

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

No. F.DE.15(595)/PSB/2018/ 30337-30341

Dated: 11/12/2018

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.

AND WHEREAS in response to this directorate's circular dated 23 Oct 2017 referred to above, **Birla Vidya Niketan (School Id: 1923250), Pushp Vihar-IV, Delhi - 110017** 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 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 expert 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.

WHEREAS, the team of Chartered Accountants have referred to the Directorate's "previous orders" (No. F. DE-15/ACT-1/WPC-4109/PART/13/522-526 dated 27 Feb 2017 and No. F.DE-15/ACT-I/WPC-4109/PART/13/895 dated 15 Sep 2017) issued to **Birla Vidya Niketan (School Id 1923250), Pushp Vihar-IV, Delhi - 110017** in relation to evaluation of the proposal for enhancement of fee for the academic session 2016-2017, wherein it was mentioned that the compliances to the instructions/directions given in the said orders will be seen/examined during the scrutiny of fee hike proposal for session 2017-2018 including recovery of amounts from its Society.

AND WHEREAS, necessary records and explanations with regard to compliance by the school of the instructions/ directions included in previous orders were called from the school through email. Further, school was also provided an opportunity of being heard on 7 June 2018 at 11:00 AM to present its justifications/ clarifications on the status of its compliance to the instructions/directions included in the previous orders 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 status of the compliance to the instructions/directions included in the previous orders are as under:

A. Financial Discrepancies:

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1.	<p>As per Rule 176 of DSEA & R, 1973 and Clause 22 of Order No. F.DE./15 (56) /Act /2009 /778 dated 11/02/2009, earmarked levy will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. The school has charged the following earmarked levies</p> <ol style="list-style-type: none"> Transportation fee Mid-Day Meals Medical Charges Indoor sports complex fee Computer, Maths & E-learning <p>But the school does not maintain fund wise accounts and all the expenses as well as the receipts are routed through the income & expenditure account.</p>	<p>Accepted by School. The School is directed to follow DoE instructions in this regard and maintain its books of accounts in the prescribed manner. Compliance shall be verified at the time of next fee increase proposal of the school, if any.</p>	<p>The School has proposed to increase fee only in cases wherein there is deficit in the year 2016-2017. Computer Fee and Transport Fee and not in all earmarked levies.</p> <p>Medical Fee not charged in the year 2016-2017 and in subsequent year also. Hence medical fund cannot be maintained.</p> <p>The School has started fund accounting system from 2016-2017 and in case any small amount of Surplus/Deficit we utilised the same in next year.</p> <p>The school has provided schedules annexed to financial statements for FY 2016-2017 in respect of Development Fund, Depreciation Reserve Fund,</p>	<p>The school has stopped collecting Medical fee from FY 2016-2017 and has started fund based accounting from FY 2016-2017 in respect of Transportation Fee, Mid-Day Meals, Indoor sports complex fee and Computer Fee.</p> <p>The school earned surplus/ incurred losses in the earmarked levies during FY 2016-2017 and carried over the surplus/ deficit in next financial year as under:</p> <ul style="list-style-type: none"> - Indoor Sports Fund: Surplus of INR 12,75,122 - Mid-Day Meal Fund: Surplus of INR 8,53,211 - Transport Fund: Deficit of INR 9,29,765 - Computer Fund: Deficit of INR 2,18,095

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			Transport Fund, Indoor Sports Fund, Mid-Day Meal Fund and Computer Fund.	Thus, 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.
2.	<p>The following has been reported in the inspection report:</p> <p>a. The school has transferred a sum of INR 7.50 crores to Birla Institute of Management & Technology (BIMTEC) in the F.Y. 2012-2013.</p> <p>b. The school has transferred INR 150 lakhs to the main society (BAAC) on 1 March 2014.</p> <p>c. The school has transferred INR 101 lakhs to BAAC on 26 August 2014.</p> <p>d. The school has transferred INR 70 lakhs to BAAC on 13 March</p>	<p>Improper justification. The school is continuously paying to the society which is not in line with Rule 177 of DSEA & R, 1973 and Modern School Judgement. It was upheld in Modern School case that 'no amount whatsoever shall be transferred from the recognised unaided</p>	<p>The school has provide the following justification:</p> <p>1. For point no. a – Comments given by the auditors do not pertain to the special inspection period 2013-16. Comment is beyond purview of Audit Team. The School has provided assistance to other Educational Institution under the Management of the same Trust which is as per</p>	<p>As confirmed from the response of the school, the school has not recovered the amount of INR 11.31 crores from the society and BIMTEC as per the directions of the order citing the court case pending with Honourable High Court of Delhi.</p> <p>However, based on the fact that no interim relief has been provided to the school by the</p>

