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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

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No. F DE.15 (181)/PSB/2019 | 1090-1094 Dated: 14/3/2019

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:-

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(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, **Titiksha Public School, Sec- 11, Rohini, Delhi (School Id: 1413247)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the Schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the School very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the School vide email dated March 27, 2018. Further, School was also provided opportunity of being heard on June 18, 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 audited financial statements the following have been observed

a. The school has utilised development fund for payment of educom expenses and upgradation of equipment/ furniture (revenue nature) during FY 2014-15, 2015-16 and 2016-17 which is not in accordance with clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make necessary adjustments in development fund and general fund account. Year wise details of development fund utilised for revenue expenditures is as under.

(Figures in Rs.)

Particulars	Amount
Development fund was utilized for payment of Educom expenses in FY 2014-15	13,34,684
Development Fund was utilised for upgradation of equipment/ furniture which is of revenue nature in FY 2015-16	43,40,279
Development Fund was utilised for upgradation of equipment/ furniture which is of revenue nature in FY 2016-17	35,23,500
Total	**91,98,463**

b. The school has utilised development fund of Rs.12,73,297, Rs.37,14,101 and Rs.61,75,874 in FY 2014-15 to 2016-17 for purchase of fixed assets. But these assets are not reflecting on the face of the financial statements which indicates that the school has diverted its fund in the name of purchase of fixed assets. Therefore, total amount of Rs.1,11,63,272 which was utilised for purchase of assets is directed to be recovered from the school management and accordingly it has been included in the calculation of fund availability of the school.

II. As per Rule 177 of DSER, income derived by an unaided private 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.

On review of audited financial statements, it has been noted that the school has purchased buses of Rs.36,30,000 and Rs. 19,03,383 in FY 2014-15 and 2015-16 by taking a loan of Rs.30,00,000 and Rs.17,00,000 respectively and remaining amount of Rs.8,33,383 [i.e. (Rs.36,30,000 + Rs.19,03,383) – (Rs.30,00,000 + Rs.17,00,000)] has been paid out of school fund. Further, the school has paid amounting Rs.38,78,577 against repayment of principal and Rs.8,57,366 towards interest on above loan. Therefore, the amount utilised by the school of **Rs.55,69,326** (i.e Rs.8,33,383 + Rs.38,78,577 + Rs.8,57,366) is not in accordance with the aforesaid provision. Thus, the school is directed to recover Rs.55,69,326 from the society and accordingly, has been included in the calculation of fund availability of the school.

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III. 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. While on review of financial statements of the School, it has been observed that the school has purchased a Car of Rs.12,38,015 by taking loan of Rs.8,00,000 from the bank and remaining amount of Rs.4,38,015 was paid from the school fund. During FY 2014-15 to 2016-17, the school has paid Rs.5,98,674 towards repayment of principal amount and Rs.1,32,182 towards interest on loan. Therefore, the amount utilised by the school for purchase of car amounting to **Rs.11,68,871** (**Rs.4,38,015 + Rs.5,98,674 + Rs.1,32,182**) is not in accordance with the aforesaid provisions of DSEAR, 1973. Thus, the school is directed to be recoverable from the society and accordingly, has been included in the calculation of fund availability of the school.

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

- Clause 22 of order dated 11.02.2009 states that earmarked levies shall be charged from user students on 'no profit no loss' basis;
- Rule 176 of DSER, 1973 states 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 & Others states that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

On review of audited financial statements for FY 2014-15 to 2016-17, it has been noted that the school has charged earmarked levies in the name of transport fee and activity fee from the student. But these levies were not charged on 'no profit no loss' basis because the School has either earned surplus or incurred deficit on these levies. During the period under evaluation, school has incurred deficit in respect of both these levies. Accordingly, deficit incurred from these earmarked levies is directed to adjust against General Fund Balance. Further, the school is not following the fund-based accounting as recommended by Guidance Note-21 "Accounting by School" issued by ICAI. Therefore, the school is directed to follow fund based accounting in respect of all earmarked levies charged by the school.

