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

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No. F.DE.15 (652)/PSB/2018 | 30723 - 30727 Dated: 19/12/2018

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 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

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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, **The Baptist Convent School, CGHS Complex, I.P. Extension, Patparganj, Delhi - 110092 (School Id: 1002347)** 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 May 02, 2018. Further, school was also provided opportunity of being heard on July 05, 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 dated 11 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "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 the investment made out of this fund, will be kept in a separately maintained Development Fund Account. However, on review of the financial statement of the school for FY 2014-15 to 2016-17, the following has been observed.

   a. The school has collected Rs.32,99,488 in the form of Development Fee in FY 2014-15 but the same was treated as revenue receipt in contravention of aforesaid clause. Therefore, school is directed to make necessary adjustment in General fund and Development Fund.

   b. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to maintain Depreciation Reserve Fund, equivalent to the Depreciation charged in the revenue accounts. However, in FY 2015-16 a lump-sum amount of Rs.8,51,108 was transferred from the Development Fund Account to Depreciation Reserve Fund and in FY 2016-17 Rs.

19,75,215 was transferred from General Fund to Depreciation Reserve Fund account in contravention of clause 14 of the order dated 11.02.2009. Further, out of the Depreciation Reserve Fund the school has utilised Rs.8,35,082 and Rs.18,50,000 for purchase of fixed assets in FY 2015-16 and in FY 2016-17 respectively. Therefore, school is directed to make necessary adjustment in Development Fund account, Depreciation Reserve Fund account and General Fund.

c. Further, in FY 2015-16 & FY 2016-17, the school has utilised the Development fund for revenue expenditure and capital expenditure in contravention of clause 14 of the order dated 11.02.2009. Therefore, school is directed to make necessary adjustment in Development Fund and General Fund. The summary of revenue and capital expenditures for which development fund were utilised is as under.

(Figures in Rs.)

Particulars	FY 2015-16
Intangible assets	75,000
Library books	43,472
Function dress	5,03,827
Total	**6,22,299**

(Figures in Rs.)

Particulars	FY 2016-17
Building	5,00,000
Renovation of washroom	1,50,893
Skating ground	37,963
Total	**6,88,856**

II. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. 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". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses after creation of 10% reserve. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School. Following have been noted:

a. The financial statement of the school has reflected that school has incurred Rs. 33,11,586 on construction of Building. Therefore, the school is directed to recover the amount of expenditure incurred by the school on construction of Building from the Society. The details of expenditure incurred by the school

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17	Total
Building	12,06,617	3,12,000	17,92,969	33,11,586

b. The Financial statement of FY 2016-17 reflecting Rs.30,80,500 which was given to Shallom Prefab as advance for Construction of Building. Since this amount was advanced for construction of building therefore the school is directed to recover the same from the society.

III. 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 charged earmarked levy in the form of Transport Fee, Activity Fee, Computer Fee, Multiple Intelligence Fee, Pupil Fund, Seminar Charges, Smart Board Charges and Examination fees but these charges were not charged on 'no profit no loss' basis. The school has earned surplus from computer fee, multiple intelligence fee, pupil fund, seminar charges and examination fees and incurred deficit from transport fees, activity fees and smart board charges. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment in General Fund for the surplus/ deficit incurred on these earmark levies.

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 comprise 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 recommendation, the earmarked levies should be collected from the user students availing the services/ facilities and if this service/facilities has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, the school is directed to stop the collection of separate earmarked levies in the name of Activity Fee, Multiple Intelligence fee and pupil fund etc.

Other Irregularities:

I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category but the school has not complied with the aforesaid order in the FY 2014-15, FY 201-16 and FY 2016-17. Therefore, DDE, District is directed to look into the matter. The details of total students and EWS students are given below:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total strength (from I to XII)	873	911	952
EWS strength	43	47	55
% EWS to total strength	**5%**	**5%**	**6%**

II. 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. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2014-15, 2015-16 and 2016-17. 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 actuarial report, the same could not be quantified and therefore, no adjustment has been made in evaluation of fee increase proposal.

III. The school has charged tuition fee, annual charges, development fee, examination fee, transportation fee, activity fee, multiple intelligence fee, pupil fund, seminar charges and smart board charges from students in FY 2014-15, 2015-16 and 2016-17. However, the school has not provided the break-up of fee in budget for FY 2017-18.