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	<p>2015. The school has transferred INR 60 lakhs to BAAC on 31 March 2016.</p> <p>e. The school is paying/transferred a sum of INR 1.71 crores p.a. to BAAC since last 3 years as rent and establishment expenses.</p> <p>f. Income from canteen, book shop and uniform shop are not accounted for in the books of school. The income is being accounted for in the books of BAAC. The values given below have been calculated on the basis of students of FY 2016-2017. The income is as follows:</p> <p>Rent of Canteen: INR 4.98 Lakhs p.a. Royalty @ INR 110/student: INR 4.38 Lakhs p.a. approx. Royalty @ INR 100/student: INR 3.98 Lakhs p.a. approx.</p> <p>As per Order No. DE 15/Act/Duggal.Com/203/99/23033-23980, appropriation of savings is different from transfer of funds. The management is restrained from transferring any amount from the Recognized Unaided School</p>	<p>school fund of a school to the society or the trust or any other institution'. Further Rule 177 discusses about appropriation of savings of the school and stipulates that assistance to other school or institution can only be made from the savings of the school and cannot be charged from 'increase in fees'. The school has increased fees every year and yet transferred funds to group institutions making the transfers a charge on fees and not on savings, as stipulated under Rule 177 of DSEAR, 1973. Accordingly, the quoted transfer is illegal. The school is directed to</p>	<p>clause C of proviso appended to Rule 177 (i) not a violation. Action Committee Unaided School Vs. DOE. Delhi, 162 (2009) DLT 50 (SC) to Land & Building owner.</p> <p>2. For point b, c, d and e- During special inspection period 2013-2016 Rent (INR 381 lacs) has been paid to the owner of Land & Building. The owner BAAC as built approx. 1.50 lac sft. Area for Birla Vidya Niketan School. The rent claimed is not in excess to expenditure at all because the cost of building should be taken on replacement/reinstatement basis. The land is not freehold. The cost of conversion of Land from leasehold to freehold is also to be considered.</p>	<p>Hon'ble High Court of Delhi, the school is directed to recover the amount within 30 days from the date of this order.</p> <p>Further, while the school in its cover letter enclosed with the status of compliance mentioned that it has submitted Notes to Account to the financial statements, which included details of related parties, the same was not attached with the documents submitted by the school.</p> <p>Also, the school has not considered the income from canteen, book shop and uniform shop in the Income & Expenditure account for FY 2016-2017 and the Budget for the year 2017-2018.</p>

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	<p>Fund to society or trust or any other institution.</p> <p>The School does not disclose the Related Party Transaction in the Financial Statement.</p> <p>The school was directed to recover INR 11.31 crores including 3.81 crores paid as rent to the society for the period prior to inspection i.e. financial years before FY 2013-2014 and deposit this amount in the bank account of the school within 60 days of the issue of this order.</p> <p>Also, the school was directed to book income from canteen, book shop and uniform shop in the school accounts.</p>	<p>recover these amounts from society including the amount paid as rent within 60 days from the date of this order. If the said amounts are not recovered from the society within the stipulated time, then Directorate shall take appropriate action against the school in accordance with the provisions of DSEA&R, 1973.</p> <p>Also, school should book income from canteen, book shop and uniform shop in the school accounts and consider the same while proposing any fee hike.</p>	<p>School has not claimed any depreciation on Building. Hence payment of Rent is a genuine expenditure of the school and not a transfer of fund. The Trust is entitled to reasonable return on investment made in school. This is as per Hon' S.C. judgement dated 03.08.2017 Rustam Kerawalla Foundation vs. State of Maharashtra & others Civil Appeal No. 3696/2017. Matter is sub judice as WP (C) No. 11359/17 Pending in Delhi High Court.</p> <p>3. For point no. f – The Canteen & Uniform contractor using Birla's logo hence they are paying nominal amount of Royalty to the owner of land & building (BAAC)</p>	<p>Also, the school has incurred expenditure of INR 1.71 crores towards rent and establishment expenses in the year 2016-2017 and the same has been budgeted for the year 2017-2018. Therefore, the school is directed to recover the amount of INR 6.84 crores (i.e. INR 1.71 cr. each year for 4 years) from the society towards rent for the FY 2013-2014 to FY 2016-2017.</p> <p>The school has not ensured compliance and thus is liable for necessary action in accordance with section 24(4) of the DSEA, 1973.</p> <p>The above amounts have been considered as funds available with the school while deriving the fund position of the</p>