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 comprised 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 comprised of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and 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 fee comprised of "Annual Charges" to cover all expenditure not included in the second category and the forth category comprised 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 levies are to be collected only from the user students availing the services/ facilities of the school. And if, the services are extended to all the 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. Therefore, the school is directed to stop the collection of separate charges in the name of the "Activity Fee" with immediate effect.

V As per Rule 175 of DSER, 1973, the accounts with regard to the School Fund or the recognised unaided school fund, as the case may be, shall be so maintained as to exhibit, clearly the income accruing to the school by way of fees, fines, income from building rent, interest, development fee, etc. However, on review of the ledger account of Society, it has been noted that society was getting rent from Indian Overseas bank for let out of school space whereas the incidental expenditures related to maintenance etc. is being borne by the school. Thus, the total rental income collected by the society during the period under evaluation for Rs.62,28,700 (i.e. Rs.2209780 + Rs.2009460 + Rs.2009460) should be transfer to school account and accordingly it has been included in the calculation of fund availability of the school and necessary adjustment has been made in General Fund account. Further, the school is directed to collect and account for rental income occurring from let out property in its books of accounts.

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 recognized in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. However, the financial statements of FY 2016-17 reflect Rs.16,73,368 towards provision for gratuity which has not been considered in the calculation of fund availability of the school because it was not determined on the basis of Actuary Valuation Report and the earmarked investment has not been made for the same. Therefore, the school is directed to provide for employee benefits in accordance with the requirements of Accounting Standard -15

II. On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities has 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. On review of the financial statements, it has been noted that the School has not collected caution money from the students during FY 2014-15 to 2016-17 and has refunded only principal amount to the students at the time of his or her leaving which is not in accordance with the clause 18 of the order dated 11.2.2009. Therefore, the school is directed to follow the abovementioned provisions

b. 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

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also be considered while projecting the fee structure for ensuing academic year. But the school has not provided details of unrefunded money belonging to the ex-students. In the absence of which its impact in the calculation of fund availability cannot be quantified. Therefore, the school is directed to follow the abovementioned provisions.

III. The school is not complying with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 as well as condition specified in the land allotment letter which require to provide 25% reservation to children belonging to EWS category. Since the school is not complying with the aforesaid order therefore, concerned DDE District is directed to look into matter. The admission allowed under EWS category during the FY 2014-15, FY 2015-16 and FY 2016-17 is as under:

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	2402	2389	2448
EWS Students	406	433	493
% of EWS Students	17%	18%	20%

IV. The school is charging depreciation on fixed assets as per the rates as prescribed under the Income Tax Act, 1961 instead of rates as specified in Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, School is directed to apply the depreciation rates as prescribed in the Guidance Note-21 "Accounting by Schools".

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.13,36,66,516** out of which cash outflow in the FY 2017-18 is estimated to be **Rs. 12,13,59,243.** This results in net balance of Surplus amounting to **Rs. 1,23,07,274** for FY 2017-18 after all payments. The details are as follows:

Particulars	**(Figures in Rs.) Amount**
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	71,06,099
Investments as on 31.03.17 as per Audited Financial Statements	2,45,669
Add: Amount recoverable from the society for purchase of luxury car in FY 2014-15 **(Refer Observation No. III of Financial Irregularity)**	11,68,871
Add: Amount recoverable from the Society for fixed assets purchased out of development fund not shown on face of Balance Sheet **(Refer Observation No. I(b) of Financial Irregularity)**	1,11,63,272
Add: Amount recoverable from the society for purchase of school buses in FY 2014-15 and 2015-16 **(Refer Observation No. II of Financial Irregularity)**	55,69,326
Add: Income from renting of space to Indian Overseas Bank not taken by school in its financial statements and is	62,28,700

