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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 (634)/PSB/2018/ 30512 - 30516 Dated: 14.12.2018

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 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 Srijan School, 4-B, North Model Town, Delhi - 110009 (School Id: 1309171)** 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 July 10, 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 utilised development fee for purchase of Library Books and construction of building during FY 2014-15, 2015-16 and 2016-17 in contravention of aforesaid clause 14 of the order dated 11.02.2009. Therefore, amount utilised for construction of building amounting to Rs.7,43,21,639 is directed to be recovered from the society as per public noticed dated 04 May, 1997 as the construction of building is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the property of the society and the amount utilised for purchase of library books is required to be adjusted against Development fund and Development Utilisation Fund Account. Further, the school may be directed to comply with the provisions of clause 14 of the order dated 11.02.2009 and clause 2 of public noticed dated 04 May, 1997. The details of Development Fund utilised in contravention of clause 14 of the order dated 11.02.2009 are as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Building	81,37,848	5,42,42,640	1,19,41,151
Library Books	2,75,418	1,98,549	2,26,981
Total	**84,13,266**	**5,44,41,189**	**1,21,68,132**

b) The school is not maintaining separate bank account for collection of development fee for the FY 2014-15 to 2016-17 which is in contravention of clause 14 of order dated 11-02-2009.

II. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school shall collect the Development Fee only if the school is maintaining Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts. However, on review of the Financial Statement it has been noted that the school was not charging depreciation on the assets purchased out of development fee to the income and expenditure account. Further, school has created Depreciation Reserve Fund out of the Development Fund account directly instead of routing it through Income and Expenditure Account. Thus, the accounting treatment followed by the school for maintaining of Depreciation Reserve Account is not in compliance with clause 14 of the order dated 11.02.2009. Therefore, School is directed to make necessary adjustments in General Fund and Development Fund Account. Details of depreciation amount transferred to Depreciation Reserve Fund Account are as under:

(Figures in Rs.)

Particulars	Amount
Depreciation amount transferred from development fund to depreciation reserve fund in FY 2014-15	73,38,266
Depreciation amount transferred from development fund to depreciation reserve fund in FY 2015-16	1,09,21,240
Depreciation amount transferred from development fund to depreciation reserve fund in FY 2016-17	1,53,00,950
Total depreciation transferred to depreciation reserve fund	**3,35,60,456**

III. The assets purchased out of the Development Fund account was not shown as Utilization of Development Fund in the FY 2014-15, 2015-16 and 2016-17 resulting overstatement of Development Fund balance at the end of the financial year. Therefore, School is directed to make necessary adjustments in the Development Fund account and Development Fund Utilisation account for the assets purchased out Development Fee. The details of assets purchased out of the development fee in FY 2014-15, 2015-16 and 2016-17 are as under:-

(Figures in Rs.)

Particulars	Amount

Assets purchased out of Development Fund in FY 2014-15	1,30,28,051
Assets purchased out of Development Fund in FY 2015-16	5,99,74,041
Assets purchased out of Development Fund in FY 2016-17	5,02,64,019
Total Fixed Assets Purchased	**12,32,66,111**

The above amount includes Rs.7,43,21,639 which was incurred on construction of Building which has already been considered in Point No. 1 above.

Further, School has availed a Term Loan of Rs.7,20,00,000 in FY 2015-16 for enhancing the facilities like extra activity rooms, air conditioner plant, well equipped auditorium etc. on which the School has paid interest of Rs.76,67,094 during FY 2015-16 and 2016-17 out of school fund which is required to be recovered from the society. The school has an outstanding Loan liability of Rs.6,66,20,665 as on 31-03-2017 against above loan. Since, recovery of construction of building along with the interest amount has been directed, the school can pay the outstanding principal amount from the school fund but payment of interest portion on such loan shall be recovered from the society.

IV. Further, the school has incurred Rs.25,54,778 on WIP of Lift [Rs.55,000 in FY 2015-16 and Rs.24,99,778 (Rs.25,54,778 - Rs.55,000) in FY 2016-17] which is in contravention of clause 2 of public notice dated 04, May, 1997 since lift constitutes part of a building. Therefore, school is directed to recover Rs.25,54,778 from the society.

V. 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 school has not treated the designated fund account as deferred income to the extent of cost of assets purchased out of development fund and has not transferred any amount to the credit of Income & Expenditure account in proportion to the depreciation charged. Therefore, school is directed to follow para- 99 of Guidance Note -21.

VI. The school has utilized school funds on purchase of three Luxury Cars during FY 2014-15 for Rs.19,22,841 , Rs.12,90,768 and Rs.14,68,810 respectively. Therefore, the amount so utilized has been disallowed in the evaluation of fee increase proposal of the school. Hence, the School is directed to recover this amount from the society.

