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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 (203)/PSB/2019/ 1125-1129 Dated: 25/3/2019

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation. of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools......

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.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Apeejay School, J-Block, Gurudwara Road, Saket, New Delhi-17 (School Id: 1923297)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS necessary records and explanations were also called from the school vide email dated April 04, 2018. Further, school was also provided opportunity of being heard on July 12, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and clarifications on various issues noted.

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

<u>Financial Irregularities</u>:

I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account.

   However, on review of the financial statements of the school for the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has utilized development fee for purchase of Library books, vehicles and computer software in

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contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make necessary adjustment in development fund account and General Fund account. The summary of amount utilized by school in contravention of clause 14 of the order dated is as under

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	Amount
Library Books	86,559	4,950	**91,509**
Vehicles	-	13,53,068	**13,53,068**
Computer Software (Intangible assets)	-	5,000	**5,000**
Total	**86,559**	**13,63,018**	**14,49,577**

II. In respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school has charged earmarked levies namely Transportation charges, Science fees, Computer Fees, Home Science Fees and Activity fee but these levies are not charged on 'no profit no loss' basis as the school has earned surplus from Science fees, Computer Fees, Home Science Fees and Activity fee and incurred deficit from Transportation charges. Further, the school is not following the fund-based accounting in respect of these earmarked levies. Therefore, School is directed to make necessary adjustment in the General Fund.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprises of "registration fee and all One Time Charges" levied at the time of admission such as admission and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, school is directed to stop separate collection in the name of Activity fee, Science Fee from class VI to X and computer fee from class I to X.

III. Clause 2 of the Public Notice dated 4 May 1997 State that "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 because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and not by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October 1998 in 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". Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 February 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". Moreover, the Rule 177 of DSER, 1973 state that income derived by unaided recognized schools by way of fees shall be utilized in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilized by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses.

However, on review of the financial statements, it has been observed that the school has utilized school funds for addition to building for Rs. 12,71,080 in FY 2016-17, in contravention of the abovementioned aforesaid public notice, Judgement of the Hon'ble High Court and Rule 177 of the DSER, 1973. Therefore, amount spent by the school on construction of school building has been included in the calculation of fund availability of the school with direction to the school to recover this amount from society.

IV. As per Para 99 of Guidance note on "Accounting by school" issued by ICAI, relating to restricted fund, "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".

It has been noted that instead of creating deferred revenue account, the whole amount of development fund utilized by the school has for purchase of assets has been transferred to General Fund resulting in overstatement of General Fund balance. Therefore, the school is directed to prepare and present its financial statement as per the Guidance Noted- 21 issued by ICAI and make necessary adjustment in general fund account. The summary of development fund utilization t transferred by the school in the past three financial years is as under.

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Development Fund utilised	14,70,214	41,56,876	48,99,169	**1,05,26,259**

Other Irregularities:

I. As per Order no. F.DE. /15/Act-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order no. F.DE. /15/Act-I/WPC-4109/Part/13/6750 dated 19.02.2016, schools which have been allotted land by the land-owning agencies on the condition to seek prior sanction of Director of Education for increase in fee, are required to submit their proposals for prior approval for academic session 2016-17 online through website of the Directorate. However, on review of the fee receipts provided by the school it has been observed that the school had increased the fee in FY 2016-17 without obtaining prior approval from Directorate of Education. Therefore, the school may be instructed to roll back the increase fee or adjust the excess amount collected by the school against the future fee receivable from the students.

II. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon. Therefore, the school may be directed to comply with clause 18 of order dated 11.02.2009.

III. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE, District is required to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total students	1270	1295	1316
Total number of EWS	150	173	190
% of EWS to total number of students	**12%**	**13%**	**14%**

IV. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognized in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. The school has provided for gratuity and leave encashment for non-teaching staff based on management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2014-15, 2015-16 and 2016-17. Therefore, the school is required to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15.

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

i. The total funds available for the year 2017-18 amounting to Rs. **10,27,54,464** out of which cash outflow in the year 2017-18 is estimated to be **Rs. 9,86,39,577.** This results in surplus of funds amounting to **Rs. 41,14,887** The details are as follows:

(Figures in Rs)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	17,64,244
Investments as on 31.03.17 as per audited Financial Statements	33,62,413
Add: Recoverable from society against addition to building in FY 2016-17	12,71,080
Less: Fixed Deposit with Bank with DoE	3,34,673
Less: Development Fund as on 31.03.2017 (Note 1)	-
Less: Caution money as on 31.03.2017	7,95,500
Total	52,67,564
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	9,66,61,990
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	8,24,910
Estimated availability of funds for FY 2017-18	**10,27,54,464**
Less: Budgeted expenses for the session FY 2017-18 (after making adjustment) (Note 2,3,4,5)	9,86,39,577
Net Surplus	**41,14,887**

Adjustment:

Note 1: School is not maintaining development fund in accordance with Clause 14 of order dated 11.02.2009. Also, fund balance is not matching with available balance in bank account and FD account. Therefore, no deduction has been considered.

