1168

98

98

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

No. F.DE 15(598)/PSB/2018/30325-29 Dated: 10/12/2018

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.

1169

AND WHEREAS in response to this directorate's circular dated 23 Oct 2017 referred to above **Laxman Public school (School ID- 1923249) Hauz Khas Enclave, New Delhi- 110016** 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 with effect from 1 Jan 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 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 opportunity of being heard on 04 July 2018 at 4:00 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.

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 and site development out of school funds and benevolent funds and has capitalised building and site development totalling to INR 1,66,13,844 in the aforesaid financial years, which is not in accordance with the aforementioned provisions. Further, this capital expenditure was incurred on the building without complying the requirements prescribed in Rule 177 of DSER, 1973. This amount of INR 1,66,13,844 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.

1170

2. Order no. F.DE.-15/ACT-I/ WPC-4109/ PART/ 13/60 dated 23 December 2016 issued to the school post evaluation of proposal for enhancement of fee for FY 2016-2017 noted that while property tax and ground rent were paid to the authorities by the school, lease income from the school building were shared between the school and the society and a majority part was retained by the society. Indirect transfers were made in contravention of clause 8 of order no. DE.15/Act/Duggal.com/203/99/ 23033-23980 dated 15 Dec 1999 and clause 23 of order no. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009, which stipulates that no amount shall be transferred from the recognised unaided school fund of the school to the society or the trust or any other institution.

   It was again noted during FY 2016-2017 that while expenses related to building including repair and maintenance were borne by the school, the income earned from the building was shared in the ratio of 85:15 between the society and the school respectively.

   Based on the documents submitted by the school and taken on record, the break-up of incomes shared between the society and the school for FY 2016-2017 has been presented in table below:

Lessee	Total Income from Lease (INR)	Income retained by the Society (85% of total income)	Income apportioned to School (15% of total income)
L & T	51,18,000	43,50,300	7,67,700
FIITJEE	1,44,583	1,22,896	21,687
Skyline	30,000	25,500	4,500
Talent Invigoration & Sports	79,200	67,320	11,880
Total	**53,71,783**	**45,66,016**	**8,05,767**

   This amount of INR 45,66,016 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.

   Additionally, according to the Perpetual Lease with DDA in respect of the land on which the school has been constructed "*(13) The lessee shall not without the written consent of the lessor carry on, or permit to be carried on, on the said land or in any building thereon any trade or business whatsoever or use the same or permit the same to be used for any purpose other than that of Higher Secondary School or do or suffer to be done therein any act, or thing or whatsoever which in the opinion of the lessor may be nuisance, annoyance or disturbance to the lessor and persons living in neighbourhood. Provided that if the lessee is desirous of using the said land or the building thereon for a purpose other than that of Higher Secondary school, the lessor may allow such charge of user on such terms and conditions including payment of additional premium and additional yearly rent as the lessor may in his absolute discretion determine.*"

   Further, as per Rule 50 - 'Condition for Recognition' of DSER, 1973 states "*(ix) the school buildings or other structures or the grounds are not to be used during the day or night for commercial or residential purposes (except for the purpose of residence of any employee*

1171

of the school) or for communal, political or non-educational activity of any kind whatsoever." Further, order No. DE.15/act/163/98/4940-5939 dated 1 January 2001 states *"It has been observed that a number of managing committees of government aided and unaided schools are using the school premises for commercial purpose in violation of Rule 50(a). The prominent practices of commercial uses are (1) Running of coaching centers / computer classes........ This has been viewed seriously. All the managing committees of government aided and unaided schools are hereby directed to discontinue such practices immediately."* The school premises have been utilised/ leased out by the society for commercial purposes in non-compliance of the above provisions. Further, major part of the income received has been retained by the society, which has to be recovered by the school from the society.

The school is directed to ensure compliance in this regard and ensure that it complies with the terms and conditions of allotment of land by DDA and recognition by DOE.

3. 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."* It was noted that the school was not reflecting correct liability towards retirement benefits and corresponding investment in the books of accounts as per AS 15. The provision created by the school and liability for retirement benefits determined by actuary are enclosed below:

Particulars	**Gratuity**	**Leave Encashment**
Liability determined by actuary as on 1 Feb 2017 (as per actuarial valuation report) [A]	4,99,14,616	*
Total Provision as on 31 March 2017 (as per audited financial statements) [B]	2,66,18,152	1,84,13,560
Under Provisioning of liability as on 31 March 2017 [A-B]	**2,35,82,748**	*
Fund Value of Group Gratuity Scheme with LIC as on 31 March 2017	2,66,18,152	-
Investment in Fixed Deposits with Bank (indicated as earmarked by the school towards retirement benefits) as on 31 March 2017	-	1,00,00,000

* Actuarial valuation not obtained by the school for leave encashment.

