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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 (657)/PSB/2018/31091 - 31095

Dated: 31.12.2018

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 Recognized 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 their online fee increase proposals 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 condition, if any, in the letter of allotment regarding prior approval of Director of Education of the increase of fee by all the Unaided Recognized 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 Recognised 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...



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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 the order dated 23.10.2017 of this Directorate, Sanskriti School, Dr. S Radhakrishnan Mard, Chanakya Puri, New Delhi - 110021 (School Id: 2026118) 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, a very rigorous and systematic process of evaluation has been followed by this Directorate by appointing team of 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 in this process of evaluation, necessary records and explanations were also called from the school vide email dated April 10, 2018. Further, school was also provided opportunity of being heard on June 12, 2018 and June 18, 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 clarification on various issues noted.

AND WHEREAS, 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 of the evaluation are as under:

Financial Irregularities:

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 Fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, on review of audited financial statement for the FY 2014-15, 2015-16 and 2016-17, it has been

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observed that the school has utilized the development fee for construction of building in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is required to comply with clause 14 of the order dated 11.02.2009. The summary of expenditure incurred by the school for construction of Building are as follows:

Financial Year	(Figures in Rs.) Amount
2014-15	
2015-16	1,06,91,559
2016-17	31,05,975
Total	1,19,79,712
	2,57,77,246

ii. As per the Clause 2 of Public notice dated May 4, 1997, "Schools are not allowed to charge Building Fund and Development Charges when the building is complete or otherwise as it is the responsibility of the society. Society means the trust or institution who has established the school. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". 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 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate of Education, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School.

On review of the financial statement of the school, it has been noted that the school has incurred capital expenditure of Rs. 1,06,91,559, Rs. 70,55,709 and Rs. 1,19,79,712 for construction of Building in FY 2014-15, 2015-16 and 2016-17 respectively in contravention of the aforesaid provisions. Therefore, the school is directed to recover Rs. 2,97,26,980 from the Society.

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

- a) 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;
- b) Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- c) 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.

On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17 it has been noted that the School charged earmarked levies in the form of Transport Fee and Earmarked Fees from the students but these fees were not charged on 'no profit no loss' basis. The school has earned surplus from Earmarked Fee and deficit from Transport Fee. Therefore, school is directed to follow fund based accounting for earmarked levies.

- 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 statements do not differ materially from the amounts that would be determine at the balance sheet date. However, on review of the financial statement it has been observed that the School has recognized the provision for leave encashment on the basis of management estimates for the FY 2014-15 to 2016-17 and has not earmarked any investments against this provision. Therefore, the School is required to comply with the provisions of AS-15.
- v. As per Para 99 of Guidance note on "Accounting by School" issued by ICAI, "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 observed that school has created a fund in the name of 'Assets Fund-Development Account' for the assets purchased out of the development fund which is in the nature of deferred income and it should be written off in the proportion of depreciation charged to the income and expenditure account every year. Therefore, school is required to comply with Para 99 of Guidance note on "Accounting by School" issued by ICAI.

- vi. As per the audited financial statement of FY 2016-17, Rs 33,81,890/- was recoverable from the society on account of TDS on fixed deposit. Therefore, this amount has been considered in calculation of fund availability of the school.

Other Irregularities:

- i. The school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, which provides for 25% reservation to children belonging to EWS and DG category at the entry level. The DDE concerned is required to look into this matter. The details provided by the school are as under:

Particulars	2014-15	2015-16	2016-17
Total no. of students in school	2885	2837	2799
Total EWS students	306	356	396

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- b) Year book
 - c) Occupational and Speech Therapy
 - d) Summer camp
 - e) Trip money/ Adventure Camps
 - f) Robotics Workshop
 - g) SARANG interschool music competition
 - h) Learning Centre-Indhradhanush

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

- i. The total available funds for the year 2017-18 amounting to Rs. 38,94,18,696 out of which cash outflow in the year 2017-18 is estimated to be Rs. 37,01,00,381. This results in surplus of funds amounting to Rs. 1,93,18,315. The details are as follows:

Particulars	(Figures in Rs.)	
	Amount	
Cash and Bank balances as on 31.03.17 as per audited Financial Statements		1,18,46,477
Add: Investments as on 31.03.17 as per audited Financial Statements (net of earmarked investments)		10,03,23,274
Add: Amount recoverable from society (for construction of building)		2,97,26,980
Add: Amount recoverable from society on account of TDS and expenses paid on behalf of society		33,81,890
Less: Provision for Leave Encashment as on 31.03.2017 (Note 1)		2,68,24,527
Less: Provision for VII CPC (Note 2)	4,32,32,619	
Less: Impact of VII CPC Balance	4,32,32,619	4,32,32,619
	Nil	
Available Funds		7,52,21,475
Add: 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)		29,90,85,889
Add: 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)		1,51,11,332
Estimated availability of funds for 2017-18 (Note 3)		38,94,18,696
Less: Budgeted expenses for the session 2017-18 (after adjustment) (Note 4)		33,92,00,381
Less: Additional premium payable to LIC for Gratuity (on account of implementation of 7th CPC) (Note 5)		3,09,00,000
Net Surplus/ (deficit)		1,93,18,315

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that since 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 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 and 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 noticed that Rs. 3,31,08,870/- is recoverable from the Society for construction of Building and for TDS on Interest on FDR. The amount of above receipt along with copy of bank statement showing the 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 Sanskriti School, Dr. S Radhakrishnan Mard, Chanakya Puri, New Delhi - 110021 (School id: 2026118) is hereby 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 on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee has already been 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


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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/violations 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.

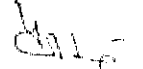
This is issued with the prior approval of the Competent Authority.


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

To
The Manager/ HoS
Sanskriti School,
Dr. S Radhakrishnan Mard, Chanakya Puri,
New Delhi - 110021 (School Id: 2026118)

No. F. DE-15(657)/PSB/2018/31091-95 Dated: 31.12.2018.
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 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