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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 (277)/PSB/2019/1480-1484 Dated: 04/04/19

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 ..as 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, **Vidya Jain Public School, Sector – 6, Rohini, Delhi - 110085 (School Id: 1413224)** 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 May 02, 2018. Further, School was also provided opportunity of being heard on July 19, 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 fund may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, during FY 2016-17, school has utilised development fee for library books of Rs. 27,684 and has transferred Rs. 37,30,678 to General Fund for meeting shortfall of salaries which is in contravention of above mentioned clause. Therefore, the school is directed to make necessary adjustment in Development Fund, General Fund and Development Fund utilised to determine the actual position of fund balances.

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

However, on review of the financial statements of the school it has observed that the school has collected earmarked levies namely transport charges, smart class fee and security/ERP/Abacus fee but these fee are not charged on 'no profit no loss' basis. The school has earned surplus from smart class fee and security/ERP/Abacus fee and has incurred deficit from transport charges. Further, the school is not following fund based accounting. Therefore, the school is directed to make necessary adjustment in General Fund for the surplus/ deficit incurred on these earmarked levies and to follow fund based accounting.

Further, 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.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facility has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, earmarked levy collected by the school in the name of Smart class fee and security/ERP/Abacus fee would get covered either form annual fee or from tuition fee, thus the school is directed not to collect separate earmarked levy in the name of Smart class Fee and security/ERP/Abacus fee.

Clause 2 of the Public Notice dated 4 May 1997 States that "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building should be incurred and borne by the society and not by the school from the school fund. Further, The 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 February 2005 issued by this Directorate state that "Capital Expenditure cannot constitute a component of financial fee structure".

Further, as per Rule 177 of DSER, income derived by an unaided school 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 and 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.

Accordingly, based on the aforesaid provisions and Judgment of Hon'ble High Court, the costs relating to land and construction of the school building has to be met by the society (being the property of the society).

Following have been observed:

a. The school has incurred Rs. 7,00,878 towards capital expenditure on building in FY 2016-17 without complying the aforesaid provisions. Therefore, the expenditure incurred by the school on building has been included in the funds availability of the school with the direction to school to recover the same from the society.

b. Further, the school has taken secured loan for building and payment of loan and interest has been made through Nainital Bank A/c and Nainital OD A/c during FY 2014-15, 2015-16 and 2016-17 which is in contravention of aforesaid provisions. The school has incurred Rs. 47,58,654 towards principal repayment of loan and interest thereon. Therefore, the said amount has been included in the funds availability of the school with the direction to the school to recover this amount from the society. Further, the school is directed to make adjustment in General Fund for the interest charged in the income and expenditure account.

Other Irregularities:

I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as s.no. 18 of DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 201-16 and FY 2016-17. Therefore, DDE District is directed to look into the matter. The details of total students and EWS students are given below.

Particulars*	**FY 2015-16**	**FY 2016-17**
Total Students	1222	1217
EWS Students	194	194
% of EWS Students	**16%**	**16%**

*Total strength of students for FY 2014-15 is not provided by school.

II. As per the explanation provided by the school during discussion, it is charging development fee from FY 2016-17 onwards. However, on review of fee receipts for FY 2015-16, it has been observed that the school has collected development fee in FY 2015-16 and has merged it with other head of income.

III. The fixed assets present in the financial statement in two categories i.e. assets purchased out of general fund are shown at WDV whereas assets purchased out of the development fund are shown at the gross value. Therefore, the school is directed to follow consistent accounting principle as per GN-21 issued by ICAI.

IV. As per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (if un-refunded for more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. But the school has not complied with the provisions. Further, in the absence of complete details about the number of student left during the period without claiming the amount of caution money, the financial impact of the same cannot be determined.

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. 5,38,01,316** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 6,13,13,732.** This results in deficit of **Rs. 75,12,416**. The details are as follows:

(Figures in Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	10,90,965
Add: Investments as on 31.03.17 as per audited Financial Statements	9,69,473
Add: Recoverable from society building in contravention to the clause 2 of public notice dated May 4, 1997	47,58,654
Add: Recoverable from society building in contravention to the clause 2 of public notice dated May 4, 1997	7,00,878
Less: FDR in the joint name of Dy Director and School	9,69,473
Total	**65,50,497**
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)	4,44,19,099
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)	28,31,720
Estimated availability of funds for FY 2017-18	**5,38,01,316**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 6	**6,13,13,732**
Estimated Deficit	**75,12,416**

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Note 1: The school has first time proposed Rs. 25,00,000 for gratuity in its budget for FY 2017-18. Since the school has insufficient funds to meet the above provisions, therefore the provision for gratuity has not been considered in the evaluation of fee increase proposal.

Note 2: The school has proposed salary to teaching and non-teaching staff of Rs. 4,46,73,788 in its budget for FY 2017-18. The amount of expenditure proposed by the school is higher as compared to the actual expenditure incurred by the school in FY 2016-17 for which the school has not provided any justification/explanation for such unusual increase. Therefore, such expenditures have been restricted to 110% of the actual expenditure incurred by the school in the previous financial years considering the rate of inflation for the purpose of evaluation of fee increase proposal and excess amount of Rs. 21,02,984 has been disallowed

Note 3: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

Particulars	2016-17	2017-18	Net Increase	% Change	Disallowed
Computer & Smart Class Expenses	6,27,550	19,50,000	13,22,450	211%	12,59,695
Function & Festival Expenses	1,22,540	5,00,000	3,77,460	308%	3,65,206
Building Repair & Maintenance	85,210	3,50,000	2,64,790	311%	2,56,269
General Repair & Maintenance	1,03,105	2,50,000	1,46,895	142%	1,36,585
Total	**9,38,405**	**30,50,000**	**21,11,595**		**20,17,755**

Note 4: The school has proposed interest on loan of Rs. 9,50,000 in budget for FY 2017-18, therefore the same has not been considered in the evaluation of fee increase proposal.

Note 5: The school has proposed following capital expenditure in the budget for FY 2017-18. Since FY 2017-18 is the year of implementation of 7th CPC where parents are already overburdened, therefore, the same has not been considered in the evluation of fee increase proposal. The summary of capital expenditure are as given below:

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Particulars	FY 2017-18
Furniture & Fixtures	10,00,000
Office Equipment	7,50,000
Smart Class Equipment	7,50,000
Sports Equipment	5,00,000
Total	**30,00,000**

Note 6: The school has proposed salary arrears of Rs. 1,49,94,114 in budget for FY 2017-18 which is 39% of the actual salary paid in the previous financial year which is quite high therefore, the salary arrears have been restricted to 25% of previous year salaries and excess amount of Rs.53,18,931 [1,49,94,114 – (3,87,00,731*25%)] has been disallowed.

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 finding 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 taken loan for building and has incurred Rs. 4758654 for payment of loan and interest thereon and Rs. 7,00,878 on building which are in contravention of Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs. 54,59,532 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 **Vidya Jain Public School, Sector – 6, Rohini, Delhi - 110085 (School Id: 1413224)** has been accepted by the Director of Education with effect from

April 01, 2019 and the School is hereby allowed to increase 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.

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
Vidya Jain Public School,
Sector – 6, Rohini,
Delhi - 110085 (School Id: 1413224)

No. F.DE.15 (277)/PSB/2019 /1480-1484 Dated: 04/04/19

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.

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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