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			<p>hence these receipts are not the income of school. This is a transaction between Contractor & Trust hence not required to include it in school receipt.</p> <p>4. The school has provide schedule annexed to the Financial Statements for FY 2016-2017 in respect to Administration Charges and Repair and Maintenance expenses.</p> <p>5. The school has separately shown the amount of related party in Schedule 4A "Current Liabilities" and Schedule 6A "Notes to accounts".</p>	<p>school (enclosed in the later part of this order).</p>
3.	As per Clause 18 of Order No. F.D.E./15(56)/Act/2009/778 dated 11 Feb 2009, caution money collected shall be kept deposited in a Scheduled Bank in the name	The school should follow DOE instructions in this regard. Compliance	The School Funds kept in scheduled Bank and a separate Security Deposit/Caution money account is	The response of the school indicates that the school has not complied with the

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	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 a refund. It is reported that Caution money is not kept in the separate bank account with the scheduled bank in the name of the school. Caution money along with bank interest is not refunded to the students at the time of leaving the school.	shall be verified at the time of next fee increase proposal of the school, if any.	maintained in books of account.	directions of the order. Thus, it is reiterated that the school is required to maintain separate bank account with the scheduled bank in the name of the school and ensure that caution money is refunded to the students along with interest.
4.	Caution money of INR 2,01,500 belonging to 403 ex-students is still lying with the school and this has not been shown as income in the next financial year and taken into account while projecting fee structure for the ensuing academic year. Thus, the amount of INR 2,01,500 is considered as income.	The school should follow DOE instructions in this regard.	Collection Amount : Nil Refund Amount : INR 1,61,000 and Cheque return Back INR 44,500 As per School Policy, unpaid caution money amount carried over to the next three years to meet any claim and more than 3 years old unclaimed amount treated as an income.	Directorate's Order no.: DE/15/150/ACT/2010/4854-69 dated 9 Sep 2010 states "In case of those ex-students who have not been refunded the caution money/ security deposit, the school shall inform them (students) at their last shown address in writing to collect the said amount within 30 days. After the expiry of thirty days, the un-refunded caution money belonging to the ex-students

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				<p><i>shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year".</i></p> <p>The school has not complied with the directions included in the order, which resulted in non-compliance to the provisions mentioned above.</p>

B. Other Discrepancies:

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1.	The school is not preparing its Financial Statements as per the format specified under Rule 180 read with appendix-II if the DSER 1973 which shall be as per the Guidance Note on Accounting by School issued by the ICAI.	Improper response. The compliance shall be reviewed at the time of next fee increase proposal, if any.	The school has submitted financial statements as per the format specified under Rule 180 read with appendix-II if the DSER 1973 which shall be as per the Guidance Note on Accounting by	Considered.

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			School issued by the ICAI.	
2.	<p>Discrepancies have been noted between the amount of fees filed with DOE and the fees actually charged by the school. In the following fees discrepancies have been noted:</p> <ol style="list-style-type: none"> Registration Fees. Prospectus and processing fee E-learning Fee Math Computer Fee Transport Fee Mid-Day Meal <p>In the Inspection Report, discrepancy has been observed in the amount of fee intimated to DoE and the amount of fees actually charged thereafter.</p>	<p>The compliance shall be reviewed at the time of next fee increase proposal, if any.</p>	<p>The school has submitted reply for this observation vide letter no. BVN/DOE/FEEHIKE 16-17/CSC/25 DATED 23 March 2017 which stated that as per section 17(3) of the Delhi State Education Act and Rules, 1973, the school has, before commencement of the academic session, been submitting fee schedule after approval from SMC & PTA to DoE. There is no deviation in charging fee from the student than the fee specified by the SMC/Manager.</p> <p>A: Registration fee of INR 25 is charged from the Applicants. It is there in the Budget approved by SMC & submitted to DoE with Return 180.</p> <p>B: Prospectus & processing fee @ INR 475 is charged</p>	<p>The school did not submit detailed reconciliation of fee collected computed basis the number of students enrolled in the school and total revenue reflected in the Income and Expenditure Accounts against these income heads. Accordingly, compliance against the discrepancy highlighted in previous order could not be evaluated.</p>