Note 2: School has provided for Gratuity and Leave encashment on the basis of Management estimates instead of Actuarial valuation basis in accordance with AS-15 Employees Benefits as issued by ICAI in its budget for FY 2017-18. Therefore, amount of Rs. 62,64,595 budgeted for Gratuity and leave encashment has not been considered in evaluation of fee increase proposal.

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Further, School has proposed for Scholarship for staff wards in its budget for FY 2017-18 amounting Rs. 20,37,000. As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Thus, Scholarships to students can be made out of the savings of School only and therefore, the same has not been considered in evaluation of fee increase proposal.

Note 3: Under the following heads the School has proposed expenditure in excess of 10% as compared to the actual expenditure incurred in the FY 2016-17 or has proposed new head of expenditures which were not there in the FY 2016-17. The school has neither provided any reasons for such unusual increase nor has provided any explanation/ justification. Since FY 2017-18 is the year of implementation of 7th CPC where the parents/students are already overburdened, therefore, the aforesaid expenditure in excess of 10%and expenditure under new heads has/have not been considered in the evaluation of fee increase proposal. The details of these expenditures are as follows:

A. **Establishment Expenses**

(Figures in Rs.)

Particulars	**FY 2016-17**	**FY 2017-18**	**Net Increase**	**% change**	**Disallowed Amount**
Teaching Staff	3,22,52,260	3,86,09,201	63,56,941	20%	31,31,715
Non Teaching Staff	1,74,93,584	2,09,70,196	34,76,612	20%	17,27,254
Administrative Charges (PF)	1,06,113	1,85,500	79,387	75%	68,776
Rent	-	10,46,665	10,46,665	-	10,46,665
Total	**4,98,51,957**	**6,08,11,562**	**1,09,59,605**		**59,74,409**

B. **Other Expenses**

(Figures in Rs.)

Particulars	**FY 2016-17**	**FY 2017-18**	**Net Increase**	**% change**	**Disallowed Amount**
Magazine & Newsletter	2,04,845	3,44,000	1,39,155	68%	1,18,671
Transport Expenses - In respect of Vehicle	2,86,290	3,56,000	69,710	24%	41,081

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Particulars	FY 2016-17	FY 2017-18	Net Increase	% change	Disallowed Amount
owned by the School					
Transport Expenses - In respect of Vehicle not owned by the School	34,59,719	45,76,000	11,16,281	32%	7,70,309
Examination Expenses	2,24,108	2,87,940	63,832	28%	41,421
Activity Charges	18,14,987	21,94,300	3,79,313	21%	1,97,814
Educational Workshop & Seminar	27,172	35,000	7,828	29%	5,111
School Function	19,10,383	23,59,500	4,49,117	24%	2,58,079
Magazine & Newsletter	2,04,845	3,44,000	1,39,155	68%	1,18,671
Repairs and Maintenance - Generator	28,278	1,70,000	1,41,722	501%	1,38,894
Repairs and Maintenance – Other	1,08,455	2,22,500	1,14,045	105%	1,03,200
Loss on Sale of FA and Investment	-	1,50,000	1,50,000	100%	1,50,000
Computer Expenses	'2,09,269	3,50,000	1,40,731	67%	1,19,804
Total	**84,78,351**	**1,13,89,240**	**29,10,889**		**20,63,054**

Note 4: The School has proposed for repairs and maintenance for building its budget for FY 2017-18 amounting Rs. 59,10,000 though it has already incurred repair and maintenance expenditure of Rs. 1,02,28,478 in FY 2016-17. School has failed to provide reasonable basis as to why it has provided such sum in its budget. Based on the actual expenditure incurred for FY 2014-15 and 2015-16, only 50% of budgeted expenditure is considered in the fee evaluation. The details of Repairs and Maintenance Expenditure on Building are as follows:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	Disallowed Amount
Repairs and Maintenance - Building	10,57,253	22,53,676	1,02,28,478	59,10,000	29,55,000

Note 5: As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Also, as per Hon'ble Supreme Court of India in the matter of Modern School vs Union of India and Other, the capital expenditure cannot form part of financial fee structure of the School. Thus, in view of aforesaid provisions, the following amount has not been considered in the fee increase proposal of the School:

(Figures in Rs.)

Particulars	**FY 2017-18**
Playground	40,00,000
Basketball Court	25,00,000
Total	**65,00,000**

ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

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AND WHEREAS, it is also noticed that the school funds has been utilized for construction of building in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Total amount to be recovered by the school from society is Rs. 12,71,080. The amount of receipts along with copy of bank statements showing receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within sixty days from the date of issuance of this order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Apeejay School, J-Block, Gurudwara Road, Saket, New Delhi-17 (School Id: 1923297)** is rejected by the Director of Education.

Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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

2. To charge fee as per the exiting fee structure of the school.

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

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. To remove all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).

7. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities will also be attached.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

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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
Apeejay School,
J-Block, **Gurudwara Road, Saket, New Delhi-17 (School Id: 1923297)**

No. No. F.DE.15 (203)/PSB/2019/ 1125 - 1129 Dated: 25/3/2019
Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

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