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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(125)/PSB/2019/ 1505-1509 Dated: 04/04/19

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that 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, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 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 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court 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 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. 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) read along 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 response to this directorate's circular dated 23 Oct 2017 referred to above **Rukmini Devi Public School (School ID- 1413241), B-5 Sec-4 Rohini, Delhi- 110085** proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format 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 Chartered Accountants at HQ level who has evaluated the fee increase 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 through email. Further, school was also provided an opportunity of being heard on 13 July 2018 at 04:00 PM to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification 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 thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Discrepancies

1. As per the Directorate's Order No. DE 15/Act/Duggal.com/203/ 99/23033/23980 dated 15 Dec 1999, the management is restrained from transferring any amount from the recognized unaided school fund to society or trust or any other institution. The Supreme Court also through its judgement on a review petition in 2009 restricted transfer of funds to the society.

   The audited financial statements of the school for FY 2016-2017 reflected a receivable balance of INR 1,98,959 from Rukmini Devi College of Education (another institution under the management of same society) on account of utility charges receivable, which has not been recovered by the school.

   During personal hearing, it was explained that the school had given its ground floor to Rukmini Devi College of Education for running nursery teacher training after school hours. However, no fixed rent is charged from the college, instead the income earned by the college after adjusting the expenses incurred by the college are reported as income in the financial statements of the school as amount receivable from the college.

   The school submitted the audited financial statements of Rukmini Devi College of Education, which reported a net surplus of INR 6,98,959 and the same was also reported in the financial statements of the school as its income. From the audited financial statements of the school for FY 2016-2017, it was noted that the school received an amount of INR 5,00,000 out of INR 6,98,959 during the year and balance of INR 1,98,959 is still recoverable i.e. after a more than a year, which can be considered as an indirect transfer of funds to the college.

Accordingly, this amount of INR 1,98,959 is hereby added to the fund position of the school (enclosed in the later part of this order) considering the same as funds available with the school and with the direction to the school to recover this amount from Rukmini Devi College of Education within 30 days from the date of this order.

2. Accounting *Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." Further, according to para 7.14 of the Accounting Standard 15 – 'Employee Benefits' issued by the Institute of Chartered Accountants of India, "Plan assets comprise:*
   (a) assets held by a long-term employee benefit fund; and
   (b) qualifying insurance policies."

   Directorate, through its Order no. F. DE-15/ACT-I/WPC-4109/PART/13/963 dated 13 Oct 2017 issued to the school post evaluation of the proposal for fee enhancement for FY 2016-2017, directed the school to make earmarked equivalent investments against provision for Retirement Benefits with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect the statutory liabilities. And provisions for retirement benefits should be based on actuarial valuation.

   The school obtained actuarial valuation of its liability towards gratuity and leave encashment as on 31 Mar 2017 of INR 10,35,863 and INR 4,64,745 respectively, created provisions for the same in its books of account and reported the same as liability in its financial statements for FY 2016-2017.

   The school submitted receipts for deposit of INR 13 Lakhs and INR 5 lakhs with LIC in group gratuity scheme and group leave encashment scheme respectively in FY 2018-2019. Based on the deposit receipt submitted by the school, the amounts of INR 13 Lakhs and INR 5 lakhs deposited with LIC towards staff gratuity and leave encashment respectivlely have been considered while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order). Accordingly, the amount of expense budgeted against the same for FY 2017-2018 has not been considered in as part of the budgeted expenses for FY 2017-2018 while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order).

   The school is further directed to deposit the remaining amount of liability determined by the actuary towards gratuity and leave encashment with LIC in subsequent year.

B. Other Discrepancies

1. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

Para no. 22 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*"

Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered.*"

Also, earmarked levies collected from students are a form of restricted funds, which, according to Guidance Note on Accounting by Schools issued by the Institute of Chartered Accountants of India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the aforementioned Guidance Note lays down the concept of fund based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account ('Restricted Funds' column) and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account ('Restricted Funds' column).

From the information provided by the school and taken on record, it has been noted that the school charges earmarked levy in the form of Transport Fees from students. However, the school has not maintained separate fund account for transport fee and the school has been incurring loss (deficit), which has been met from other fees/income and the same was also mentioned in Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/963 dated 13 October 2017 issued to the school post evaluation of the fee increase proposal for FY 2016-2017. Details of calculation of surplus/deficit, based on breakup of expenditure provided by the school for FY 2016-2017 is given below:

Earmarked Fee	Income (INR)	Expenses (INR)	Surplus (INR)
Transportation Charges^	9,38,000	10,52,658	(1,14,658)

^ Expenses include depreciation on vehicles used for transportation of students of INR 45,923

The school is directed to maintain separate fund account depicting clearly the amount collected amount utilised and balance amount of transport fund. Unintentional surplus/deficit, if any generated from earmarked levies has to be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school is directed to evaluate costs against earmarked levy and propose the fee structure for earmarked levy during subsequent proposal for enhancement of fee ensuring that the proposed levy has been calculated on no-profit no-loss basis.