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			<p>from the Applicants and is there in under Rule 180. This is voluntary and not enforced.</p> <p>C & D: Learning & Math Computer Fee are not new levies. They are approved by SMC and submitted to DoE in Budget with Return under Rule 180.</p> <p>E: Transport Fee and F: Mid-Day Meal are user specific/optional and are not enforced or not new.</p>	
3.	<p>The school has entered into the following major contract:</p> <ul style="list-style-type: none"> a. Transport arrangement for students. b. Security guards for watch and ward. c. Hire of temporary supporting staff. <p>These contracts are renewed annually and no tenders are invited for the same at the time of renewal since the ongoing contracts were continuing since many years and the school management is satisfied with their services.</p>	<p>School is directed to implement effective internal control system in relation to procurement of goods and services so as to safeguard the interest of school and to ensure that the transactions are entered into on reasonable prices. The</p>	<p>The school submitted a list of all procurements carried out during FY 2016-2017 with names of suppliers and service providers. Also, the school has submitted three contracts, one each for Transport arrangement for students, Security guards for watch and ward and Hire of temporary supporting staff. The school has also submitted the quotations provided</p>	Considered.

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		compliance shall be reviewed at the time of next fee increase proposal, if any.	by the different vendors and selection is on the basis of vendor having lower price.	
4.	<p>The following discrepancies were observed in respect of Fixed Asset Register:</p> <p>a. It is not maintained and updated properly.</p> <p>b. Entries for purchase of assets have been entered but depreciation after FY 2011-12 was not recorded in the register.</p> <p>The school has not provided the FA schedule with its Financial Statements for FY 2013-14, 2014- 15 and 2015-16 but depreciation has been charged to Income & Expenditure account and the FA in the Balance Sheet is shown at WDV for FY 2013-14, 2014-15 and 2015-16.</p>	<p>School is directed to prepare its Fixed Assets Register in proper format so as to disclose name, type, quantity/units, purchase amount, depreciation, location, etc., of the fixed assets so as to protect the fixed assets effectively.</p> <p>The compliance shall be reviewed at the time of next fee increase proposal, if any.</p>	<p>The school has submitted fixed asset schedule for FY 2014-2015, 2015-2016 and 2016-2017.</p> <p>Also, the school has shown fixed asset at the time of hearing.</p>	<p>The fixed asset register maintained by the school was not complete. The school should also include details such as serial number, location, invoice number, supplier, identification number, cost of asset, other cost, depreciation, etc. to facilitate identification of asset at an item level.</p>

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5.	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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head. The school has not created Depreciation Reserve Fund for FY 2013-14 and 2014-15. For FY 2015-16, Depreciation Reserve Fund has been created as an appropriation out of general reserve. At the same time Depreciation is also charged to Income & Expenditure Account and deducted from Fixed Asset. For the FY 2013-14, depreciation for the year has been charged from Development fund.	Improper justification. The depreciation reserve was not maintained by the school in accordance with the clause 14 of the order dated 11 Feb 2009. School Proper disclosure in 'Notes to accounts' should be made wherever any adjustments were made in Depreciation Reserve Fund vis-à-vis General reserve. Compliance shall be verified at the time of next fee increase proposal of the school, if any.	The financial statements of FY 2016-2017 were audited by the time the order was received from the Directorate. Thus, same accounting treatment as was done during FY 2015-2016 was continued during FY 2016-2017. Basis direction from Directorate, we will try to update the fixed assets schedule during FY 2017-2018.	Basis submission by the school, the school is directed to present the fixed assets at historic cost and corresponding depreciation charged to accounts till date as Depreciation Reserve and ensure compliance with accounting treatment indicated in Guidance Note 21 issued by the Institute of Chartered Accountants of India.
6.	As per the aforesaid order, The school was directed to	The school was directed	The school has submitted Actuarial	According to para 7.14 of the

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	make earmarked equivalent investments against provision for Retirement Benefits with LIC (or any other agency) within 90 days of the receipt of the aforesaid order, so as to protect the statutory liabilities. The provision for retirement benefits should be based on actuarial valuation.	to make earmarked equivalent investments against provision for Retirement Benefits with LIC (or any other agency) and the provision for retirement benefits should be based on actuarial valuation.	report for FY 2017-2018. Also, the school submitted copies of FDR of INR 1.70 crore for FY 2017-2018 as evidence of investment towards its liability towards retirement benefits.	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, investments in the form of FDRs with bank does not qualify as 'Plan Assets' within the meaning of Accounting Standard 15. Accordingly, the school has not ensured compliance to the requirement and has not made qualifying investments against the provision for Retirement Benefits. The school is directed to invest

