

   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 fee, smart class fee, lab charges, web development charges and activity charges 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. 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/ (Deficit) (INR)**
	A	B	C=A-B
Smart Class Fee	17,89,885	18,75,022	(85,137)
Lab charges	2,17,800	4,09,320	(1,91,520)
Transport Fee^*	37,27,774	45,31,400	(8,03,626)
Web Development Charges*	1,80,929	3,88,129	(2,07,200)
Activity Charges*	19,89,528	20,09,009	(19,481)

^ The school has not apportioned depreciation on vehicles used for transportation of students in the expenses stated in table above for creating fund for replacement of vehicles, which should have been done to ensure that the cost of vehicles is apportioned to the students using the transport facility during the life of the vehicles.

* The school did not include/disclose these fee heads in its proposal for fee hike submitted for FY 2017-2018. During personal hearing, school explained that it has stopped providing transport fee from FY 2017-2018 on account of which it did not include the same in the fee structure. However, school mentioned that it missed to mention the other two levies (Activity charges and Web Development) in the proposal, which is part of the fee structure of the school.

On the basis of aforementioned orders, earmarked levies are to be collected only from the user students availing the service/facility. In other words, if any service/facility has been extended to all the students of the school, a separate charge should not be levied for the service/facility as the same would get covered either under tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). The school is charging smart class fee, web development charges and activity charges from the students (including EWS students) of all classes. Thus, the fee charged from all students loses its character of earmarked levy, being a non-user based fees. Thus, based on the nature of the smart class fees, web development charges and activity charges and details provided by the school in relation to expenses incurred against the same, the school should not charge such fee as earmarked fee with immediate effect and should incur the expenses relating to these from tuition fee or annual charges, as applicable. The school has not segregated the incomes and expenses against the earmarked levies on account of which fund balance of earmarked levies could not separated from the total funds maintained by the school. Accordingly, total fees (including earmarked fee) have been included in the budgeted income and budgeted expenses (included those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

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 propose the revised fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies. Also, the school should be careful enough to ensure that it has included all fee and charges collected from students in its proposal for fee increase.

2. Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*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.*"

   Basis the presentation made in the audited financial statements for FY 2016-2017 submitted by the school, it was noted that the school transferred an amount equivalent to the purchase cost of the assets from development fund to 'fund against asset account' and adjusted the amount of depreciation on development fund assets directly from 'fund against asset account' and did not comply with the requirements of Guidance Note. Further, school did not transfer amount from 'fund against asset account' to the credit of the income and expenditure account in proportion to the depreciation charged, which is not as per the accounting treatment as indicated in the guidance note cited above.

   This being a procedural finding, the school is instructed to make necessary rectification entries relating to development fund to comply with the accounting treatment indicated in the Guidance Note.

Order No. F.D- 15/ ACT-I/ WPC-4109/ PART/ 13/ 461-465 dated 2 Feb 2017 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that the general ledgers provided by the school did not contain any opening balance. Further, it was noted that the school had not provided reconciliation of closing balances as appearing in the audited financial statements with the books of accounts. Also, the school had not provided cash book and bank book for review. It was also noted that the school had received voluntary contribution of INR 13,30,000 in cash. Further, it was noted that the school had received loan from Manager in cash.

The school did not provide requisite documents or justification for the above mentioned irregularities. Compliance of the above points will be ensured at the time of evaluation of subsequent fee increase proposal.

4. Order No. F.D- 15/ ACT-I/ WPC-4109/ PART/ 13/ 461-465 dated 2 Feb 2017 issued to the school post evaluation of enhancement of fee for FY 2016-2017 noted that there were information from the parents that the school was collecting fee for picnic, annual show, sports day, festival celebration, etc. for which no receipts were found recorded in the books of accounts.

   The school mentioned that it has not charged any such fee other than the earmarked levies, which are already reported in the audited financial statements of the school. The explanation of the school refute the finding noted in order above. Deputy Director of Education concerned is directed to examine authenticity/genuineness of the claim made by the school and validate that the school is not charging any additional levy/fee/charges from parents, which are not accounted in the books of account of the school and are not reported in its audited financial statements.

