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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 (253)/PSB/2019/1445-1449 Dated: 29/03/2019

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, **Sachdeva Public School, Sector- 13, Rohini, New Delhi (School Id: 1413217)** 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 April 03, 2018. Further, School was also provided opportunity of being heard on May 16, 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 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 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.

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However, the school has purchased a bus of Rs.15,00,000 in FY 2014-15 by taking loan of Rs.8,98,000 and Rs.5,08,900 and down payment of Rs.93,100 was paid out of the school fund. In the past three financial years. Further, the school has paid Rs.10,47,801 towards principal repayment and Rs.2,10,777 towards interest thereon out of the school fund without complying with the provisions of Rule 177 of DSER,1973. Therefore, the amount of Rs.13,51,678 paid out the school fund has been included in the calculation of fund position of the school with the direction to the school to recover this amount from the society. Also, the school is directed to make adjustment in general fund with the amount of interest already charged in income and expenditure account.

II. 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 audited financial statement, it has been noted that, the school has purchased vehicle of Rs.25,86,222 in FY 2016-17 out of the school fund. During discussion, it was clarified by the school that the vehicles purchased during the said period includes two Honda City of Rs.21,68,222 and one Wagon R of Rs.4,18,000. Hence, purchase of luxury car cannot be construed as expenditure incurred for the purpose of welfare of student and therefore, amount incurred by the school for purchasing of Honda City cannot be charged from students. Thus, the school is directed to recover Rs.21,68,222 from the society.

III. In respect of earmarked levies, school is required to comply with:

- Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
- Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

In FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely i.e. Transportation fee, Science fee, Computer fee, Smart Class Technology Charges and Health, Hygiene and Safety Charges from the students but these levies were 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, school has generated surplus on account of transportation fee, science fee and computer fee. Further, the school is not following the fund-based accounting in respect of transportation fee, science fee and computer fee. Therefore, the school is directed to adjust the surplus/deficit in respect of these earmarked levies against General Reserve.

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

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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 services/ facilities of the school. And if, the services is 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 stop the collection of separate charges in the name of the "Smart Class Technology Charges and Health, Hygiene and Safety Charges".

IV. The income and expenditure in respect of "technology charges for smart class and health, hygiene and safety charges" during the financial years under review has not been shown in the audited income and expenditure account instead income and expenditure account of each of these earmarked levies has been prepared separately. As per the generally accepted accounting principle all the revenue income and expenditure incurred should be routed through income and expenditure account. Therefore, the school is directed to follow the guidance note and DoE's order dated 16.04.2016. Accordingly, the income and expenditure of these earmarked levies has been considered for evaluation of fee increase proposal.

V. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the development fee shall be treated as capital receipt and it should be utilized for the purpose of supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, on review of audited financial statement for the Financial Year 2014-15, 2015-16 and 2016-17, it has been noted that the school has utilised development fee for meeting revenue expenditures in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed to make necessary adjustment in the development fund account. Details of revenue expenditures incurred out of development fee are as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Repair and upgradation of furniture	38,32,081	6,82,178	31,95,234
Upgradation of CCTV Networking	13,18,950	8,03,340	6,85,891
Computer lab Upgradation	3,50,333	-	4,59,042
Upgradation of Electrification	-	8,66,470	-
Total	**55,01,364**	**23,51,988**	**43,40,167**

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VI. 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 created Development Utilisation Account since, it has prepared separate balance sheet, Income and Expenditure account and Receipt and Payments account for the Development Fee during FY 2014-15, 2015-16 and 2016-17. Therefore, the school is directed to follow the Guidance Note- 21.

VII. As per the DSEAR, 1973 any amount collected by the school should be utilised for imparting better education to the students and not for any other purposes or donation. However, on review of the financial statement it has been observed that the school has donated Rs.1,27,000 in FY 2016-17. As per School's explanation, Rs.52,000 has been donated to Maa Kamakhya Yog Sadhana Social Welfare Society and Rs.75,000 has been paid to Action Committee to cover the Legal and Miscellaneous Cost of the Committee which cannot be construed as for educational purpose. Therefore, the School is directed to recover Rs.1,27,000 from the Society. Accordingly, the same has been included in the calculation of fund availability of the school and adjusted against the general reserve account.

VIII. During FY 2016-17, the School has treated the expenditure of Rs 5,31,558 on construction of rain water harvesting and Rs. 8,06,125 on construction of 3D lab as revenue expenditure instead of treating the same as capital expenditure. The rain water harvesting and 3D lab are fixed assets and should be treated as capital expenditure and accordingly depreciation on it should be charged to revenue account every year. Therefore, the school is directed to make necessary adjustment in the general reserve account.

IX. 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 determined at the balance sheet date. However, the school has provided for Gratuity and Leave Encashment for Rs.2,10,05,340 on management estimation basis in the financial statement whereas the total liability computed by the management as on 31-03-2017 was Rs.6,09,40,412. Therefore, liability for gratuity and leave encashment has been understated by Rs.3,99,35,072. Further, the school has not earmarked any investment against the same during FY 2016-17 but has earmarked investment of Rs.72,29,174 with the LIC as on 31-09-2018. Since, the school has earmarked investment for Rs.72,29,174 with the LIC therefore, the amount invested by the school has been considered for evaluation of fee increase proposal.