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				the amount equivalent to the amount of liability determined by the actuary in investments that qualify as 'Plan Assets' within 30 days from the date of this order.
7.	The school shall not increase the rates of fees without the prior sanction of Director of Education. However, the school has started to charge Fees at the proposed fee structure from the students without approval from the DoE for financial year 2016-17.	The school was directed not to increase the fee for the FY 2016-2017. In case, increased fee has already been charged from the parents, the same shall be refunded/ adjusted.	The school has submitted the summary of excess fee charged and fee refund to those students. Also, the school has submitted the letters sent to Bank for refund of excess fee charged.	Considered.

Though the school did not comply with most of the directions of this Directorate included in its previous orders, basis which the proposal for enhancement of fee submitted by the school for the academic session 2017-2018 should have been out-rightly rejected. However, the Directorate has gone further and carried out a preliminary analysis of the audited financial statements submitted by the school for FY 2016-2017 and budgeted income and expenditure for FY 2017-2018 in order to derive the fund position of the school in relation to FY 2017-2018 for which proposal for enhancement of fee has been submitted by the school. Based on the preliminary financial analysis, it has been derived that total funds available with the school for the financial year 2017-2018 are estimated to be INR 47,41,11,588 out of which cash outflow during FY 2017-2018 is estimated to be INR 30,69,00,620. This results in net surplus of INR 16,72,10,968 after meeting

all the expenses for FY 2017-2018 (including financial implication of implementing 7th CPC) as detailed hereunder:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	2,26,47,374
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	43,74,747
Total Liquid Funds Available with the School as on 31 Mar 2017	2,70,22,121
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]	27,13,34,292
Add: Recovery of addition to Building reflected in the financial statements for FY 2016-2017 from the Society [Refer Note 2]	9,99,53,146
Add: Recovery of amount from Society as per Directorate's order dated F.DE-15/ACT-1/WPC-4109/PART/13/895 dated 15 Sep 2017 [Refer Financial Discrepancy No. 2]	11,31,00,000
Add: Payment of Rent and establishment expenses to BAAC to be recoverable from society for FY 2013-2014 till FY 2016-2017 [Refer Financial Discrepancy No. 2]	6,84,00,000
Add: Rental income from canteen and royalty from book and uniform shops for FY 2016-2017 and FY 2017-2018 [Refer Financial Discrepancy No. 2 and Note 3]	26,68,000
Gross Estimated Available Funds for FY 2017-2018	58,24,77,559
Less: FDR submitted to DOE and CBSE (as per audited financial statements of FY 2016-2017)	745,747
Less: Retirement Benefits – Gratuity as on 31 Mar 2018 [Refer Note 4]	7,70,34,628
Less: Retirement Benefits – Leave Encashment as on 31 Mar 2018 [Refer Note 4]	2,90,53,596
Less: Development Fund balance as on 31 Mar 2018 ('Nil' as per audited financial statements of FY 2016-2017)	-
Less: Depreciation Reserve Fund [Refer Note 5]	-
Less: Caution Money (Net of transfer to income in FY 2017-2018) [Refer Note 6]	15,32,000
Net Estimated Available Funds for FY 2017-2018	47,41,11,588
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 7]	26,57,36,492
Less: Arrears of salary as per 7 th CPC since January 16 (as included in the Budget Estimate for FY 2017-2018 by the school) [Refer Note 7]	4,11,64,128
Estimated Surplus as on 31 Mar 2018	16,72,10,968

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 has been considered (with the exception of 'Excess liability written back' being one-off income without impact on fund flow) with

the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.