VII. 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';

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- 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely transport fee from the students but this fee is not charged on 'no profit no loss' basis. The school is incurring deficit in respect of this levy. Further, fund based accounting has not been followed by the school for this earmarked levy. 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.

Further, on review of financial statements it has been observed that the school was collecting Friday fund from the students to inculcate the habit of donation among the students. However, 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. Based on the aforesaid recommendation, the school should stop collection of Friday Fund from students of all classes.

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 in the serial no. 18 of allotment letter which provides for 25% reservation to children belonging to EWS category. The admission allowed 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	1,890	2,031	2,068
EWS Students	290	331	362
% of EWS students	15.34%	16.29%	17.50%

Hence, the school is directed to follow the provisions of order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 along with the conditions specified in the land allotment letter.

II. 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 un-refunded caution money belonging to ex-students shall be reflected as income for the next financial year and it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing academic year. However, on review of 'Budget estimates of

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receipts and payments of ensuing year' submitted with return filled under rule 180(1) of DSER, 1973, for the FY 2017-18 it was noted that school has not considered the un-refunded caution money as receipts. In the absence of availability of information of un-refundable caution money belonging to ex-students which can be treated as income, correct/ actual liability of the school cannot be ascertained. Therefore, the school is directed to follow Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010 in respect of caution money.

III. The school has presented its fixed assets on the face of the financial statement under two categories i.e. assets purchased out of Development Fund were shown at gross value and assets purchased out general fund were shown at the written down value of the assets in FY 2014-15, 2015-16 and 2016-17. Thus, the accounting policy followed by the school is not as per the Guidance Note-21, "Accounting by School" issued by ICAI. The School is directed to follow Guidance Note-21.

IV. The school has made provisions for Leave Encashment on the basis of management estimate and not as per Actuarial Valuation as required by Accounting Standard (AS)-15 issued by ICAI. So, 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 impact of the same could not be quantified.

V. 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.

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.27,21,93,265** out of which cash outflow in the year 2017-18 is estimated to be Rs.**19,54,65,074**. This results in net surplus of amounting to **Rs.8,27,28,191**. 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	88,08,468	
Investments as on 31.03.17 as per audited Financial Statements	1,54,94,507	
Add: Amount recoverable from the society for purchase of Luxury Cars out of school fund	46,82,419	
Add: Amount recoverable from the society for construction of building during FY 2014-15 to 2016-17	7,43,21,639	
Add: Amount recoverable from the society for WIP of Lift during FY 2015-16 and 2016-17	25,54,778	
Add: Interest paid on loan taken for construction of building	76,67,094	

Less: Development fee received during FY 2016-17	1,59,54,301	"Refer note-1"
Less: FDR Lien against Loan	21,00,000	
Less: FDR against CBSE in the joint name of manager of school and central board of secondary education	2,65,385	
Less: FDR (TSS on account of ADJ west)	3,88,068	
Less: FDR in the joint name of manager of the school and DY. Director of education	5,44,638	
Total	9,42,76,513	
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)	18,16,28,686	
Other income for 2016-17 as per audited Financial Statements	22,88,066	
Estimated availability of funds for 2017-18	**27,81,93,265**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	19,54,65,074	"Refer note-2"
Net Surplus	**8,27,28,191**	

Adjustments:

Note 1: The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of Rs.5,39,83,141 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipment has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in FY 2016-2017 amounting Rs.1,59,54,301 from students has been not considered as fund available with the school.

Note 2: Following heads of expenditure have not been considered for evaluation of fee increase proposal:-

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a) The provision for Leave Encashment of Rs.18,02,343 has not been considered as budgeted expenditure for the FY 2017-18, as the same was not supported by Actuarial valuation report.

b) Proposed interest of Rs.58,69,269 on the loan taken for building etc. has not been considered as budgeted expenditure for the FY 2017-18 because the expenditure was incurred on construction of building which is the sole responsibility of society as per clause 2 of public notice dated 04.05.1997.

c) Capital expenditure proposed by the school amounting to Rs.28,98,901 for WIP of Lift has not been considered for evaluation of fee increase proposal since, Lift constitutes part of Building and as per clause 2 of public notice dated 04.05.1997, construction of building is the responsibility of the society.

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.

AND WHEREAS, it is also noticed that the school has incurred capital expenditure of Rs.7,43,21,639 on construction of Building, Rs.25,54,778 on WIP of Lift and Rs.46,82,419 for purchase of luxury cars. Further, the school has also paid interest on the loan taken for construction of building amounting Rs.76,67,094. Therefore, the school is directed to recover Rs.8,92,25,930 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 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 **The Srijan School, 4-B, North Model Town, Delhi - 110009 (School Id: 1309171)** 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

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To
The Manager/ HoS
The Srijan School,
4-B, North Model Town,
Delhi - 110009 (School Id: 1309171)

No. F.DE.15 (634)/PSB/2018/30512-30516 Dated: 14.12.2018

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