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

No. F. DE.15 (116)/PSB/2019 | 1887-1891 Dated: 22/2/2019

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.......

.....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, **Deepalaya School, A-14, Kalkaji Extension, New Delhi-110019 (School Id: 1925347)** 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 05, 2018. Further, school was also provided opportunity of being heard on June 13, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and 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 thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

I. As per clause 14 of Order No. F.DE./15(56)/Act/2009/778 11.02.2009 and as per Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 states that "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from investment made out of this fund, will be kept in a separately maintained Development Fund Account. Following observations have been noted:

During FY 2016-17, the school has utilised development fee for obtaining the completion certificate of building amounting to Rs. 9,61,040 which is in contravention of the above clause. It is also submitted that the said amount has already been recovered by the school from the society in FY 2017-18. Therefore, the school is directed to make adjustment to Development Fund for the amount spent for obtaining the completion certificate of building and to include the said amount in deriving the funds available with the school.

II. As per Rule 177 of DSER, 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.

Further, the aforesaid savings 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 developmental nature;
c) The expansion of the school building or for the 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.

However, in FY 2016-17, it is noted that the school has purchased vehicle amounting to Rs. 25,88,276 out of school funds without complying with the requirements of Rule 177 of DSER, 1973 as mentioned above, thus the school has contravened the provisions of Rule 177 of DSER, 1973. Therefore, the school is directed to recover from the society the amount spent on purchase of vehicle.

III. As per clause 17 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, admission fee of not more than Rs.200 at the time of admission shall be charged. However, as per the original fee receipts submitted by the school it is noted that school has charged admission fee of Rs.250 from students as admission fee which is in contravention of the above-mentioned clause. Therefore, school is directed to stop this practice of charging excess admission fee from the students.

IV. 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 original fee receipts submitted by the school for the FY 2015-16 and 2016-17, it has been observed that the school increased the tuition fee and annual charges for the FY 2016-17 without obtaining prior approval from the Directorate of education which is in contravention of aforesaid order. Further, the school has also introduced a new head of fee namely development fee in FY 2016-17. The monthly fees charged by the school in the FY 2015-16 and 2016-17 are as under:

(Figure in Rs.)

Class	Tuition Fee (Monthly)		Annual charges (Annually)		Development fee (Monthly)	
	FY 2015-16	FY 2016-17	FY 2015-16	FY 2016-17	FY 2015-16	FY 2016-17
UKG & LKG	1,430	1,575	2,000	2,200	-	235
I to V	1,700	1,870	2,000	2,200	-	280
VI to VIII	1,815	2,000	2,000	2,200	-	300
IX to X	1,925	2,120	2,000	2,200	-	315
XI to XII	2,200	2,420	2,000	2,200	-	360

V. 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 and 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 collected earmarked levy namely computer fee but this fee is not charged on 'no profit no loss' basis as school has earned surplus from computer fee. Further, the school has not followed fund based accounting for this earmarked levy. Therefore, the school is directed to make adjustment to General Fund for the amount of surplus earned on computer fee.

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 comprised 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 provisions, the earmarked levies should be collected from the user students only who are availing the services/ facilities and if such services/facilities have been extended to all the students of the school then no separate charges should be collected because it would get covered either from the Tuition Fee or from the Annual Charges. Therefore, the school is directed to look into the matter and stop the collection of computer fee from the students of class Nursery to X.

Other Irregularities

I. As per Rule 180 (1) of DSER, 1973, every unaided recognised private school shall submit returns and documents in accordance with Appendix-II. Further as per Appendix-II, school shall submit the final accounts i.e. receipt and payment account, income and expenditure account and balance sheet (duly audited by the Chartered Accountants). Thus, the School need to prepare and submit complete set of final accounts as part of its annual return. However, it is noted that the school has not prepared and submitted the complete set of final accounts during FY 2014-15 and 2015-16 as it has not prepared the Receipt and Payment Account for FY 2014-15 and FY 2015-16.

II. The school was not charging depreciation on building to the income and expenditure account in the financial year 2014-15, 2015-16 and 2016-17 as required by Accounting Standard -6 on "Depreciation Accounting" or Revised Accounting Standard -10 "Property, Plant and Equipment" and Guidance Note-21 on Accounting by Schools, as issued by the ICAI. Therefore, school is directed to comply with the accounting standard issued by ICAI.

III. As per Guidance Note- 21 on accounting by Schools, the school shall charge the depreciation on those rates which is specified in the Appendix – 1 of the Guidance Note- 21. However, school is charging the depreciation as per the rates specified in the Income tax Act which is in contravention of Guidance Note- 21. Therefore, the school is directed to comply Guidance Note- 21.

