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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 (650)/PSB/2018/30713 - 30717 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

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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, **Vivekanand International School, P.S. 3, I.P. Extension, Patparganj, Delhi- 110092 (School Id: 1002364)** 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 opportunity of being heard on July 11, 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 11.02.2009, development fee, not exceeding 15% of the total annual tuition fees may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture 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 depreciation reserve fund, equivalent to the depreciation charged in the revenue accounts and the collections under this head along with income generated from the investment made out of this fund, will be kept separately maintained development fund account". However, on review of the audited financial statement for the FY 2014-15, 2015-16 and 2016-17 following has been observed:

   a) The school has purchased Vehicle and Library Books out of the Development Fee in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed comply with clause 14 of the order dated 11.02.2009. The details of Assets purchased out of Development Fee is as under:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Vehicle	19,45,211	45,46,732
Library Books	18,058	13,389
Total	**19,63,269**	**45,60,121**

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II. In respect of earmarked levies, school is required to comply with:
- Clause 22 of order dated 11.02.2009, specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, 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 & others, specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements of FY 2014-15, 2015-16 and 2016-17, it has been observed that the school has collected earmarked levies in the name of Smart Class Fee, Transportation Charges and Activity Charges from the students but these fees were not charged on 'no profit no loss' basis because school has either earned surplus or incurred deficit from these earmarked levies. During the period under evaluation, school has earned surplus form all the earmarked levies. Further, school is not following fund based accounting for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

Moreover, as per the Duggal Committee report, there are only four categories of fee that can be charged by a school. The first category of fee comprises 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 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.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the services/facilities. And if, the services/facilities 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 form the Tuition Fee or from Annual Charges. Therefore, the school is directed not charge separate levies in the of "Smart Class Fee and Activity Fee".

III. The financial statement of the school for the FY 2014—15 was reflecting fixed assets at written down value and also Depreciation Reserve Fund account has been created by Rs.15,21,031which implies that the school has created hidden reserve. Since, the school has reflected fixed asset at written down value therefore, the creation of Depreciation Reserve Fund account is not required. Now the school is directed to make necessary adjustments in the Depreciation Reserve account Fund and General Fund account.

Further, the school has utilised the Depreciation Reserve Fund for purchase of Fixed Assets amounting to Rs.4,76,671, Rs.17,56,787 and Rs.30,89,197 in FY

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2014-15, 2015-16 and 2016-17 respectively which is not been reflecting on the face of the balance sheet resulting understatement of Fixed Assets balance at the end of the financial year. The school was also asked to submit its fixed assets register and receipts and payment accounts but the school failed to provide the same for verification. Therefore, school is directed to submit the required details within the period of 90 days from the date of receipts of this order.

IV. 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".

Taking cognisance from the above para, it has been observed that, during FY 2015-16 and 2016-17, the school instead of creating Development Utilisation Fund account, transferred the whole amount of assets purchased to General Fund, resulting overstatement of General Fund Balance at the end of the year. Therefore, school is directed to make necessary adjustments in the General Fund Account and Development Fund Utilization Account in compliance with the requirement of Guidance Note- 21. The details of fixed assets purchased out of development fee are as under:

(Figures in Rs.)

Particulars	**FY 2015-16**	**FY 2016-17**
Fixed Assets purchased out of Development Fee	36,61,986	56,47,704

V. Section 18(4) of DSEA, 1973 read with Rule 176 & **177 of DSER, 1973** states that "Fees/funds collected from the parents/students 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 educational purposes in accordance with pre-condition specified in Rule 177. However, the School has utilised its funds for repayment of loan taken for purchase of Bus and Luxury Car and thus has spread the burden of such loan including interest thereon on all the students. Therefore, the amount utilised for purchase of Bus and Car in FY 2015-16 and 2016-17 along with interest paid on loan has not been considered in the evaluation of fee increase proposal and the school is directed to recover the same from the society. The details of amount utilised for purchase of Car and Bus and interest paid thereon is as under.

(Figures in Rs.)

Particulars	**FY 2015-16**	**FY 2016-17**
Bus purchased	19,45,211	31,88,361
Car Purchased	-	13,58,371
Interest Repaid	2,41,219	3,70,119
Total	**21,86,430**	**49,16,851**

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VI. On review of audited financial statements for the FY 2014-15, 2015-16 and 2016-17, it is noticed that the school has charged one-time activity fee at the rate of Rs.17,000 per student at the time of admission from nursery class. Thus, the amounts collected by the school at the time of admission from the students tantamount to capitation fees as per sub section (1) of section 13 of the Right to Education Act, 2009. Therefore, the school is directed to immediately stop the collection of this fee from the students.