2. 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, the cost relating to construction of building has to be met by the society and should not be paid out of school funds i.e. fee collected from students. The financial statements of the school for FY 2016-2017 reflected additions to the building of INR 9,99,53,146, which should have been incurred by the Society. Further, this capital expenditure was incurred on the building without complying the requirements prescribed in Rule 177 of DSER, 1973. Accordingly, the same has been considered as fund available with the school with the direction to recover the same from the society within 30 days from the date of this order.
3. School was directed through Order No. F.DE-15/ACT-IWPC-4109/PART/13/895 dated 15 September 2017 to include rental income from canteen and royalty from book and uniform store in subsequent proposal for fee hike. However, the school did not report these incomes in audited financial statements of FY 2016-2017 not in the budgeted income for FY 2017-2018. Accordingly, the income identified in respect of FY 2016-2017 in the aforementioned order of INR 13,34,000 has been considered along with the assumption that same amount would also accrue during FY 2017-2018. Thus, total of INR 26,68,000 has been considered as fund available with the school.
4. The school has obtained actuarial valuation of its liability towards staff retirement benefits as on 31 March 2018, which has been considered in entirety for deriving the fund position of the school. However, the school has not made investment in 'plan asset' in accordance with Accounting Standard-15 issued by the Institute of Chartered Accountants of India. Also, refer Other Discrepancy No. 6.
5. The school has charged depreciation on fixed assets and has transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. While development fund has been adjusted for deriving the fund position of the school as per the audited financial statements of the school for FY 2016-2017, depreciation reserve is more of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.
6. Unclaimed caution money of INR 2,80,000, as proposed by the school to be treated as income during FY 2017-2018 (based on details submitted by the school), has been adjusted from the liability towards caution money as on 31 Mar 2017 of INR 18,12,000 and the net balance of INR 15,32,000 refundable to students has been deducted for deriving net estimated available funds with the school for FY 2017-2018.
7. As per the Budget Estimates for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure of INR 35,45,11,861 (including arrears for salary as per 7th CPC of INR 4,11,64,128), which in some instances was found to be unreasonable/

excessive. Based on the explanations and other details provided by the school during personal hearing, all of the expenses heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount allowed	Amount Disallowed	Remarks
Gratuity and Leave	1,30,46,490	1,43,51,139	-	1,43,51,139	Considered separately in fund position basis actuarial valuation as on 31 March 2018
7 th CPC -- Retirement benefits	-	60,36,886	-	60,36,886	
Rent and Establishment to BAAC	1,71,00,000	1,71,00,000	-	1,71,00,000	Rent payment disallowed. Refer Financial Discrepancy No. 2 for details.
Sy. Creditors and Science Block	-	1,01,23,216	-	1,01,23,216	Construction of building being responsibility of the society has been disallowed.
Total	3,01,46,490	4,76,11,241	-	4,76,11,241	

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

Whereas, the school has not complied with point no. 23 of order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 "No amount whatsoever shall be transferred from recognized unaided school fund to a society or trust or any other institution" as the school had transferred funds to its parent society and other institute under its parent society, which are yet to be recovered from the society/ institute. The school was directed to recover amount receivable from the society/ institute within 60 days from the date of issue of the order. However, the school has failed to comply with the directions of this directorate.

And whereas 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. Thus, the cost of building reflected in the financial statements of the school met out of the fee collected from students is required to be recovered from the society within 30 days from the date of this order.

And whereas, as per clause 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 reserved fund, equivalent to the deprecation 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." The school has not complied with the directions in this regard included in the previous order of this directorate. Accordingly, the school is advised to comply with the directions regarding proper accounting and presentation of Development Fund in the Schools' financial statements.

And whereas, as per clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11 Feb 2009, "user charges should be collected on 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 the same and has utilised the surplus earned for meeting other expenses of the school and has thus continued its non-compliance. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levies charged from students in accordance with the DSEA & R, 1973 and orders, circulars, etc., issued there under. Surpluses under each earmarked levy collected from the students shall have to be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019.

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 by 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 the school has failed to comply with most of the directions given to the school after evaluation of the fee hike proposal for the academic session 2016-2017 and that the funds available with the school for implementation of

recommendations of 7th CPC and to carry out its operations for the academic session 2017-18 are sufficient and 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 faltered in complying in the directions of this directorate and 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.

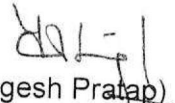
Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2017-2018 of **Birla Vidya Niketan (School Id 1923250), Pushp Vihar-IV, Delhi-110017** has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of 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 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.
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 Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This order has to be read in continuation to this Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/895 dated 15 Sep 2017 issued to the School.

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:

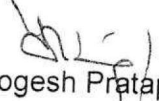
The Manager/ HoS
Birla Vidya Niketan
School ID 1923250
Pushp Vihar-IV,
Delhi-110017

No. F.DE.15(595)/PSB/2018/ 30337 - 30341

Dated: 11/12/2018

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
5. Guard file.


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