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Particulars	Amount
recoverable from Titiksha Academic Society **(Refer Observation No. V of Financial Irregularity)**	
Less: Outstanding balance of Caution Money as on 31-03-2107	18,17,850
Less. Fixed deposit in the joint name of Manager of School and Secretary of CBSE	2,45,669
Total	**2,94,18,418**
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)	10,12,58,784
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)	10,83,144
Add: Rent Receivable from IOB Bank in FY 2017-18	19,06,170
Estimated availability of funds for FY 2017-18	**13,36,66,516**
Less: Budgeted expenses for the session 2017-18 **(Refer Note- 1 to 3)**	**12,13,59,243**
Net Surplus	**1,23,07,274**

Adjustments:

Note 1 In order to verify the correctness of budgeted figures, the school was asked to provide the Trial Balance for FY 2017-18, on comparison of budgeted expenditures with the trial balance it appears that expenditure proposed by the school under the following heads are excessive. Thus, the expenditures actually incurred by the school has been considered in the evaluation of fee increase proposal.

(Figures in Rs.)

Particulars	**Amount Budgeted by the school for FY 2017-18**	**Actual Amount as per Trial balance of FY 2017-18**	**Amount Disallowed**
Salary	6,90,00,000	6,23,30,094	66,69,906
Gratuity	76,62,504	20,08,807	56,53,697
Leave Encashment	38,39,988	-	38,39,988
Total	**8,05,02,492**	**6,43,38,901**	**1,61,63,591**

Note- 2: The amount proposed by the school towards salary arrears was 41 % of the actual salary paid in FY 2016-17. This increase was due to partially implementation of 6th CPC as the school was paying Dearness Allowance @ 113% of basic salary instead of 125%. Therefore, for evaluation of fee increase proposal, arrears salary proposed by the school has been restricted to 30% of actual salary paid in FY 2016-17 and accordingly excess amount of Rs.62,42,278 has been disallowed. i.e. [Rs. 2,30,23,280 – (Rs. 5,59,36,675*30%)]

Note- 3: The School has proposed Rs. 2,57,49,108 towards capital expenditure for FY 2017-18. Considering the nature and amount of expenditure the provisional trial

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balance was asked and taken on record for verification. On review of the provisional trail balance it has been observed that the school has incurred Rs.19,65,559 on capital expenditures during FY 2017-18. Therefore, considering the trend of capital expenditures of school over the period of three financial years Rs. 50,00,000 has been considered in the evaluation of fee increase proposal.

i. The School has sufficient funds to carry on the operation of the School for the academic session 2017-18 on the existing fees structure. In this regard. Directorate of Education has already issued directions to the Schools vide order dated 16/04/2010 that,

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

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973. DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the School to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the School may not be accepted.

AND WHEREAS, recommendations of the team of Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the School to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said School.

AND WHEREAS, it is also noticed that the School has shown utilisation of development fund of Rs.1,11,63,272 for purchase of fixed assets but the same was not appearing on the face of the financial statement which indicates that the school had diverted its funds to the extent of assets purchased and the school has also incurred Rs.11,68,871 and Rs.55,69,326 out of school funds for purchase of luxury car and school bus. It has also been noted that society has collected Rs. 62,28,700 as rent from the Indian Overseas Bank which should have been accounted for in the books of school. Accordingly, the school is directed to recover Rs.2,41,30,169 from the society and submit receipts along with copy of bank statements showing receipt of above mentioned amount 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 of **Titiksha Public School, Sec- 11, Rohini, Delhi (School Id: 1413247)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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1. Not to increase any fee in pursuance to the proposal submitted by School on any account including implementation of 7th CPC for the academic session 2017-18 and if the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.

2. To charge fee as per the existing fee structure of the school.

3. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the School by the Directorate of Education.

4. To rectify all the financial and other irregularities as listed above and submit the compliance report within 30 days to the D.D.E (PSB).

5. 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.

6. 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.

7. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities/violations will also be attached.

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

This 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
Titiksha Public School,
Sec- 11, Rohini, Delhi (School Id: 1413247)

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No. F.DE.15 (181)/PSB/2019 / 1090-1094 Dated: 14/3/2019

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