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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 ( 229 )/PSB/2019/1215-1219 Dated: 29/03/19

**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, **Rockfield Public School, Pocket- A, Sector 16, Rohini, New Delhi -110089 (School Id: 1413197)** 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.

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 23, 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, Vehicles and construction of building during FY 2014-15, 2015-16 and 2016-17 in contravention of clause14 of the order dated 11.02.2009. Therefore, the school is directed to make necessary adjustments in Development Fund and Development Utilisation Fund in compliance with the aforesaid clause. The details of development fund utilised in contravention of clause 14 of the order dated 11.02.2009 is as under:

(Figures in Rs.)

| Particulars | FY 2014-15 | FY 2015-16 | FY 2016-17 |
|---|---|---|---|
| Library Books | 1,16,896 | - | 1,91,135 |
| Vehicles | - | 6,37,450 | - |
| Building | - | - | 22,26,121 |
| **Total** | **1,16,896** | **6,37,450** | **24,17,256** |

b) As per the aforesaid clause, 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 is not charging depreciation on the assets purchased out of development fee. However, the Depreciation Reserve Fund account is appearing in the financial statements which was created either from Development Fund account or from General Fund which is not in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is directed to comply with the aforesaid provisions if the school wish to collect the development fee in future.

II. As per Para 99 of Guidance note on "Accounting by School" issued by ICAI state that "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 noted that the school has not maintained development utilisation account while the school transfer the amount of assets purchased out of development fund to general fund resulting overstatement of General Fund balance at the end of the financial years. Therefore, the school is directed to make necessary adjustments in the Development Utilisation fund and General fund account for the assets purchased out Development fund. The details of assets purchased out of the development fund in FY 2014-15, 2015-16 and 2016-17 are as under:

(Figures in Rs.)

| Particulars | Amount |
|---|---|
| Assets purchased out of Development Fund transferred to General Fund in FY 2014-15 | 15,42,681 |
| Assets purchased out of Development Fund transferred to General Fund in FY 2015-16 | 30,78,758 |
| Assets purchased out of Development Fund transferred to General Fund in FY 2016-17 | 35,63,190 |
| **Total Fixed Assets Purchased out of Development Fund** | **81,84,629** |

III. As per Clause 2 of Public Notice dated May 4, 1997 state that "It 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 sole property of the society". Additionally, 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 10.02. 2005 issued by this Directorate state that "Capital expenditure cannot constitute a component of financial fee structure". Accordingly, based on the aforesaid Public Notice, High Court Judgment and Oder of the Director of Education, the cost relating to construction of School Building is to be met by the Society and not from the funds of the School.

Also, 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, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. Further, the aforesaid savings shall be arrived at after providing for the following, namely:

a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
b) The needed expansion of the school or any expenditure of a developmental nature;
c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
d) Co-curricular activities of the students;
e) Reasonable reserve fund, not being less than ten percent, of such savings.

However, on review of audited financial statements, it is noted that the school has incurred Rs.22,26,121 for construction of building during FY 2016-17 without complying with the aforesaid provisions of Rule 177 and public notice dated 4 May 1997. Therefore, the amount of Rs.22,26,121 utilised by the school has been included in the calculation of fund availability of the school and accordingly the School is directed to recover this amount from the society.

IV. In respect of earmarked levies, school is required to comply 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.

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, Excursion fee, IT fee and IP fee from the students but these fees are not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, the School has incurred deficit in respect of transport fee and excursion fee and has earned surplus in respect of IT fee and IP fee. Further, fund based accounting has not been followed by the school for IT fee and IP fee. Also, fund has been taken out of general fund to meet the deficit incurred in transport fund and excursion fund. Therefore, the surplus/deficit along with the amount transferred from general fund on these earmarked levies is directed to be adjusted by the school against the general reserve to determine the correct position of the general reserve. Also, the school is directed to follow fund based accounting in respect of all the earmarked levies.

Moreover, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee 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 are to be collected only from the user students availing the facilities and if, the services are extended to other Students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges accordingly school may be instructed not charge a separate levy for these facilities in the name of IT charges from the students of class Nursery to X.