IV. As per Para 99 of Guidance note – 21 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 cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year.

Taking cognisance from the above para, School should have considered the development fund utilisation account as deferred income to the extent of cost of assets purchased out of development fund and should have transferred the amount to the credit of Income and expenditure account in proportion to the depreciation charged every year. However, it is noted that the School has created the designated fund account equivalent to the cost of assets purchased out of development fund but has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Thus, school may be instructed to comply with the accounting treatment suggested in the Guidance Note-21 issued by the ICAI.

V. As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no Caution Money/ Security Deposit of more than Rs.500 per student shall be charged. The Caution Money, thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, as per refund voucher, the school had collected caution money at the rate of Rs. 3,000 per student at the time of admission till FY 2011-12 which is now being refunded to the students at the time of his/ her leaving the school without any interest thereon which is in contravention of aforesaid clause. Therefore, the school is directed to refund the caution money along with the interest thereon.

VI. On review of audited financial statements of the school for FY 2014-15, 2015-16 and 2016-17, the provisions for retirement benefits such as gratuity and leave encashment have not been maintained by the school. The school has submitted that the group gratuity scheme has been taken by it at the Society level. However, no disclosure of liabilities and corresponding plan assets have been given by the school in its financial statements. It is also submitted by school that these liabilities are ascertained on management estimation basis. Therefore, the school is directed to disclose its liabilities on account of gratuity and leave encashment along with corresponding amount of investments against them in its financial statements.

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. **6,10,02,204** out of which cash outflow in the year 2017-18 is estimated to be Rs. **5,25,25,465**. This results in surplus of funds amounting to Rs **84,76,739**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	25,45,004
Investments as on 31.03.17 as per audited Financial Statements	1,26,77,628
Add : Amount recoverable from society against Development Fund utilisation for completion certificate of building in FY 2016-17 **(Refer point I of financial irregularities)**	9,61,040
Add: Amount recoverable against purchase of bus in FY 2016-17 **(Refer point II of financial irregularities)**	25,88,276
Less: Development Fund as on 31.03.2017	(33,80,923)
Less: Caution Money as on 31.03.2017	(8,64,300)
Total	**1,45,26,725**
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)	4,45,49,978
Bus Fee proposed in budget for FY 2017-18, to be charged from students first time	8,00,000

Particulars	Amount
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)	11,25,501
Estimated availability of funds for FY 2017-18	**6,10,02,204**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) **Refer Note 1 and 2**	5,25,25,465
Net Surplus	**84,76,739**

Note 1: 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 was not there in the FY 2016-17, for which the school has neither provided any reasons for such unusual increase nor it 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 have not been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	**As per audited Income and Expenditure Account for FY 2016-17**	**As per budget submitted by school for FY 2017-18**	**Net increase**	**% Change**	**Disallowance**
Staff payment & benefits	15,37,456	61,55,665	46,18,209	300%	44,64,463
Books & Stationary (Text book, copies etc.)	-	15,00,000	15,00,000	-	15,00,000
Building Completion Certificate Exp	-	3,00,000	3,00,000	-	3,00,000
Total	**15,37,456**	**79,55,665**	**64,18,209**	**417%**	**62,64,463**

Note 2:- School has proposed for capital expenditure for construction of building amounting to Rs. 1,10,00,000. As per clause 2 of Public notice dated 04.05.1997 read with Rule 177 of DSER, 1973 and the pronouncement of Hon'ble Supreme Court of India in the matter of Modern School vs Union of India and Others, the building is the responsibility of the society and the capital expenditure cannot form part of fee structure of the School. Thus, amount proposed for construction of building has not been considered in the above calculation.

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 funds are available with the school on account of implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18, 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 and financial and other irregularities in the school 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.

AND WHEREAS, it is also noticed that the School has incurred Rs.25,88,276 for purchase of Bus in FY 2016-17 which is in contravention of Rule 177 of DSER, 1973. Therefore, the school may be directed to recover Rs.25,88,276 from the society. 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 the 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 **Deepalaya School, A-14, Kalkaji Extension, New Delhi-110019 (School Id: 1925347)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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

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

3. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with

the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

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

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

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

Non-compliance of the order shall be viewed seriously.

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
Deepalaya School,
A-14, Kalkaji Extension,
New Delhi-110019 (School Id: 1925347)

No. F. DE-15 (116)/PSB/2019/1887-1891 Dated: 22/2/2019

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