IV. The school was asked to submit fixed asset register, but it has submitted stock register in place of fixed asset register. However, it has substantial amount of fixed assets (net of depreciation) of Rs. 92,63,553 as on March 31, 2017, therefore, the school is required to maintain fixed asset register containing quantity, type of asset, purchase cost, date of purchase, location, fixed assets identification number, user of fixed assets etc.

V. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. And accordingly The Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated

16.04.2016. However, on review of the fee receipts provided by the school it has been observed that the school increased the Tuition Fee and Smart Board charges in FY 2016-17 without obtaining prior approval from Directorate of Education in contravention of the aforesaid order. The School may be show cause under section 24(4) of DSEA, 1973 why it has increased fee in contravention of order no. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016.The summary of fee increased by the school are as under.

Class	2015-16	2016-17	%change	2015-16	2016-17	%change
	Tuition Fees			Smart Board		
I	3,600	3,630	1%	100	150	50%
II	3,205	3,600	12%	100	150	50%
III	3,037	3,205	6%	100	150	50%
IV	3,037	3,037	0%	100	150	50%
V	3,037	3,037	0%	100	150	50%
VI	2,365	3,037	28%	100	150	50%
VII	2,165	2,365	9%	100	150	50%
VIII	2,165	2,165	0%	100	150	50%
IX	2,165	2,165	0%	100	150	50%
X	2,165	2,165	0%	100	150	50%
XI	2,165	2,165	0%	100	150	50%
XII	2,365	2,165	-8%	100	150	50%

VI. As per Rule 175 of DSER, 1973, the accounts with regard to the School Fund or the Recognized Unaided School Fund, as the case may be, shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fees, collection for specific purposes, endowments, gifts, donations, contributions to Pupils' funds and other miscellaneous receipts, and also, in the case of aided schools, the aid received from administrator.

As per the clarification received from school on 07 August, 2018 at DoE premises, it was accepted by the school that till FY 2016-17 income from running of Nursery and Prep classes was accounted for in the books of the society not in the books of the school resulting understatement of the cash and bank of the school. And from FY 2017-18 it has been merged with the school which is in contravention of Rule 175 of the DSER 1973.

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. **5,20,12,296** out of which cash outflow in the year 2017-18 is estimated to be Rs. **4,11,12,131**. This results in net surplus of amounting to Rs. **1,09,00,165**. The details are as follows:

Figures (Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	16,14,744	
Investments as on 31.03.17 as per audited Financial Statements	3,97,648	
Less: Fixed Deposit with Bank in the joint name of Chairman of School and Secretary of CBSE	1,59,388	
Add: Recoverable from society building in contravention to the clause 2 of public notice dated May 4, 1997 and Rule 177 of DSER, 1973	33,11,586	
Add: Recoverable from society for construction of building in contravention to the clause 2 of public notice dated May 4, 1997 and Rule 177 of DSER, 1973	30,80,500	
Less: Development fund balance as on 31.03.2017	7,75,978	
Total	**74,69,112**	
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)	4,42,97,533	
Other income for FY 2016-17 as per audited Financial Statements	2,45,651	
Estimated availability of funds for FY 2017-18	**5,20,12,296**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	4,11,12,131	**Refer "Note 1 & 2"**
Net Surplus	**1,09,00,165**	

Note 1: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

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Figures (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/ (Decrease)	% Change	Disallowance
Salary & Wages including Allowance-Non Teaching Staff	29,94,719	44,08,144	14,13,425	47%	11,13,953
Building Repair & Maintenance	5,88,960	29,01,324	23,12,364	393%	22,53,468
Total	**35,83,679**	**73,09,468**	**37,25,789**	**104%**	**33,67,421**

Note-2: The school has proposed Rs.1,13,84,135 for salary arrears which is 53% of the previous year salaries. The school had not provided salary to staff as per recommendations of 6th CPC as it was paying Dearness Allowance @ 100% of basic salary instead of 125% due to which the amount of 7th CPC arrears is over estimated. Therefore, 30% of previous year salary has been considered as salary arrears for the FY 2017-18 and the excess amount of Rs.49,96,518 has been disallowed. [Rs.1,13,84,135 – (2,12,92,056*30%)]

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, 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 **The Baptist Convent School, CGHS Complex, I.P. Extension, Patparganj, Delhi - 110092 (School Id: 1002347)** 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 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 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
The Baptist Convent School,
CGHS Complex, I.P. Extension, Patparganj
Delhi – 110092, (School Id: 1002347)

No. F.DE.15 (652)/PSB/2018 | 30723 - 30727 Dated: 19|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