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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 direcetd 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	3435	3625	3823
EWS Students	317	393	421
% of EWS Students	9%	11%	11%

II. Till FY 2015-16, the school was showing the fixed assets at Gross Value and the corresponding Depreciation reserve fund was maintained. Whereas, in FY 2016-17, the school has deducted the accumulated depreciation as on 01-04-2016 of Rs.6,38,02,590 from the Depreciation reserve fund and correspondingly reduced the value of fixed assets. During discussion, school has explained that, the adjustment carried out in the depreciation reserve fund shows the utilisation made from depreciation reserve fund till FY 2016-17. As per the school, it has not passed any entry for the utilisation made out of depreciation reserve fund at the time of purchase of fixed assets due to which the balance of depreciation reserve fund was appearing overstated. Therefore, it is concluded that, the school has understated its fixed assets by making the above adjustment in the depreciation reserve fund. Further, the school has not disclosed the adjustment made in the depreciation reserve fund in the Notes to Accounts. Also, the practice followed by the school is not as per the Generally Accepted Accounting Principles. The school is direcetd to prepare and present its financial statement as per the GAAP.

III. Since, the school has prepared separate balance sheet for development fee and transferred only net balance of development fund account to the main balance sheet of the school resulting into understatement of fixed assets value by the amount of assets purchased out of development fee. Therefore, the school is direcetd to prepare single financial statement for all the incomes derived by it.

I. The school is charging depreciation as per 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 direcetd to follow the Guidance Note-21 "Accounting by 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 FY 2017-18 amounting to **Rs.25,82,09,505** out of which cash outflow in the FY 2017-18 is estimated to be **Rs.27,63,55,612.** This results in net deficit of **Rs.1,81,46,107.** The details are as follows:

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(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	48,00,905
Investments as on 31.03.17 as per Audited Financial Statements	10,08,081
Add:- Donation paid in the FY 2016-17 reported as expenditure to income & expenditure account **(Refer observation no. VII under financial irregularities above for details)**	1,27,000
Add: Amount recoverable from the Society for purchase of Luxury Car in FY 2016-17 **(Refer observation no. II under financial irregularities above for details)**	21,68,222
Add: Amount recoverable from the Society for purchase of Bus in FY 2014-15 **(Refer observation no. I under financial irregularities above for details)**	13,51,678
Less: Caution Money balacne as on 31-03-2017	4,27,500
Less: Specific Investment against CBSE	7,22,148
Less: Development Fund balance as on 31-03-2017	27,21,226
Less: Investment earmarked by the school towards gratuity and leave encashment **(Refer observation no. IX under financial irregularities above for details)**	72,29,174
Total	**- 16,44,162**
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)	25,63,04,645
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)	35,49,022
Estimated availability of funds for FY 2017-18	**25,82,09,505**
Less: Budgeted expenses for the session 2017-18 **(Refer Note- 1 and 2)**	27,63,55,612
Net Deficit	**1,81,46,107**

Adjustments:

Note 1: Under the following heads the School has proposed higher expenditures as compared to the actual expenditure incurred in the previous financial year. The school has not provided any satisfactory explanation or justification for such unusual increase in these expenditures. Therefore, considering the rate of inflation these expenditures have been restricted to 110% of the actual expenditure incurred in the FY 2016-17. The summary of expenditure disallowed is as under:

Particulars	FY 2016-17	FY 2017-18	Difference	% change	Amount disallowed in excess of 10%
Smart class e-enables Assistance Technology Exp. Including Educational CDs & Resource Management	51,03,735	80,00,000	28,96,265	57%	23,85,892
White Wash Expenses	11,55,433	25,00,000	13,44,567	116%	12,29,024
Extra - curricular activities	5,75,432	80,00,000	74,24,568	1290%	73,67,025
Newspaper, Books and Periodicals	2,71,320	17,00,000	14,28,680	527%	14,01,548
Total	**71,05,920**	**2,02,00,000**	**1,30,94,080**		**1,23,83,488**

Note- 2: The amount proposed by the school for "installation of lift of Rs.50,00,000 has not been considered in the evaluation of fee increase proposal since, clause 2 of Public Notice dated May 4, 1997 states 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".

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.

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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 Rs.21,68,222 for purchase of luxury car in FY 2016-17 and Rs.13,51,678 for purchase of mini bus in FY 2014-15 out of the school fund which is in contravention of Rule 177 of DSER, 1073. Further, the school has paid donation of Rs.1,27,000 in FY 2016-17. Therefore, the school is directed to recover Rs.36,46,900 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 **Sachdeva Public School, Sector- 13, Rohini, New Delhi (School Id: 1413217)** 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 7th 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.

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
e Manager/ HoS
Sachdeva Public School,
Sector- 13, Rohini, New Delhi (School Id: 1413217)

No. F.DE.15 (253)/PSB/2019 /1445 - 1449 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