V. As per the generally accepted accounting principle all the revenue income and expenditure incurred should be routed through income and expenditure account. However, on review of audited financial statements it is noted that the income and expenditure in respect of earmarked levies for Transport fee and Excursion charges has not been routed through income and expenditure account which is not correct because all the income and expenditure of the school should be routed through the income and expenditure account and thereafter fund base accounting has to be prepared for the earmarked levies. Therefore, the school is directed to route all its income and expenditure through income and expenditure account as per the generally accepted accounting principles. Accordingly, the income and expenditure on these earmarked levies has been considered in evaluation of fee increase proposal.

VI. As per section 18(4) of DSEA, 1973 read with Rule, 176 & 177 of DSER, 1973, Income derived by unaided recognised schools by way of fees should be utilized only for such educational purposes as may be prescribed. However, on review of the financial statements of the School, it has been noted that the School has purchased a luxury car of Rs.10,75,000 (Honda City) during FY 2014-15. Therefore, purchase of luxury car out of school fund cannot be construed as expenditure incurred for the educational purpose. Hence, the school is directed to recover Rs.10,75,000 from the society and accordingly it has been added in the calculation of fund availability of the School.

VII. As per Order No. F. DE-15/ACT-I/WPC-4109/Part/13/7914-7923 dated 16.04.2016 read with Order No. F. DE-15/ACT-I/WPC-4109/Part/13/6750 dated 19.02.2016, schools which have been allotted land by the land-owning agencies on the condition to seek prior sanction of Director of Education for increase in fee, are required to submit their proposals for prior approval for academic session 2016-17 online through website of the Directorate. The Land allotment letter of the School has a condition not to increase the rate of fee without prior sanction of the Directorate of Education. However, on review of the fee receipts it has been observed that the school had increased Fee under the head tuition fee and annual charges in FY 2016-17 without obtaining prior approval from Directorate of Education. Further, the school has also introduced new head of fee namely IP fee and IT fee during FY 2016-17. Thus, School has contravened the aforesaid orders issued by the Directorate of Education. Details of fee increased by the school are as under:

**(Figures in Rs.)**

| Category of Fee | Classes | FY 2015-16 | FY 2016-17 |
|---|---|---|---|
| Tuition Fee | Pre- School | 2600 | 2850 |
| Annual Charges | Pre- School to XII | 2200 | 2500 |

**Other Irregularities:**

I. As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. On review of Audited financial statements, it is noted that the school has made provision of Rs.1,20,74,956 till FY 2016-17 on the basis of actuary report but has not made any investment for the same. Further, school has not made any provision for leave encashment during FY

1792

2014-15 to 2016-17 as required by AS- 15. Therefore, the school is directed to follow Accounting Standard 15.

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

a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. However, on review of audited Financial Statements, it is observed that the school is being refunding principal amount of caution money only and not the interest thereon which is in contravention of clause 18 of the order dated 11.2.2009. Therefore, the School is directed to comply with the aforesaid provisions.

III. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010, after the expiry of 30 days, the amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, the school has not considered the amount of un-refunded cation money as income in its proposed budget. Therefore, the School is directed to comply with the aforesaid provisions.

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

i. The total funds available for the FY 2017-18 amounting to **Rs.5,05,01,620** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.5,67,29,262.** This results in deficit of **Rs.62,27,642**. The details are as follows:

**(Figures in Rs.)**

| **Particulars** | **Amount** |
|---|---|
| Cash and Bank balances as on 31.03.17 as per audited Financial Statements | 20,52,875 |
| Investments as on 31.03.17 as per audited Financial Statements | 8,32,794 |
| Add: Amount recoverable from the society for construction of Building in FY 2016-17 **(Refer Observation No. III of Financial Irregularity)** | 22,26,121 |
| Add: Amount recoverable from the society for purchase of Honda City Car in FY 2014-15 **(Refer Observation No. VI of Financial Irregularity)** | 10,75,000 |
| Less: Outstanding balance of Caution Money as on 31-03-2017 | 4,17,100 |
| Less: Development Fund balance as on 31-03-2017 | 3,07,182 |
| **Total** | **54,62,508** |
| 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) | 4,46,63,773 |
| Other income for 2016-17 as per audited Financial Statements | 3,75,340 |
| **Estimated availability of funds for 2017-18** | **5,05,01,620** |