2. As per direction no. 2 included in the Public Notice dated 4 May 1997, "*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

judgement dated 30 Oct 1998 in the case of Delhi Abibhavak Mahasangh concluded that "*The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

Accordingly, based on the aforementioned public notice and Hon'ble High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same.

The financial statements of the school for FY 2014-2015, FY 2015-2016 and FY 2016-2017 revealed that the school has incurred expenditure on construction of building and has capitalised building totalling to INR 36,10,787 in the aforesaid financial years. During the personal hearing, the school informed that the society has contributed an amount of INR 32,50,000 during FY 2013-2014 and INR 4,00,000 in FY 2014-2015 totalling to INR 36,50,000 towards construction of school building. However, the audited financial statements of the school for FY 2016-2017 reflected that a loan of INR 50,13,049 (inclusive of INR 36.5 lakhs mentioned by the school as received towards construction of school building) is payable to the society.

Based on the explanation provided by the school, the school is instructed to adjust the amount incurred on construction of building against the amount payable to the society and reflect the correct financial position of assets and liabilities of the school in its audited financial statements. Compliance of the same will be verified at the time of evaluation of subsequent fee hike proposal.

3. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11 Feb 2009 states "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures 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 a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development fund Account.*"

   Para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states "*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.*"

   Incorrect utilisation of development fund was indicated in this directorate's order no. F. DE-15/ACT-I/WPC-4109/PART/13/963 dated 13 October 2017 issued post evaluation of the proposal for enhancement of fee for the academic year 2016-2017 submitted by the school.

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Further, it was observed that the school had incurred expenditure on purchase of library books of INR 22,647 during FY 2016-2017 and reflected the same as utilisation of development fund in the audited financial statements for FY 2016-2017, which is not in accordance with the directions included in above order.

Based on discussion with the school in personal hearing, the school is yet to open separate bank account for deposit and utilisation of development fund.

Further, from the audited financial statements of the school for FY 2016-2017, it was noted that the school was following incorrect accounting practice for recording of development fund and depreciation reserve fund. It was noted that the school was transferring the balance amount of development fund (after adjustment of assets purchased from it) to depreciation reserve fund and was not transferring amount equivalent to the amount of depreciation from DF Assets Capital Reserve to the Income and Expenditure Account as indicated in the guidance note cited above. Further, depreciation reserve reported in the financial statements was not equal to the amount of cumulative depreciation reflected by the school in the fixed assets schedule annexed with the financial statements of FY 2016-2017.

The school is directed to follow DOE instruction in this regard and ensure that development fund is utilised only towards purchase of furniture, fixture and equipment. The school is also directed to maintain development fund in a separate bank account. Further, the school should reconcile the amount of depreciation reserve and development fund in accordance with the directions included in order above and comply with the accounting treatment indicated in the Guidance Note. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the school.

4. Direction no. 3 of the public notice dated 4 May 1997 published in the Times of India states "*No security/ deposit/ caution money be taken from the students at the time of admission and if at all it is considered necessary it should be taken once and at the nominal rate of INR 500 per student in any case and it should be returned to the students at the time of leaving the school along with the interest at the bank rate.*"

   Further Clause 18 of Order no F.DE/15(56)/Act/2009/778 dated 11 Feb 2009 states "*No caution money/security deposit of more than five hundred rupees per student shall be charged. The caution money thus 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 the bank interest thereon irrespective of whether or not he/she requests for refund.*"

   Further, Clause 3 and 4 of Order no. DE/15/150/Act/2010/4854-69 dated 9 Sep 2010 stated "*In case of those ex-students who have not been refunded the Caution Money/Security Deposit, the schools shall inform them (students) at their last shown address in writing to collect the said amount within thirty days. After the expiry of thirty days, the un-refunded Caution Money belonging to the ex-students shall be reflected as income for the next financial-year & it shall not be shown as liability. Further, this income shall also be taken into account while projecting fee structure for ensuing Academic year.*"

The school has not segregated fund balance pertaining to caution money (i.e. no separate bank account or fixed deposits) and has not credited interest to the caution money ledger account for refund to students at the time of their leaving. Caution money was refunded to the students @ INR 500 i.e. without including any interest.

During the personal hearing, the school mentioned that it stopped collecting caution money from students in year 2008. Thus, the caution money appearing in the financial statements does not pertain to current students of the school. Thus, it will transfer the caution money amount collected from students in past to income in the FY 2018-2019. Thus, based on the explanation provided by the school, the school is directed to ensure compliance with aforementioned order and transfer the total caution money to income in case any ex-students does not turn up to collect the caution money within 30 days of sending communication to him/her and should not collect it subsequently. Accordingly, based on the explanation provided by the school, no amount has been considered towards caution money while deriving the fund position of the school (enclosed in the later part of this order).