While the school did not obtain actuarial valuation of its liability towards staff leave encashment, the school has not matched its liability towards gratuity in its books of account in accordance with the actuarial report.

Further, according to para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "*Plan assets comprise:*

(a) assets held by a long-term employee benefit fund; and
(b) qualifying insurance policies."

Accordingly, the investment in the form of FDR maintained by the school in respect of the liability of the school towards leave encashment does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15 (AS-15). The school is directed to get the actuarial valuation of leave encashment and make the investments that qualify as 'Plan Assets' within 30 days from the date of this order.

Further, it was noted that the school recorded the amount paid towards group gratuity scheme as an expense in its books of account instead of recording the same as investment and did not reflect the fund value of the scheme as on 31 Mar 2017 as an asset in its audited financial statements for FY 2016-2017. Thus, the school has understated both the asset and liability towards retirement benefits in its financial statements for FY 2016-2017. The school is directed to accurately disclose its liabilities on account of gratuity and leave encashment along with corresponding investments in the financial statements.

In absence of actuarial valuation and defined plan-asset for leave encashment, FDR indicated as earmarked by the school towards the same of INR 1,00,00,000 has not been considered while deriving the fund position of the school. However, the expenses towards retirement benefits budgeted by the school for FY 2017-2018 have been considered while deriving the fund position of the school (enclosed in the later part of this order).

4. Rule 177 of DSER,1973 *states "(1) Income derived by an unaided recognised school 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 managing committee for meeting for meeting the capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely:*
   (a) award of the scholarships to students,
   (b) establishment of any other recognised school, or
   (c) 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.

   (2) The savings referred to in sub-rule (1) 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 development nature,
   (c) the expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion or construction of any building or establishment of hostel or expansion of hostel accommodation,
   (d) co-curricular activities of the students,
   (e) reasonable reserve fund, not being less than ten percent, of such savings."

   It was observed that the school had paid INR 2.66 lakhs as scholarships to students during FY 2016-2017, which as per above mentioned rule is inappropriate considering that the school has not complied with the requirements of sub-rule 2 of Rule 177. The school explained that the scholarships were given to meritorious students. The school has paid the scholarship in nonconformity of legal provisions. Accordingly, this amount of INR 2.66

1173

lakhs is hereby added to the fund position of the school (enclosed in 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 and ensure compliance with prescribed rules.

B. Other Discrepancies

1. 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 and NIE Fee from students. However, the school has not maintained separate fund accounts for these earmarked levies and the school has been generating surplus from earmarked levies, which has been utilised for meeting other expenses of the school. Details of calculation of surplus, 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 Fees^	2,09,65,550	1,71,11,068	38,54,482
NIE Fee	9,54,433	6,75,000	2,79,433

^ 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 explained that tuition fee collected from students is not sufficient to meet the establishment cost and annual charges are also not sufficient to meet other revenue expenses of the school. Thus, the surplus generated from earmarked levies has been applied towards meeting establishment cost/revenue expenditure on account of which fund balance of earmarked levies could not be 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 (including those for earmarked purposes) while deriving the fund position of the school (enclosed in the later part of this order).

The school is 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, 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 is directed to evaluate costs against each earmarked levy and propose the fee structure for earmarked levies during subsequent proposal for enhancement of fee ensuring that the proposed levies have been calculated on no-profit no-loss basis.

2. The Directorate of Education, in its Order No. DE.15/Act/Duggal.Com/ 203/99/23033-23980 dated 15 Dec 1999, indicated the heads of fee/ fund that recognised private unaided school can collect from the students/ parents, which include:

- Registration Fee
- Admission Fee
- Caution Money
- Tuition Fee
- Annual Charges
- Earmarked Levies
- Development Fee

Further, clause no. 9 of the aforementioned order states "*No fee, fund or any other charge by whatever name called, shall be levied or realised unless it is determined by the Managing Committee in accordance with the directions contained in this order ......*"

The aforementioned order was also upheld by the Hon'ble Supreme Court in the case of Modern School vs Union of India & Others.