1293

| Particulars | Amount |
|---|---|
| Less: Budgeted expenses for FY 2017-18 (after making adjustment) **Refer Note- 1 to 3** | 5,67,29,262 |
| **Estimated Deficit** | **62,27,642** |

**Adjustments:**

**Note- 1:** The school has proposed Rs.1,47,00,000 for incremental salary under 7th CPC for the period 01-12-2017 to 31-03-2018 which is 29% of the previous year salaries. The school was paying DA @ 51% and 100% under 6th CPC instead of 125% due to which the impact of 7th CPC is high. Therefore, amount proposed by the school has been considered subject to the limit of 30% over the 4 month's salaries of previous year. Details of amount disallowed are as under:

**(Figures in Rs.)**

| Particulars | Amount |
|---|---|
| Total Salary Proposed including arrear for the period 01-12-2017 to 31-03-2018 (Rs.2,30,00,000+ Rs.1,47,00,000) | 3,77,00,000 |
| Increase over previous year salary (Rs.3,77,00,000 – Rs.2,93,05,989) | 83,94,011 |
| % increase over previous year salary (Rs.83,94,011/Rs.2,93,05,989) | 29% |
| 4 month's salaries (taking 16-17 as base) (Rs.293,05,989*4/12) [A] | 97,68,663 |
| 30% of 4 month's salary for the FY 2016-17 (Rs.97,68,663*30%) [B] | 29,30,599 |
| **Incremental amount should have been proposed [A+B]** | **1,26,99,262** |
| **Excess incremental salary disallowed (Rs.1,47,00,000-Rs.1,26,99,262)** | **20,00,738** |

**Note- 2:** School has proposed Rs.15,00,000 for Gratuity provision which has not been considered for evaluation of fee increase proposal since the school has not made any investment for gratuity provision made by it till FY 2016-17.

**Note- 3:** The school has proposed Rs.14,50,000 under the head building which is in contravention of clause 2 of public notice dated 04.05.1997 read with Rule 177, of DSER, 1973. Therefore, the same has not been considered for evaluation of fee increase proposal.

ii. It seems that the School may not be able to meet its budgeted expenses from the existing fees structure and accordingly, it should utilise its existing funds/ reserves. In this regard, Directorate of Education has already issued directions to the Schools vide circular no. 1978 dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that though certain financial irregularities exist (appropriate financial impact of which has been taken on the fund position of the School) and certain procedural findings noted (appropriate instruction against which have been given in this order), the fee increase proposal of the School may be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in tuition fee by 15% from 01 April, 2019.

AND WHEREAS, it is also noticed that the school has incurred capital expenditure of Rs.22,26,121 for construction of building and Rs.10,75,000 for purchase of luxury car. Therefore, the school is directed to recover Rs.33,01,121 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 for academic session 2017-18 of **Rockfield Public School, Pocket- A, Sector 16, Rohini, New Delhi -110089 (School Id: 1413197)** has been accepted by the Director of Education with effect from April 01, 2019 and the School is hereby allowed to increase the tuition fee by 15%. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the tuition fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure implementation of recommendations of 7$^{th}$ CPC in accordance with Directorate order dated 25.08.2017.
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 and others. Therefore, School not to include capital expenditure as a component of fee structure to be submitted by the School under section 17(3) of DSEA, 1973.
5. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

1795

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

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

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

**To**
**The Manager/ HoS**
**Rockfield Public School,**
**Pocket- A, Sector 16, Rohini,**
**New Delhi -110089 (School Id: 1413197)**

No. F.DE.15 ( 229 )/PSB/2019/1215-1219 Dated: 29/03/19

**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**