102

102

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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 (413)/PSB/2018/30066-71 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......

Ealt

.....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,**Lovely Public Senior Secondary School PriyaDarshiniVihar, Delhi – 110092 (School Id: 1001198)**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 24, 2018. Further, school was also provided an opportunity of being heard on July 02, 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 the Clause 2 of Public Notice dated May 4th, 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 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".

However, in FY 2014-15 school has incurred expenditure Rs. 49,50,043/- on additions to building out of the school funds in contravention of aforesaid provisions of clause 2 of Public notice dated May 4th, 1997. Therefore, school is to recover this amount from the society.

II. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, development fee shall be treated as capital receipt and the collections under this head along with income generated from the investment made out of this fund, will be kept in separately maintained development fund account. However, the school has treated development fee as revenue receipt till FY 2014-15 and also has not maintained separate bank account for development fee. Development fee received by the school in FY 2014-15 are as under:

(Figures in Rs.)

Development Fee Collected	Amount
FY 2014-15	1,00,00,891
Total	**1,00,00,891**

Therefore, school is directed to follow correct accounting procedure in accordance with the provisions of DSEAR, 1973 and other orders issued by the Directorate for arriving at correct position of general reserve and development fund balance.

III. In FY 2015-16 and 2016-17, the school has utilised development fee for revenue expenses as well as for purchase of fixed assets other than furniture, fixtures and equipment in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. The details of utilisation of development fee in contravention of clause 14 are as under:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Fixed assets other than furniture, fixture and equipment		
Library Books	2,21,820	77,083
Bus	66,000	-
Sub-Total (A)	**2,87,820**	**77,083**
Revenue expense		
Boundary wall renovation	-	9,42,109
Conference room renovation	-	9,40,034
Swimming pool	-	19,54,471
Road maintenance	-	4,46,851
Science lab renovation	10,14,740	-
Mind Power Lab	6,33,720	-
ASL room	9,01,942	-
Furnishing & Fittings	-	5,32,079
Maths lab	-	91,545
Robotics Lab	-	1,50,685
Sub-Total (B)	**25,50,402**	**50,57,774**
Total (A+B)	**28,38,222**	**51,34,857**

Therefore, school is directed to follow correct accounting procedure in accordance with the provisions of DSEAR, 1973 and other orders issued by the Directorate for arriving at correct position of general reserve and development fund balance.

IV. As per order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the development fee shall be collected only if the school is maintaining depreciation reserve fund equivalent to the depreciation charged in the revenue accounts. However, as per audited financial statements for FY 2014-15, 2015-16 and 2016-17, following observations may be noted:

a. The school has created depreciation reserve fund for the first time in FY 2015-16 by transferring amount of Rs. 23,00,000 from the development fund account in arbitrary manner.
b. It has transferred Rs. 39,08,237 from general fund to depreciation reserve fund in FY 2016-17.
c. It has shown utilisation of depreciation reserve account for purchase, replacement and upgradation of fixed assets amounting to Rs. 19,66,094 in FY 2015-16 and Rs. 24,98,087 in FY 2016-17. The details of depreciation reserve fund are as under:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Opening balance	-	3,34,260
Addition during the year (transferred from development fund)	23,00,000	-
Addition during the year (transferred from general fund)	-	39,08,237
Bank interest	-	18,437
Utilization during the year:		
CCTV camera	-	1,22,987
Computer	3,86,400	12,22,400
Fire Equipment	-	1,51,850
Furniture & Fixtures	2,30,394	97,700
Steel Almirah	-	9,03,150
Telephone equipment	24,300	-
Bus	13,25,000	-
Total utilization	**19,66,094**	**24,98,087**
Closing balance	3,34,260	17,62,847

From the aforesaid observations, it can be concluded that the school has not created depreciation reserve fund equivalent to depreciation charged in the revenue accounts which is in contravention of clause 14 of the Order dated 11.02.2009. Therefore, school is directed to follow correct accounting procedure in accordance with the provisions of DSEAR, 1973 and other orders issued by the Directorate for arriving at correct position of general reserve, depreciation reserve fund and development fund balance.

V. As para 99 of the Guidance Note-21 on 'Accounting by Schools,' "upon incurrence of capital expenditure, 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". Since, the school has not maintained "Deferred Income" as per Guidance Note-21, the cost of assets purchased by the school out of the development fund and depreciation reserve fund during the FY 2015-16 and 2016-17 was credited to general fund resulting in overstatement of the general fund. Therefore, school is directed to follow correct accounting procedure in accordance with the provisions of DSEAR, 1973 and other orders issued by the Directorate and Guidance Note -21 for arriving at correct position of general reserve and development fund balance.