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

i. The total funds available for the year 2017-2018 amounting to INR 1,62,12,388 out of which cash outflow in the year 2017-2018 is estimated to be INR 1,87,85,416 . This results in net deficit of INR 25,73,028. The details are as follows:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	7,01,327
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	7,98,833
Total Liquid Funds Available with the School as on 31 Mar 2017	**15,00,160**
Add: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	1,53,16,445
Add: Arrears of fee hike approved by the Directorate for FY 2016-2017 to be collected in FY 2017-2018 [Refer Note No. 2]	9,96,824
Add: Amount recoverable from Rukmini Devi College of Education [Refer Financial Finding No. 1]	1,98,959
Gross Estimated Available Funds for FY 2017-2018	**1,80,12,388**
Less: Retirement Benefits - Gratuity [Refer Financial Discrepancy No. 2]	13,00,000
Less: Retirement Benefits – Leave Encashment [Refer Financial Discrepancy No. 2]	5,00,000
Less: Development Fund ('Nil' as per audited financial statements of FY 2016-2017)	-
Less: Depreciation Reserve Fund [Refer Note 3]	-
Less: Caution Money [Refer Other Finding No. 4]	-
Net Estimated Available Funds for FY 2017-2018	**1,62,12,388**
Less: Budgeted Expenses for FY 2017-2018 [Refer Note 4]	1,87,85,416
Estimated Deficit	**25,73,028**

Notes:

1. Fee and income as per audited financial statements of FY 2016-2017 (together with increase of 10% approved by DoE during FY 2016-2017) has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018.

2. The school was allowed by DoE to increase its fee by 10% vide Order No. F.DE-15/ACT-I/WPC-4109/PART/13/963 dated 13 Oct 2017. However, the school had included net arrears of INR 14,19,246 to be collected against fee increase till Nov 2017. Based on the percentage increase allowed by DoE, 10% of the tuition fee reported by the school in its audited financial statements of FY 2016-2017 has been considered as arrears against fee increase approved by the Directorate amounting to INR 996,824. This has been added to the available funds, as this would be additional collection by the school not included in the income of FY 2016-2017 (as per audited financial statements).

3. The school has charged depreciation on fixed assets and has created depreciation reserve on liabilities side of the Balance Sheet of the school, which does not reconcile with the amount of accumulated depreciation as on 31 Mar 2017 (Refer Other Finding No. 3). While development fund as per audited financial statements has been adjusted for deriving the fund position of the school, depreciation reserve is more of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

4. Per the Budgeted Receipt and Payment Account for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure during FY 2017-2018 as INR 2,21,21,551 (including arrears of 7th CPC of INR 22,30,405), which in some instances was found to be unreasonable/ excessive. Based on the explanations and details provided by the school during personal hearing, most of the expense heads as budgeted were considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017. However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. The same were discussed during personal hearing with the school. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount allowed	Amount Disallowed	Remarks
Salary Arrear in salary account of 7th pay commission with effect from Jan 2016 to Dec 2017	-	22,30,405	-	22,30,405	Based on the minutes of the meeting of the Managing Committee (MC) submitted by the school along with proposal, the MC approved implementation of salary scales recommended by 7th CPC with effect from Jan 2018. Accordingly, salary arrears of Jan 2016 to Dec 2017 have not been considered.
Depreciation	4,07,535	4,50,000	-	4,50,000	Depreciation, being non-cash expense des not entail cash outflow, thus, it has not been considered.
Depreciation on development Fund assets	-	6,55,730	-	6,55,730	
Total	**4,07,535**	**33,36,135**	**-**	**33,36,135**	

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ii. It seems that the school may not be able to meet its budgeted expenses from the existing fee structure and accordingly, it should utilise its existing funds/reserves and other resources. In this regard, Directorate of Education has already issued directions to the schools vide circular no. 1978 dated 16 Apr 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 that were identified (appropriate financial impact of which has been taken on the fund position of the school) and certain procedural findings which were also noted (appropriate instructions 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 materials were put before Director of Education for consideration and who after considering all material on record has found it appropriate to allow increase in tuition fee by 15% with effect from April 2019.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee of **Rukmini Devi Public School (School ID- 1413241), B-5 Sec-4 Rohini, Delhi- 110085** has been accepted by the Director of Education with effect from April 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 DSEA, 1973 to comply with the following directions:

1. To increase the tuition fees only by the prescribed percentage from the specified date.
2. To rectify the financial and other irregularities as listed above and submit the compliance report within 30 days from the date of this order to D.D.E.(PSB).
3. 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.
4. 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.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act 1973 and Delhi School Education Rules 1973.

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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

To:
The Manager/ HoS
Rukmini Devi Public School
School ID- 1413241,
B-5 Sec-4 Rohini,
Delhi- 110085

No. F.DE.15(125)/PSB/2019/ 1505-1509 Dated: 04/04/19.

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 Spl. 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