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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 (182)/PSB/2019/ 1095 - 1099 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:-

"27. ..

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.......

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **St Peter Convent, Block-C, Vikas Puri, Delhi - 110018 (School Id: 1618231)** 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 24, 2018. Further, school was also provided opportunity of being heard on June 22, 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 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "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 income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.

However, on review of financial statements of the school, it has been noted that the school has utilised development fund for repair and maintenance of building for Rs. 1,00,91,410 in FY 2015-16 and Rs. 29,97,222 in FY 2016-17 in contravention of clause 14 of the order dated 11.02.2009. While the school had admitted during discussion that the aforesaid expenditure was incurred for addition to building as capital expenditure which was not capitalised in the books of accounts instead it was shown as direct utilisation of development fund. Therefore, the school is directed to make adjustment to Development Fund account for the amount of capital expenditure of Rs. 1,30,88,632 incurred on building out of development fund.

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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 the other associations because the immovable property of the school becomes the sole property of the society". This has been upheld by 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, as per clause (vii) 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 financial fee structure" And as per Rule 177 of DSER, 1973 income derived by unaided recognized schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses.

Based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to addition of building is to be met by the society and not from the funds of the school, therefore, the school is directed to recover Rs.1,30,88,632 from the society and accordingly has been included in the calculation of fund availability of the school.

II In respect of earmarked levies, school is required to adhere 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 & Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, on review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely smart class fee, activity charges, examination fee and software charges from the students but these fees are not charged on 'no profit no loss' basis as the school has earned surplus from smart class fee and software charges and has incurred deficit from activity charges and examination fee. Further, the school has not followed the fund-based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General Fund for the surplus/deficit incurred on earmarked levies and to follow fund based accounting in respect of earmarked levies. The summary of surplus/ deficit on earmarked levies incurred by the school is as under:

(Figures in Rs.)

Particulars	**Total Fees**	**Total Expenditure**	**Surplus/ Deficit**
Smart Class Fee	49,14,410	30,27,708	18,86,702
Activity Charges	14,09,702	15,19,472	(1,09,770)
Examination Fee	13,57,069	19,46,908	(5,89,839)
Software Charges	2,77,491	2,64,250	13,241

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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, school is directed to stop separate collection in the name of smart class fee, examination fee and software charges.

Other Irregularities

I. As per AS-15 'Employee Benefit' issued by ICAI "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognised in the financial statement do not differ materially from the amounts that would be determine at the balance sheet date. The school has provided for gratuity on the basis of management estimate instead of actuarial valuation basis in accordance with AS-15 Employee Benefits for FY 2015-16 and 2016-17. Therefore the school is directed to determine and provide for statutory liability towards Gratuity and Leave encashment as per the actuarial valuation report as required by AS-15

II In respect of caution money the following has been observed:

a. As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with interest to the students at the time of his/ her leaving form the school. The school is refunding the caution money to the student at the time of his/ her leaving without interest thereon.

b Further, 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.

III 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

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Appendix 1 to the Guidance Note-21 "Accounting by Schools" issued by the Institute of Chartered Accountants of India (ICAI). Therefore, the school is directed to follow the depreciation rates as prescribed the Guidance Note-21 "Accounting by Schools".

IV The fixed assets are reflected in the financial statements under two categories i.e assets purchased out of General Fund are reflected at the Gross value and whereas assets purchased out the development fund are reflected at WDV. Therefore, the school is directed to follow GN-21 "Accounting by School" issued ICAI in respect of preparation and presentation of financial statements.

V. As per the condition of Land allotment letter, the School shall not increase the rate of any fee without prior sanction of the Directorate of Education and shall follow the provisions of Delhi Education Act/ Rules, 1973 and other instruction issued from time to time. Accordingly, the Directorate of Education sought online proposals from the Schools which was allotted land by Land owning agencies having condition of obtaining prior approval from the Directorate of Education vide Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016. However, on review of the fee receipts provided by the school it has been observed that the school had increased the fee in all heads in FY 2016-17 without obtaining prior approval from Directorate of Education. Therefore, the school is directed to roll back the increase fee or adjust the excess amount collected by the school against the fee receivable from the students.

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

i. The total funds available for the year 2017-18 amounting to Rs. **4,62,93,344** out of which cash outflow in the year 2017-18 is estimated to be Rs. **3,66,52,064**. This results in net surplus of amounting to Rs. **96,41,280**. The details are as under:

Figures (Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	24,33,564
Investments as on 31.03.17 as per audited Financial Statements	-
Add: Amount recoverable from society against capital expenditure incurred by the school on building out of Development Fund in FY 2015-16 and 2016-17	1,30,88,632
Less: Development fund balance as on 31.03.2017	5,71,682
Less: Caution money balance as on 31.03.2017	5,08,500
Total	**1,44,42,014**
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)	3,14,81,147
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)	3,70,183

Particulars	Amount
Estimated availability of funds for FY 2017-18	**4,62,93,344**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	**3,66,52,064**
Net Surplus	**96,41,280**

Note 1: The school has proposed provision for gratuity and leave encashment of Rs. 29,03,903 in budget for FY 2017-18 without complying with AS-15. Further, as per provisional trial balance submitted by the school for FY 2017-18, the actual payment for gratuity was Rs. 15,12,390 which has been considered in the evaluation of fee increase proposal. Further, the school is directed to make provisions for gratuity and leave encashment as per actuarial valuation report and earmarked investments with LIC or any other agency so as to protect statutory liabilities.

Note 2: The school has first time proposed 3 month salary reserve of Rs. 37,22,814 in budget for FY 2017-18 without making investments in the joint name of Dy Director Education and School as required by Clause 10 of Form II of Delhi Right of Children to free and Compulsory Education Rules, 2011 Therefore, the same has not been considered in the evaluation of fee increase proposal.

Note 3: The school has proposed salary arrears of Rs. 1,00,24,771 in budget for FY 2017-18 which was 65% of the salary paid in the previous FY 2016-17. This increase was due to partial implementation of the recommendation of 6th CPC as the school was paying DA @80% of the basic pay instead of 125% of the basic pay. Therefore, arrears salary proposed by the school has been restricted to 30% of the actual salary paid by the school in FY 2016-17 which comes to be Rs. 46,48,885 and excess amount of Rs 53,75,886 (1,00,24,771 - 46,48,885) has not been considered in the evaluation of fee increase proposal.

Note 4: As per clarification submitted by the school, the proposed capital expenditure has been considered in the evaluation of fee increase proposal to the extent of actual expenditure incurred by the school

(Figures in Rs.)

Particulars	Proposed capital expenditure	Actual capital expenditure	Disallowed
Capital expenditure	77,27,000	17,91,000	59,36,000

ii. 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

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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 expert 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 expert 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 noticed that the school has incurred **Rs.1,30,88,632** for addition to building which is in contravention of provisions of DSER, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from 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 issuance of this 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 **St Peter Convent, Block-C, Vikas Puri, Delhi - 110018 (School Id: 1618231)** 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:

1. Not to increase any fee (including class from nursery/ KG) 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 communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.

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

4. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

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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 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.

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 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 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
St Peter Convent,
Block-C, Vikas Puri,
Delhi - 110018 (School Id: 1618231)

No. F.DE.15 (182)/PSB/2019/1045-1099 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