VI. In respect of earmarked levies, school is required to adhere 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 & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

   However, in FY 2014-15, 2015-16 and 2016-17, school has collected earmarked levies namely i.e. transport charges, science, IP & C++ fee, computer, art & craft fee, pupil fund fee, swimming fee and smart board fee from the students but these levies were not charged on 'no profit no loss' basis as the school is earning either surplus or incurring deficit from these levies. The School has incurred deficit on transport charges, science, IP & C++ fee, computer, art & craft fee, swimming fee and smart board fee. Surplus is made on pupil fund fee. The school has also not followed the fund-based accounting in respect of these earmarked levies collected from the students. Therefore, school is directed to follow fund based accounting.

VII. The school has made provision for Leave Encashment and Gratuity on the basis of management estimates during FY 2014-15 to 2016-17 and not on the basis of actuarial valuation as specified by the Accounting Standard 15 on "Employee Benefits" as well as Guidance Note on "Accounting by school" issued by ICAI. There could be an impact on the financials of the school, had the provision been done on the basis of actuarial valuation. In the absence of the actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.

   Further, investment made by the school in the form of fixed deposit is Rs. 1,40,35,767 against the outstanding provision for gratuity and leave encashment of Rs. 1,58,54,667 in its financial statements as at 31.03.2017. The investment made by the school is not in accordance with Accounting standard 15 "employee benefits".

VIII. As per condition of recognition letter and clause 10 of form 2 of Right of Children to Free and Compulsory Education Act, 2009, the school is required to maintain liquidity in the form of investment for 3 months' salary and this investment should be in the joint name of Dy. Director (Education) and Manager of the school. However, the investment made by school against salary reserve is not in the name of Manager of the school and Dy.

Director of Education and therefore, it has been considered as available fund with the school.

Other Irregularities:

I. School has been collecting pupil fund fee from all the students. The purpose of collecting pupil fund and its utilisation has not been clarified by the school. As per Duggal Committee Report, there are four categories of fee that can be charged by school namely tuition fee, annual charges, earmarked levies and development fee. Charging of Pupil fund fee was not prescribed by the Committee and therefore, school is directed not to collect Pupil fund fee from the students in future.

II. As per order no. No. F.DE-15/ACT-I/WPC-4109/Part/13/ 7914-7923 dated 16.04.2016 read with 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 and the decision of 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, all Private Unaided recognised Schools, allotted land by the land owning agencies on the condition of seeking prior sanction of Director of Education for increase in fee, shall apply to the Director Education for increase in fee and shall increase the fee only if the same has been approved by the Director Education. It is noticed that school has not applied for increase in fee for FY 2016-17 and has increased the fee under head examination fee, annual charges, board fees and pupil fund fee wherein increase in fee collection was more than 10% though the increase in students is 2% only. The details of fee increased and increase in students are as follows:

(Figures in Rs.)

Particulars	2015-16	2016-17	Difference	Change in %
Examination Fees	30,82,500	46,63,000	15,80,500	51%
Annual Charges	81,05,180	95,37,840	14,32,660	18%
Board Fees	-	7,57,690	7,57,690	-
Pupil Fund Fees	40,97,071	50,98,065	10,00,994	24%
No. of students	2,859	2,924	65	2%

In view of above it is clear that the school has increased the fee in contravention of aforesaid order and order of Hon'ble High Court of Delhi. School is directed to ensure the compliance of the orders of the Directorate and refund or adjust the increased fee in subsequent months.

III. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school shall return the caution money collected along with bank interest to the student at the time of his/ her leaving the school. However, the school has not refunded interest on caution money to students leaving the school.

IV. The school has collected transportation charges, computer, art & craft fee and science, I.P. & C++ fee from user students which are not specified in the fee structure filed for FY 2016-17with the Directorate of Education under section 17(3) of DSEA, 1973. As per section 17(3) of DSEA, 1973, except with the prior approval of Director, no such school shall charge during that academic session, any fee in excess of fee specified in the said statement. Therefore, collection of these fees by the school is not in accordance with the fee structure filed with the Director of Education.