Other Irregularities

I. 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 Land allotment letter which provides for 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order of the DOE therefore, the concerned DDE is directed to look into the matter. The admission allowed by the school under EWS category in FY 2014-15, FY 2015-16 and FY 2016-17 was as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	1365	1409	1414
EWS Students	177	203	213
% of EWS students	12.96%	14.40%	15.06%

II. The school is charging depreciation at the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note- 21.

III. As per section 17(3) of DSEA, 1973, the manager of every recognised school shall, before the commencement of each academic session, file with the Director a full statement of fees to be levied by such school during the ensuing academic session, and except with the prior approval of the Director, no such school shall charge, during that academic session, any fee in excess of the fee specified by its manager in the said statement. The School has collected transportation fee from the students without reflecting in the fee structure filed under section 17(3) of the DSEA, 1973. Therefore, school is directed to comply with the provision of section 17(3) of DSEA, 1973.

IV. The school has made provisions for Gratuity and leave encashment on the basis of management estimate and not on the basis of actuarial valuation, as required by Accounting Standard (AS) 15 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. However, in the absence of the actuarial valuation report, the same could not be quantified. Therefore, the school is directed to comply with the requirement of AS-15.

V. On review of the budgeted expenditure of the school, it has been noted that school has proposed quite high expenditure under some of the head in comparison to actual expenditure incurred in FY 2016-17. Therefore, the school management is directed to monitor such unusual expenditure. Instances are given below.

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(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase/ (Decrease) as compared to previous FY
Activity and Event Expenses	5,21,525	22,00,000	16,78,475
Smart Class Expenses	28,487	22,00,000	21,71,513
Function Expenses	6,72,793	12,50,000	5,77,207
Total	**12,22,805**	**56,50,000**	**44,27,195**

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 financial year 2017-18 amounting to **Rs.7,78,72,134** out of which cash outflow is estimated to be **Rs.7,26,61,088.** This results in surplus of funds amounting to **Rs. 52,11,046**. The details are as follows:

(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	68,66,743	
Investments as on 31.03.17 as per Audited Financial Statements	50,04,040	
Add: Amount recoverable from the society for purchase of Bus and Luxury Car out of Loan	71,03,281	
Less: Development Fund balance as on 31-03-2017	16,92,620	
Less: FDR in the name of CBSE and Director of Education	7,11,230	
Total	**1,65,70,214**	
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)	6,10,53,184	
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)	2,48,736	
Estimated availability of funds for FY 2017-18	**7,78,72,134**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	7,26,61,088	"Refer Note- 1& 2"
Net Surplus	**52,11,046**	

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Adjustments:

Note- 1: Initially the School did not propose any amount against salary arrears. However, as per the minutes of meeting of Management Committee of Vivekanand International Sr. Sec. School held on 01-12-2017, the school was intended to pay arrear salary w.e.f. 01-01-2016 and accordingly the school has calculated salary arrears of 23 months which comes to Rs.88,98,519. Since the school has not submitted salary arrears for the period from December, 2017 to March, 2018 Therefore, proportionate amount of arrears salary for 4 months has been calculated on the basis of arrears proposed for 23 months which comes out to Rs. 15,47,568 (i.e. Rs.88,98,519/23*4 = Rs.15,47,568). Thus, the total amount of arrears against CPC comes out to Rs.1,04,46,088 (Rs.88,98,519 + Rs.15,47,568) for the period 01-01-2016 to 31-03-2018.

Note- 2: The proposed provision towards Gratuity and Leave Encashment of Rs.40,00,000 has not been considered for evaluation of fee increase proposal because it was not supported by the Actuarial Valuation Report.

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 utilizing 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 utilized 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 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.

AND WHEREAS, it is also noticed that the school has incurred Rs.64,91,943 in FY 2015-16 and 2016-17 for purchase of Bus and Car and Rs.6,11,338 for payment of interest on loan taken for purchase of above Bus and Car. Therefore, the school is directed to recover **Rs.71,03,281** 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 **Vivekanand International School, P.S. 3, I.P. Extension, Patparganj, Delhi- 110092 (School Id: 1002364)** 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/violations 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 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.

Contd

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 issues with the prior approval of the Competent Authority.

(Yogesh Pratap)
Deputy Director of Education-1
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Vivekanand International School,
I.P. Extension, Patparganj,
New Delhi-110092, (School Id: 1002364)

No. F.DE.15 (650)/PSB/2018 | Dated:

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-1
(Private School Branch)
Directorate of Education, GNCT of Delhi