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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 (588)/PSB/2018/30024-29 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......

.....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,**Saai Memorial School, Sai Bhawan Geeta Colony Near Petrol Pump, Delhi – 110031 (School Id: 1003239)** 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 28, 2018. Further, school was also provided an opportunity of being heard on July 12, 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:

<u>Financial Irregularities:</u>

I Clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 requires that the school is to maintain the Depreciation Reserve Fund equivalent to the depreciation charged in the revenue accounts. However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been noticed that a lump-sum amount is transferred from Development Fund and General Fund to Depreciation Reserve Fund. Thus, the school is not maintaining Depreciation Reserve Fund in accordance with clause 14 of the order dated 11.02.2009. The details of amount transferred from Development Fund and General Fund to Deprecation Reserve Fund are as under:

(Figures in Rs.)

Particulars	2014-15	2015-16	2016-17
Amount transferred from General Fund to Depreciation Reserve Fund	65,000	5,37,350	5,60,000
Amount transferred from Development Fund to Depreciation Reserve Fund	2,50,000	-	-
Total	**3,15,000**	**5,37,350**	**5,60,000**

Further, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it has been noticed that the Depreciation Fund created out of transfers from General Reserve Fund and Development Fund was utilised for purchase of fixed assets. Since, both General Reserve and Development Fund are subsumed in the Depreciation Reserve Fund and it cannot be ascertained how much assets are purchase out of General Reserve Fund and Development Fund. In view of this, adjustment cannot be carried out in the General Reserve Rund, Depreciation Reserve Fund and Development Fund. School may be directed to follow clause 14 of the aforesaid order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009and make necessary adjustments in General Reserve Fund, Development Fund and Depreciation Reserve Fund.

II. 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 and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, on review of audited financial statements for FY 2014-15, 2015-16 and 2016-17, it is observed that the school has charged earmarked levies namely Transport fee and Smart Class fees from the students but these fees were not charged on 'no profit no loss' basis. During the period under evaluation, school has incurred deficit under Transport fees and Smart Class fees. Thus, the school has not followed fund-based accounting in respect of earmarked levies charged from the students. School is directed to follow fund based accounting for earmarked levies and to make necessary adjustments in the general reserve fund balance.

III. As per clause 2 of Public Notice dated 04.05.1997, 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 becomes the property of the society. Therefore, the students should not be burdened by way of collecting the Building Fund or Development Charges". In view of aforesaid clause the construction of school building is the responsibility of the society who has established the school. However, on review of audited financial statements it has been observed that the school funds have been utilised for construction of building amounting Rs. 28,29,789, Rs. 47,82,465 and Rs. 41,76,221 in FY 2014-15, 20156-16 and 2016-17 respectively. Therefore, the amount incurred for construction of building is recoverable from society and accordingly, it has been considered as fund available with the school.The details of amount utilised for building are as follows:

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(Figures in Rs.)

Particular	2014-15	2015-16	2016-17	Total
Building Block				
Auditorium	-	4,96,253	-	4,96,253
Furnishing	28,29,789	42,86,212	41,76,221	1,12,92,222
Total	**28,29,789**	**47,82,465**	**41,76,221**	**1,17,88,475**

IV. As per Rule 175 of DSER, 1973, the accounts with regard to the School Fund or the Recognised 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 fee, etc. Further, as per generally accepted accounting principles read with Order No. F.DE-15/Act – I/WPC/4109/Part/13/7905-7913 dated 16.04.2016, all income and expenditures should form part of income and expenditure account. However as per audited financial statements for the financial year 2014-15, 2015-16 and 2016-17, it is noted that the incomes and expenditure relating to transport fees are not recorded in the Income and Expenditure account in contravention of aforesaid provisions. Accordingly, the income and expenditure relating to transportation service has been considered for evaluation of fee increase proposal. School may be directed to record all incomes and expenditures relating to transportation service in its Income and Expenditure account.

V. On review of audited financial statements for the FY 2015-16, it is noticed that at the time of sale of fixed assets, sale consideration has been reduced from the gross value of assets in fixed assets schedule which is not in accordance with AS-10 on Property, Plant and Equipment. Hence, cost of fixed assets as appearing in the financial statements for the FY 2015-16 is incorrect. In the absence of actual cost of fixed assets and depreciation on these fixed assets which have been disposed off, the impact, if any, cannot be ascertained and therefore, no adjustment has been made. School is directed to make necessary changes in the carrying amount of the fixed assets.

VI. As per Rule 177 of Delhi School Education Rules, 1973, savings, if any of the school can only be utilised by the school for meeting capital expenditures. However, as per audited financial statements for 2016-17, it is noted that though there was deficit during the year but school funds have been utilised for purchase of vehicles amounting to Rs.13,81,769/- in contravention of Rule 177 of DSER, 1973. Since the usage of transport facilities is limited to some students only, it would not be justifiable to impose indirect burden of the same on each of the students. Hence, these expenditures are added back to the fund availability of the school.