5. Review of the proposal for enhancement of fee for FY 2017-2018 submitted by the school indicated that the school has filed incorrect details in respect of existing Annual Charges collected by the school during FY 2016-2017. Refer table below for details of differences noted:

Class	Annual Charges for FY 2016-2017 reported in proposal (INR)	Actual Annual Charges for FY 2016-2017 (INR)
Nursery to 8th	6,199	3,543
9th to 10th	7,048	4,026
11th	11,132	5,445
12th	11,132	5,445

Further, the school did not include/disclose some of the earmarked levies collected by it from students including transport fee, web development charges and activity charges in its proposal for fee hike submitted for FY 2017-2018. During personal hearing, school explained that it has stopped providing transport fee from FY 2017-2018 on account of which it did not include the same in the fee structure. However, school mentioned that it missed to mention the other two levies (Activity charges and Web Development) in the proposal, which is part of the fee structure of the school. Also, there was error in mentioning Annual Charges.

The school should be cautious while submitting details to the Directorate and ensure that such errors are not repeated.

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 6,55,44,520 out of which cash outflow in the year 2017-18 is estimated to be INR 6,55,68,153. This results in net deficit of INR 23,633. The details are as follows:

Particulars	Amount
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	1,895,397
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	919,035
Total Liquid Funds Available with the School as on 31 Mar 2017	**2,814,432**
Add: Fees and other incomes for FY 2017-2018 (as per the audited financial statements of FY 2017-2018 submitted by the school)	52,467,588
Add: Recovery of Building from the Society during FY 2014-2015 to 2016-2017	11,732,830
Gross Estimated Available Funds for FY 2017-2018	**67,014,850**
Less: Retirement Benefits - Gratuity (Investment made in plan asset) (as per audited financial statements of FY 2017-2018)	1,370,236
Less: Retirement Benefits - Leave Encashment (Investment made in plan asset) (as per audited financial statements of FY 2017-2018)	100,094
Net Estimated Funds Available for FY 2017-2018	**65,544,520**
Less: Expenses for FY 2017-2018 (as per the audited financial statements of FY 2017-2018 submitted by the school) [Refer Note 1]	53,196,153
Less: Arrears of salary as per 7th CPC for the period Jan 2016 to Nov 2017 (as per the computation of 7th CPC submitted by the school)	12,372,000
Estimated Deficit	**23,633**

Notes:

1. The school submitted its audited financial statements for FY 2017-2018. Based on the audited financial statements of the school for FY 2017-2018, the school had incurred total expenditure (both revenue and capital) during FY 2017-2018 of INR 5,83,71,056 (excluding arrears of salary as per 7th CPC amounting INR 1,23,72,000 till Nov 2017, 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 with following adjustments before considering in the fund position of the school for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount Allowed	Amount Disallowed	Remarks
Provision for Gratuity	-	34,26,292	-	34,26,292	This is only provision made by the school. Investments made in plan-assets have been considered separately in the fund position. Hence, the provision has not been considered to avoid duplicity.
Provision for Leave Encashment	-	8,28,447	-	8,28,447	
Loss on sale of car	-	11,648	-	11,648	Loss on sale of car does not result in cash outflow. Thus, not considered.
Depreciation	12,73,810	9,08,516	-	9,08,516	Depreciation being a non-cash expense does not result in cash outflow. Hence, it has not been considered
Total	**12,73,810**	**51,74,903**	**-**	**51,74,903**	

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 along with certain financial irregularities that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings which were also 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 5% with effect from April 2019.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **Adarsh World School (School ID-1821233), 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 5%. Further, the management of said school is hereby directed under section 24(3) of DSEA, 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
Adarsh World School
School ID 1821233
Sector-12, Dwarka, Delhi-110075

No. F.DE.15 (263) / PSB / 2019 / 1345-1349 Dated: 29/03/19

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