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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 (589)/PSB/2018/30019-23

Dated: 30/11/18

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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Central

.....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, **Chowgule Public School, D-4, Faiz Road, Karol Bagh, New Delhi-110005 (School Id: 2128131)** 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 March 26, 2018. Further, school was also provided an opportunity of being heard on July 20, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and 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 order no. F.DE-15/Act-I/WPC-4109/13/6750 dated 19.02.2016, all the private unaided recognized schools running on the land allotted by DDA/other Govt. agencies and having conditions that such schools shall not increase the rates of fee without the prior sanction of Directorate of Education. 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 has increased the tuition fee in FY 2016-17 without obtaining prior approval from the Director, Education. Therefore, school is required either roll back the increased fee and refund to student or adjust the excess collection against the subsequent dues of the students. The tuition fee charged by the school in 2015 and 2016 is as under:

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Particulars	(Figures in Rs.)	
	FY 2015-16	FY 2016-17
Primary	1,840	2,100
Middle	1,960	2,240
Senior	2,020	2,310
Science – Senior Secondary	2,350	2,690
Commerce (Computer)	2,210	2,530
Commerce	1,920	2,200

- II. As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, no amount whatsoever shall be transferred from the recognised unaided school fund to the society or the trust or any other institution. However, on review of the audited financial statements of the FY 2016-17, it is noted that Rs.13,23,584/- was recoverable from the society as on 31.03.2017. However, the school has not provided any details about the event and purpose for which it was given to the society. Thus, the aforesaid amount recoverable from the society has been added back in the calculation of fund availability of the school.
- III. As per school, a fixed percentage of tuition fee is being paid to the society and the same has been charged to income and expenditure account under the head of "contingency fund" in the FY 2014-15 to 2016-17. Since, these expenses are not related to educational purpose and tantamount as diversion of fund by school to the society as per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999. Therefore, the amount so transferred by the school to the society has been added back in the calculation of fund availability of the school. Further, school may also be directed to immediately stop such kind of diversion of school funds. The amount charged to Income and Expenditure Account under the head of contingency funds are as follows:

Particulars	(Figure in Rs.)
	Amount
FY 2014-15	11,00,000
FY 2015-16	5,00,000
FY 2016-17	11,00,000
Total	27,00,000

- IV. As per audited financial statements for the FY 2015-16 to 2016-17, it is noticed that school has made investment with LIC against the provisions of gratuity. However, school has not submitted the copy of actuarial valuation report. Further, the actual gratuity paid by the school in the financial year was not adjusted from the amount of provision and was charged in the Income & Expenditure account. This is not in accordance with the generally accepted accounting principles. The details of amount paid as gratuity is as follows:

(Figure in Rs.)

Particulars	Amount paid in the FY 2015-16 (as per Receipts & payment account)	Amount Credited in the Income & Expenditure Account	Provision created in the Balance sheet
FY 2015-16	9,25,590/-	9,00,000	1,76,128/-

Other Irregularities:

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012, the school shall provide 25% reservation to children belonging to EWS/DG categories. However, the school has not complied with above order and the condition of land allotment letter. As per school, the details of admission of EWS/DG students in the FY 2014-15, 2015-16 & 2016-17 are as under:

S. No.	Particulars	2014-15	2015-16	2016-17
1	EWS Students	911	839	887
2	Total Students	33	47	55
3	% of EWS Students	4%	6%	6%

- II. As per audited financial statement for FY 2014-15 to 2016-17, it is noticed that the school has not provided any amount for leave encashment. However, provision for leave encashment was created before FY 2014-15 for Rs.11,00,000 on the basis of management estimates instead of actuarial valuation as required by Accounting standard AS-15 on 'Accounting on Employee Benefits', issued by the ICAI. In the absence of the actuarial report, the financial impact of the same could not be ascertained therefore, no adjustment has been made in the evaluation of fee increase proposal.
- III. As per the GN-21 on accounting by Schools, school shall charge the depreciation on assets as per rates specified in the Appendix – 1 of the GN-21. However, school is charging the depreciation as prescribed under the Income Tax Act, 1961.
- IV. As per order no. F.DE-15/ACT-I/WPC-4109/part/13/7905-7913 dated 16.04.2016, the school is required to prepare and submit returns and documents in accordance with Appendix –II to this order. However, it is observed that school has not complied with Appendix –II. The following observations are noted:
- The 'Staff Salary and Benefits' were not shown separately for 'Teaching and non-teaching staff' in the Income & Expenditure account of the FY 2016-17.
 - Fixed assets schedule is not prepared as per the requirements of Appendix-II of this order as school has not shown the comparative figures of the previous year for assets and depreciation.
- V. On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, following observations were noted in relation to caution money:

- a) As per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, after the expiry of 30 days, the un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of ensuing year 2017-18' submitted with return filled under rule 180(1) of DSER, 1973, it was noted that school has not considered the amount of un-refunded caution money as income.
- b) As per clause 18 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, caution money collected from students shall be refunded to students at the time of his/ her leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund. However, it is noted that caution money pertaining to students who have left the schools was not refunded along with bank interest as details of ledger of caution money given by the school in its letter dated on 16.07.2018.

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

- i. The total funds available for the year 2017-18 amounting to Rs. 5,97,20,888 out of which cash outflow in the year 2017-18 is estimated to be Rs. 2,42,89,800. This results in net surplus of Rs. 3,54,31,088. The details are as follows:

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	2,78,825	
Add: Investments as on 31.03.17 as per Audited Financial Statements	2,99,47,615	
Add: Contingency charges given to the society	27,00,000	Refer "Note 1"
Add: Amount Recoverable from the society	13,23,584	Refer "Note 2"
Less: Fixed Deposit with LIC for Gratuity	-	Refer "Note 3"
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, Chowgule Public School	2,03,330	
Total	3,40,46,694	
Add: Fees of 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)	2,31,22,369	
Add; Other Income of 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)	25,51,825	
Estimated availability of funds for FY 2017-18	5,97,20,888	
Less: Budgeted expenses for the session FY 2017-18	2,42,89,800	Refer "Note 4"
Net Surplus	3,54,31,088	

Adjustments:

Note 1:- School has transferred the amount in the name of contingency fund to the society which is not the educational or establishment purpose and therefore, has been added back.

Note 2:- As per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999, no amount whatsoever shall be transferred from the recognised unaided school fund to the society or the trust or any other institution. This amount is recoverable from society and hence, added in the above fund position.

Note 3: As per audited financial statements for the year 206-17, school has deposited Rs.31,19,572 with LIC for gratuity payable to employees. However, in the absence of actuarial report and other receipts it cannot be ascertained whether amount is actually deposited with the LIC.

Note 4: School has not submitted the copy of actuarial valuation report for provisions proposed for gratuity and leave encashment for the FY 2017-18 and hence, these expenses are not considered in the budget.

- 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 has been recommended by the team of expert Chartered Accountants that since 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.

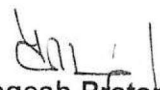
AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure 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.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Chowgule Public School, D-4, Faiz Road, Karol Bagh, New Delhi-110005 (School Id: 2128131)** 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 on any account including implementation of 7th CPC 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 remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the 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. 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.

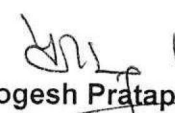

(Yogesh Pratap)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Chowgule Public School,
D-4, Faiz Road, Karol Bagh, New Delhi-110005 (School Id: 2128131)

No. DE.15 (589)/PSB/2018/30019-23 Dated: 30/11/18.

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