Other Irregularities:

I. As per DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and as per the condition of the land allotment letter, school is required to provide 25% admission to the children belonging to EWS/DG category at the entry level. However, as per returns filed by the school under rule 180 of DSER, 1973, it is noted that the school is not complying with the aforesaid provisions. The details of admission provided under EWS/ DG category are as under:

Particulars	As on 31.07.2014	As on 31.07.3015	As on 31.07.2016
Total no. of students in school	2330	2264	2177
Total EWS students	242	244	241
% of EWS students to total no. of students	10.39%	10.78%	11.07%

II. The school has not charged the depreciation to income and expenditure account in FY 2014-15, 2015-16 and 2016-17, as required by AS 6- Depreciation Accounting and Revised AS-10- Property, Plant and Equipments resulting in understatement of surplus/deficit in financial statements. Therefore, school is required to follow the accounting standards issued by ICAI.

III. As per audited financial statements for FY 2016-17 school has made the provision for gratuity and leave encashment of Rs 54,64,729/- and Rs.9,11,674/- respectively on the basis of actuarial valuation report. However, it is noticed that the school has not invested any amount against these provisions in accordance with AS-15 on Employee Benefits issued by the Institute of Chartered Accountants of India (ICAI). School may be directed to earmark the investment against the provision for gratuity and leave encashment so as to protect the interests of the staff of the school.

IV. As per Rule 177 of DSER, income derived by unaided 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 schools 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.

However, as per the audited financial statements for the FY 2015-16 and 2016-17, it is noted that the school has incurred expenditure under 'Scholarships & Prizes' amounting Rs. 16,69,060 and Rs.16,56,256. Further, school has also proposed for expenditure under 'Scholarships and Prizes' amounting Rs. 18,00,000 in FY 2017-18. It is clear from aforesaid Rule 177 that the school may give scholarship to the students out of its savings only which shall be arrived at after fulfilling all the specified conditions such as making 10% reserve fund for future contingencies. However, school has failed to comply the requirements of the said rule. Even school has budgeted this expenditure in its fee proposal which cannot be allowed to form part of the fee structure of the school.

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

i. The total funds available for the year 2017-18 amounting to Rs. **12,45,74,302** out of which cash outflow in the year 2017-18 is estimated to be Rs. **10,79,57,862**.This results in net surplus of Rs.**1,66,16,440**. The details are as follows:

Particulars	Amount (Rs.)	Remarks
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	35,94,285	
Investments as on 31.03.17 as per audited Financial Statements	57,45,662	
Add:Recoverable from society on account of Addition made to building	1,17,88,475	
Add:Recoverable from society on account of purchase of vehicle	13,81,769	
Less: Development Fund (balance as on 31.03.2017)	86,470	
Total	2,24,23,721	
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)	10,11,84,479	
Other income for 2016-17 as per audited Financial Statements	9,66,102	
Estimated availability of funds for 2017-18	**12,45,74,302**	
Less: Budgeted expenses for the session FY 2017-18	10,79,57,862	Note 1, 2 and 3
Net Surplus	**1,66,16,440**	

<u>Adjustments:</u>

Note 1: The salary proposed for FY 2017-18 was Rs. 5,25,72440 against actual expenditure of Rs. 4,32,10,178 during FY 2016-17. The increase proposed by school is more than 25%. Further, school has separately proposed for arrears of salaries during the period 01.01.2016 to 30.11.2017 but failed to provide details of calculation of arrears as per 7th CPC. Considering this huge amount of budgeted salaries and that too without any calculation and justification, the expenditure proposed as salary arrears amounting Rs. 1,17,17,249 have not been considered for the purpose of evaluation of fee increase proposal for the FY 2017-18.

Note 2: School has proposed for expenditure under 'Scholarships and Prizes' amounting Rs. 18,00,000 in FY 2017-18. As per Rule 175 of DSER, 1973, school may give scholarship to the students out of its savings only which shall be arrived at after fulfilling all the specified conditions such as making 10% reserve fund for future contingencies. However, school has failed to comply the requirements of the said rule and therefore, this expenditure cannot be allowed to form part of the fee structure of the school.

Note 3:In the budget for the FY 2017-18, school has proposed to incur expenditure of Rs 32,00,000/- and Rs 10,00,000/- on furnishing and finishing of school building and auditorium respectively and Rs 900,000/- towards lift elevator. As per clause 2 of Public Notice dated 04.05.1997, construction of building is the responsibility of the society and same cannot be recovered from the students by the school. Hence same has not been considered for the purpose of fee increase proposal of the FY 2017-18.

ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees.A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it has been recommended by the team of expert Chartered Accountants that since prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

AND WHEREAS, school has budgeted for employee benefits such as gratuity and leave encashment for the session 2017-18 on the basis of actuarial valuation report amounting Rs. 54,00,000 and since sufficient surplus is available, the school is directed to make equivalent investments against provision for gratuity and leave encashment with LIC (or any other agency) within 90 days of the receipt of this order.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Saai Memorial School, Sai Bhawan Geeta Colony Near Petrol Pump, Delhi – 110031 (School Id: 1003239)**is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by the Directorate of Education.

3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.

5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

   Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

This is issued with the prior approval of the Competent Authority.

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

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To

The Manager/ HoS

Saai Memorial School,

Sai Bhawan Geeta Colony Near Petrol Pump, Delhi – 110031 (School Id: 1003239)

No. DE.15(588)/PSB/2018/30024-29 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