It was noted that the school's fee structure include 'Terminal Benefit Fund', which is collected from the all students and based on the details submitted by the school, utilised for payment of leave encashment to teachers. Details of collection and utilization of Terminal Benefit Fund provided by the school for FY 2016-2017 is included hereunder:

Particulars	Nature	Amount
Terminal Benefit	Income	62,40,000
Leave encashment	Expense	-
Net surplus reflected by school		**62,40,000**

Based on the fact that the fee head of 'Terminal Benefit Fund' has not been defined for recognised private unaided school and the purpose for which the school has indicated it

1175

would be utilised is not appropriate, being leave encashment part of establishment expenses should be borne out of tuition fee. Thus, the school is directed not to collect terminal benefits fund from students with immediate effect. For the purpose of evaluation of the fee hike proposal for FY 2017-2018, the above-mentioned fee has been included in budgeted income while deriving the fund position of the school (enclosed in the later part of this order).

3. Clause 14 of this Directorate'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, upgradation and replacement of furniture, fixtures and equipment.*" Incorrect utilisation of development fund was indicated in this directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/944 dated 4 October 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 submitted by the school.

   Further, it was observed that the school had incurred expenditure on purchase of books of INR 42,186 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.

   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.

4. 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 general reserve instead of accounting treatment as indicated in the guidance note cited above.

   Also, the school has enclosed a consolidated fixed assets schedule giving details of all assets carried over by the school in its audited financial statement for FY 2016-2017 and has not prepared separate fixed assets schedules for assets purchased against development fund and those purchased against general reserve.

   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. Further, the school should prepare separate fixed assets schedule for assets purchased against development fund and other assets purchased against general reserve/ fund.

1176

5. The school has not prepared 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.

6. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus collected 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 the school along with the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   However, the school had not maintained separate bank account for deposit of caution money collected. Also, the school had not treated the un-refunded money as income after the expiry of 30 days from the date of communication to the student to collect the same.

   During the personal hearing, the school mentioned that it has taken all necessary steps in FY 2018-2019 to refund caution money collected from students who have already left the school in the past. Thus, based on the explanation provided by the school, the school is directed to ensure that caution money is refunded or booked as income during FY 2018-2019 and no amount is carried forward on account of caution money pertaining to students who have already left the school. Accordingly, compliance will be evaluated at the time of next fee hike proposal submitted by school.

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 2017-2018 amounting to INR 28,37,63,631 out of which cash outflow in the year 2017-2018 is estimated to be INR 24,01,51,495. This results in net surplus of INR 4,36,12,136. 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)	3,31,96,336
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	6,13,41,219

1177

Particulars	Amount (INR)
Fund Value of Gratuity Fund (Investment with LIC) as on 31 Mar 2017 (as per Certificates of balance of Group Gratuity Scheme from LIC) [Refer Financial Finding No. 3]	2,66,18,152
Total Liquid Funds Available with the School as on 31 Mar 2017	**12,11,55,707**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	18,96,89,237
Add: Recovery from society towards additions to Building & Site Development during from FY 2014-2015 to 2016-2017 [Refer Financial Finding No.1]	1,66,13,844
Add: Recovery of rent & lease income retained by LPS society [Refer Financial Finding No.2]	45,66,016
Add: Scholarship paid to students in non-conformity of prescribed Rules to be recovered from Society [Refer Financial Finding No. 4]	2,66,000
Gross Estimated Available Funds for FY 2017-2018	**33,22,90,804**
Less: Development Fund [Refer Note 2]	1,73,85,279
Less: Designated investments (CBSE Fund and Mahindra Education Corpus Fund)	9,88,306
Less: Retirement Benefits - Gratuity Fund [Refer Financial Finding No. 3]	2,66,18,152
Less: Retirement Benefits - Leave Encashment [Refer Financial Finding No. 3]	-
Less: Caution Money Fund (as per audited financial statements of FY 2016-2017)	35,35,436
Net Estimated Available Funds for FY 2017-2018	**28,37,63,631**
Less: Budgeted Expenses for the FY 2017-2018 [Refer Note 3]	22,07,37,229
Less: Provision for arrears of salary as per 7th CPC from January 2016 to March 2017 (as per audited financial statements of FY 2016-2017)	1,94,14,266
Net Surplus as on 31 March 2018	**4,36,12,136**

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.

2. The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "*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.*" Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 5,86,18,685 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacement of furniture and fixtures and equipment

has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in one year (FY 2016-2017) from students has been considered for deriving the fund position of the school, which is considered sufficient basis the spending pattern of the school in past.

3. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 of INR 20,32,76,161 (excluding arrears for salary as per 7th CPC, which is considered separately), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, all (except one) of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. Further, during review of budgeted expenses it was noticed that expenses against earmarked levies had not been budgeted, which were added to the budgeted expenses of FY 2017-2018 based on expense incurred during FY 2016-2017. The same were discussed during personal hearing with the school. Therefore, the following expenses were adjusted for deriving the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount Disallowed (A)	Amount allowed (B)	Net Adjustment (A-B)	Remarks
Scholarship	2,66,000	3,25,000	3,25,000	-	3,25,000	Refer Financial Finding No. 4
Transport	1,71,11,068	-	-	1,71,11,068	(1,71,11,068)	Expenses against earmarked levies were not budgeted by the school. Based on discussion with the school, expenses reported in FY 2016-2017 have been considered with the assumption that the school would require similar amount for providing the services against earmarked levy.
NIE Payment	6,75,000	-	-	6,75,000	(6,75,000)	
Total	**1,80,52,068**	**3,25,000**	**3,25,000**	**1,77,86,068**	**(1,74,61,068)**	

In view of the above examination, it is evident that the school has sufficient funds for meeting the budgeted expenditure for the financial year 2017-2018.

ii. The directions issued by the Directorate of Education vide circular no. 1978 dated 16 Apr 2010 states *"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."* The school has sufficient funds to carry on the operation of the school for the academic session 2017-2018 on the basis of existing fees structure and after considering existing funds/reserves.

As per direction no. 2 of Public Notice dated 4 May 1997, it is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.

1179

Thus, the additions to the building should not be met out of the fee collected from students and is required to be recovered from the society.

Whereas per Rule 50 - 'Condition for Recognition' of DSEAR 1973 states "(ix) the school buildings or other structures or the grounds are not to be used during the day or night for commercial or residential purposes (except for the purpose of residence of any employee of the school) or for communal, political or non-educational activity of any kind whatsoever." Further, order No. DE.15/act/163/98/4940-5939 dated 1 January 2001 states "It has been observed that a number of managing committees of government aided and unaided schools are using the school premises for commercial purpose in violation of Rule 50(a). The prominent practices of commercial uses are (1) Running of coaching centers / computer classes........ This has been viewed seriously. All the managing committees of government aided and unaided schools are hereby directed to discontinue such practices immediately". School premises have been utilised leased out by the society for commercial purposes in non-compliance of the above provisions. Further, major part of the income received has been retained by the society, which has to be recovered by the school from the society.

Whereas per point no. 22 of Order No. F.DE./15 (56)/Act/2009/778 dated 11 Feb 2009, user charges should be collected at 'no profit and no loss' basis and should be used only for the purpose for which these are collected. The school has continued to charge earmarked fee higher than the expenses incurred against science and practical fees whereas the expenses incurred are more than transport charges collected from students. The school has utilised the surplus earned for meeting the establishment expenses and deficit on transport charges. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levy charged from the students in accordance with the DSEA & R, 1973 and orders, circulars, etc. issued thereunder. Surplus under each earmarked levy collected from the students should be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019.

And whereas per point no. 14 of Order No. F.DE./15(56)/ACT/2009/778 dated 11 Feb 2009, 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, fixture 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 deprecation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained development fund account. The school is advised to comply with the directions with regard to proper accounting and presentation of Development Fund in the School's financial statements and utilisation of development fund only towards purchase of furniture, fixtures and equipment.

And whereas 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." Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies.

The school has been directed to ensure compliance with Accounting Standard 15 including measurement of its liability towards retirement benefits of the staff by a qualified actuary and making the investment against the liability so determined in the mode specified under the said Accounting Standard.

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 funds available with the school for implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-2018 are sufficient. Accordingly, the fee increase proposal of the school may be rejected.

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 that the school has sufficient funds for meeting the financial implications of 7th CPC salary and other expenses for the financial year 2017-2018. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2017-2018.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2017-2018 of **Laxman Public school (School ID- 1923249) Hauz Khas, New Delhi- 110016** has been 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/charges during FY 2017-2018. In case, the school has already charged increased fee during FY 2016-2017 or FY 2017-2018, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To communicate with the parents through its website notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.

3. To rectify the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA 1973.

5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER 1973 and orders and directions issued by this Directorate from time to time.

1181

6. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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 the 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
Laxman Public School
School ID- 1923249
Hauz Khas Enclave,
New Delhi- 110016

No. F.DE.15(598)/PSB/2018/30325-29 Dated: 10/12/2018

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

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