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

No F.DE.15 (179)/PSB/2019/1085-1089 Dated: 14/3/2019

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.........

....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, **Rishabh Public School, Pocket IV, Mayur Vihar, PH- I, Delhi -110091 (School Id: 1002285)** 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 27, 2018. Further, School was also provided opportunity of being heard on February 07, 2019 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 Rule 177 of DSER, income derived by an unaided private 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.

On review of financial statements, it has been noted that the school has purchased a bus of Rs.17,00,000 in FY 2015-16 without earmarking the fund for gratuity and leave encashment as required by the abovementioned rule. Since, the amount utilised by the school is not in accordance with the provisions of Rues 177, of DSER, 1973, therefore, the school is directed to recover the aforesaid amount from the society. Accordingly, Rs.17,00,000 has been included in the calculation of fund availability of the school.

II. 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".

On review of the audited financial statement of the school, it has been observed that school has created "Fund utilized in Fixed Assets" as a deferred income to the extent of cost of assets purchased out of development fund and depreciation reserve fund in FY 2016-17 but has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged as required by para 99 of the Guidance Note-21. Further, as per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, if the school collects the development fee then it is required to maintain depreciation reserve fund equivalent to the depreciation charged in revenue account. Considering the above facts, it appears that the school is not following requirement of clause 14 read with Para 99 of the GN-21 in full. Therefore, amount utilized out the depreciation reserve fund for purchase of assets has been added back to depreciation reserve fund and adjusted against development fund. Therefore, the school is directed to follow the requirements of Guidance note- 21 and clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

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

- Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973 states 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 states 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 to 2016-17, it has been noted that the school has charged earmarked levies in the name of transport fee and activity fee from the student. But these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, school has incurred deficit in respect of both these levies. Accordingly, deficit incurred from these earmarked levies has been adjustment against General Fund Balance. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting in respect of all earmarked levies charged by the school.

Moreover, 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" which is levied at the time of admission such as Admission and Caution Money. The second category of fee comprised of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and 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 fee comprised of "Annual Charges" to cover all expenditure not included in the second category and the forth category comprised 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.

Also, as per section 13 of RTE Act, 2009, the school should not charge capitation fee from the students at the time of admission. However, as per the response submitted during discussion, the school is charging activity charges @ Rs. 15,000 from the students at the time of admission in FY 2014-15 to 2016-17. Hence, it is clear that, the school is charging capitation fee in the name of activity charges from the students which is in contravention of the aforesaid provision. Therefore, the school is directed to stop the collection of Institutional fee from the students with the immediate effect.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services/ facilities of the school. And if, the services are extended to all the students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges. Therefore, the school is directed to stop the collection of separate charges in the name of the "Activity Fee" with immediate effect.

Other Irregularities

I. 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 recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. However, the financial statements of FY 2016-17 reflect Rs.9,36,107 towards provision for gratuity which has not been considered in the calculation of fund availability of the school because it was not supported by the actuary valuation report. Further, the school has not made any provision for leave encashment. Therefore, the school is directed to provide for gratuity and leave encashment in accordance with the requirements of Accounting Standard - 15.

II. On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities has been noted.

a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. On review of the financial statements, it has been noted that the School has not collected caution money from the students during FY 2014-15 to 2016-17 and has refunded only principal amount to the students at the time of his or her leaving which is not in accordance with the clause 18 of the order dated 11.2.2009. Thus, the school is directed to comply with the requirement of clause 18 of the order dated 11.02.2009.

b. Further, 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 amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting the fee structure for ensuing academic year. But the school has not provided details of unrefunded money belonging to the ex-students. In the absence of which its impact in the calculation of fund availability cannot be quantified. Thus, the school is directed to comply with the requirement of Clause 4 of Order No. DE./15/150/ACT/2010/4854-69 dated 09/09/2010

III The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look in the matter. The admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	867	847	847
EWS Students	55	66	72
% of EWS Students	6.34%	7.79%	8.5%

IV The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, School is directed to apply the depreciation rates as prescribed in the Guidance Note-21 "Accounting by Schools".

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 FY 2017-18 amounting to **Rs.3,31,10,679** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.2,97,34,362**. This results in net balance of Surplus amounting to **Rs.33,76,317** for FY 2017-18 after all payments. The details are as follows.

(Figures in Rs.)

Particulars	**Amount**

Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	43,50,010
Investments as on 31.03.17 as per audited Financial Statements	5,41,287
Add: Amount recoverable from the society for purchase of Bus in FY 2015-16 (**Refer Observation No. I of Financial Irregularity)**	17,00,000
Less: Fixed Deposit with Bank in the joint name of Secretary CBSE and Manager, Rishabh Public School	1,20,000
Less: Fixed Deposit with Bank in the joint name of Manager, Rishabh Public School and DDE (East)	2,42,633
Less: Development Fund balance as on 31-03-2017	6,85,791
Less: Outstanding balance of Caution Money Fund as on 31-03-2017	2,41,400
Total	**53,01,473**
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)	2,75,85,445
Add: Other income for FY 2016-17 as per Audited Financial Statements	2,23,761
Estimated availability of funds for FY 2017-18	**3,31,10,679**
Less: Budgeted expenses for the session 2017-18 **(Refer Note- 1)**	**2,97,34,362**
Net Surplus	**33,76,317**

Adjustments:

Note- 1: As per SMC Meeting it was unanimously decided that the teachers will not be paid arrear salary for the period from 01-01-2016 to 30-11-2017 accordingly the recommendations of 7th CPC would be implemented w.e.f. 01-12-2017 instead of 01-01-2016. Thus, arrears salary proposed by the school of Rs.41,50,106 has been restricted equivalent to 4 months' salary as per the calculation submitted by the school. Accordingly, excess amount of Rs.15,59,596 salary arrears has not been considered for evaluation of fee increase proposal.

i. 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 Chartered

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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 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.

AND WHEREAS, it is also noticed that the School has incurred Rs.17,00,000 for purchase of Bus which is in contravention of Rule 177 of DSER. 1973. Therefore, the school is directed to recover Rs.17,00,000 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 **Rishabh Public School, Pocket IV, Mayur Vihar, PH- I, Delhi -110091 (School Id: 1002285)** 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 rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days 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 utilize 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.

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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
Rishabh Public School,
Pocket IV, Mayur Vihar, PH- I, Delhi -110091 (School Id: 1002285)

No F DE.15 (179)/PSB/2019/1085-1089 Dated 14/3/2019

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