V. 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 details as per school records are as follows:

Particulars	March 31, 2017
Total no. of students in school	2924
Total EWS students	235
% of EWS students to total no. of students	8%

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 FY 2017-18 amounting to Rs.**23,72,91,041**out of which cash outflow in the FY 2017-18 is estimated to be Rs.**17,64,60,000**. This results in net balance of Surplus amounting to Rs.**6,08,31,041**for FY 2017-18 after all payments.The details are as follows:

Particulars	Amount (Rs.)	Remarks
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	2,64,20,319	
Investments as on 31.03.17 as per audited Financial Statements	3,97,93,280	
Add: Expense on additions to building in contravention of Clause 2 of Public notice dated May 4th, 1997 should be recoverable from Society	49,50,043	Refer 'Note 1'
Less: Investment for 4 months salary reserve	-	Refer 'Note 2'
Less: Investment against gratuity and leave encashment	-	Refer 'Note 3'
Less: Investment made against Caution Money	18,84,469	Refer 'Note 4'
Less: Investment in name of Director of Education & Manager of Lovely Public Sr. Sec School	3,00,516	Refer 'Note 5'
Less: Investment in name of Secretary, CBSE & Manager of Lovely Public Sr. Sec School	8,78,238	Refer 'Note 6'
Less: Development Fund (balance as on 31.3.17)	22,65,356	
Total	**6,58,35,063**	
Fees for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	16,70,86,813	
Other income for 2016-17 as per audited Financial Statements (we have assumed that the amount received in 2016-17 will at least accrue in 2017-18)	43,69,165	
Estimated availability of funds for FY 2017-18	**23,72,91,041**	

Particulars	Amount (Rs.)	Remarks
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	17,64,60,000	Refer 'Note 7 & 8'
Net Surplus	**6,08,31,041**	

Adjustments:

Note 1: In FY 2014-15, the school has incurred expenditure of Rs. 49,50,043/- on additions to the building in contravention of Clause 2 of Public notice dated May 4th, 1997 and thus, recoverable from Society.

Note 2: As per condition of recognition letter and clause 10 of form 2 of Right of Children to Free and Compulsory Education Act, 2009, the school is required to maintain liquidity in the form of investment for 03 months' salary and this investment should be in the joint name of Dy. Director (Education) and Manager of the school. But, the investment made by school is not in the name of Manager of school and Dy. Director of Education and thus, considered as available fund.

Note 3: The school has made provision for Leave Encashment and Gratuity on the basis of management estimates during FY 2014-15 to 2016-17 and not on the basis of actuarial valuation as specified by the Accounting Standard 15 on "Employee Benefits" as well as Guidance Note on "Accounting by school" issued by ICAI. The school claimed to have investment against gratuity and leave encashment in the form of fixed deposit amounting Rs. 1,40,35,767 at 31.03.2017. The investment made by the school is not in accordance with Accounting standard 15 "employee benefits" and therefore, the same has been considered as part of fund available with the school.

Note 4: The school has made specific investment in the form of fixed deposit against caution money fund in the name of School. The fixed deposit balance as on 31.03.2017 is Rs. 18,84,469/- and therefore, the same has been excluded from the fund available with the school.

Note 5: The school has made specific investment in the form of fixed deposit in the joint name of DOE and School. The fixed deposit balance as on 31.03.2017 is Rs. 3,00,516 and therefore, the same has been excluded from the fund available with the school.

Note 6: School has made investment in form of FDR in joint name of school and Secretary, CBSE. The fixed deposit balance as on 31.03.2017 is Rs. 8,78,238 and therefore, the same has been excluded from the fund available with the school.

Note 7: School has proposed provision for gratuity in FY 2017-18 amounting to Rs. 15,00,000 on the basis of management estimate and not on the basis of actuarial valuation as specified by the Accounting Standard 15 on "Employee Benefits" as well as Guidance Note on "Accounting by school" issued by ICAI. The same has not been considered.

Note 8: School has proposed capital expenditure on additions to building in contravention of Clause 2 of Public Notice dated May 4th, 1997. Thus, the following expenditure is not considered:

Particulars	Amount (Rs.)
Furnishing & Finishing	50,00,000
Swimming Pool Block	30,00,000
Lift Replacement	15,00,000
Total	**95,00,000**

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 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, these recommendations along with relevant materials were put before Director (Education) for consideration and who after considering all the material on the record has not found the proposal of increase in the fee as submitted by the said school fit for granting sanction and has therefore rejected the same.

Accordingly, it is hereby conveyed that the proposal of fee increase**Lovely Public Senior Secondary School PriyaDarshiniVihar, Delhi – 110092 (School Id: 1001198)**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 theprovisions 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
Lovely Public Senior Secondary School
PriyaDarshiniVihar, Delhi – 110092 (School Id: 1001198)

No. F. DE.15(413)|PSB|2018|30066-71 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