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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 (654)/PSB/2018/30733-30737 Dated: 19/12/2018

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

.'2,173,175 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. Cecilias Public School, F- Block, Vikas Puri, New Delhi, (School Id: 1618236)** 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 21, 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:

As per clause 2 of public notice dated 04.05.1997, construction of the building is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other association because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to construction of building should have been borne by the society and not by the school.

As per Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12. 1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 states that "Fees/funds collected from the parents/students shall be utilised strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973. No amount whatsoever shall be transferred from Private Recognized Unaided School Fund to the society or the trust or any other institution."

The above position was subsequently amended through judgement of the Supreme Court in the matter of Action Committee, Un-Aided Private, Schools & Ors vs Director of Education, Delhi & Ors on 07.08.2009, whereby words "except under the management of the same society or trust" were added to the last sentence of the above para. Thus, the new sentence is read as follows;

"No amount whatsoever shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution except under the management of the same society or trust."

Also, as per Rule 177 of DSER, income derived by an unaided schools by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run.

Further, the aforesaid savings shall be arrived at after providing for the following, namely:

a) Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;
b) The needed expansion of the school or any expenditure of a developmental nature;
c) The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;
d) Co-curricular activities of the students;
e) Reasonable reserve fund, not being less than ten percent, of such savings.

The financial statement of the school was reflecting Rs.60,62,570 under the head Building as on 31.03.2015. But in FY 2015-16 school has transferred the above Building to Society by making adjustment against Contingency Fund for amount of Rs.47,00,000 and against School Building Fund (this is society account) for amount of Rs.13,62,570. Further, the remaining School Building Fund of Rs.99,94,970 (1,13,57,540-13,62,570) has also been transferred to society. It may also be noted that the contingency fund was created out of the surplus of the school in the preceding financial years. Therefore, amount paid by the school Rs.99,94,970 in excess of school Building is in contravention of Clause 8 of order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12. 1999, Clause 23 of Order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009 and Section 18(4) of DSEA, 1973 read along with Rule 176 and 177 of Delhi School Education Rules, 1973 is directed to be recoverable from the society. Accordingly, it has been considered in the fund availability of the school.

II. 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 the audited financial statements for the FY 2014-15, 2015-16 and 2016-17 the following have been observed:

- The school has purchased car out of Development Fee for amounting to Rs.20,03,172 during FY 2016-17, in contravention of the abovementioned clause. Therefore, the school is directed to adjust the amount incurred for purchase of car against Development Fund and Development utilisation Fund Account.

- The school has not maintained Depreciation Reserve Fund in FY 2014-15 and FY 2015-16, which is in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, school is directed to comply with the provisions of clause 14 of the aforesaid order.

III. As per Para 99 of Guidance note - 21 on "Accounting by School" issued by ICAI, relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".

However, on review of financial statements, it has been noted that the school has reduced the depreciation on the assets purchased out of development fee directly from the Development Utilisation Fund instead of routing it through Income and Expenditure Account.

Further, the school has created Depreciation Reserve Fund of Rs.7,49,413 out of General Reserve in FY 2016-17 without charging it to the income and expenditure account and has shown assets at the written down value which is not as per the above para. Therefore, the school is directed to make necessary adjustments in the Depreciation Reserve Fund account, Development Fund account and General Reserve as per the requirement Guidance Note- 21.

IV. As per Section 18(4) of DSEA, 1973, Income derived by unaided schools by way of fees shall be utilised only for such educational purposed as may be prescribed. However, it is noted that the school has utilized its funds for purchase of Luxury Car for Rs.20,14,039 and Rs.20,03,172 in FY 2014-15 and FY 2016-17 respectively which cannot be construed as expenditure for educational purposes. Therefore, the aforesaid expenditure of Rs.40,17,211 is directed to be recoverable from the society and accordingly has been included in the fund availability of the school.

V. On review of Audited Financial Statements, it has been observed that, fixed assets purchased out of the development fund amounting to Rs.90,20,427 and

Rs.1,18,58,250 during FY 2014-15 and 2015-16 was not reflecting on the face of balance sheet. However, these assets are reflecting in the fixed assets schedule but has not been considered in the closing value of fixed assets.

Further, in the Notes to Accounts it has disclosed that "Development expenses incurred during the year have been adjusted from Development Fee received during the year. No depreciation has been charged on such capital nature items covered by such development expenditure. However, same have been reflected in the fixed asset schedule and appropriately adjusted to yield a written down value of zero. Fixed Assets chart for the year has been prepared on the basis of written down value of the Fixed Assets". Thus the accounting principal followed by the school is not as per the Generally Accepted Accounting Principle for preparation and presentation of the financial statement because the school has not reported its all asset and liability on the face of the balance sheet as on the balance sheet date. Therefore, the school is directed to prepare and present its financial statement including the fixed assets register as per the generally accepted accounting principal and as per the Guidance Note-21 issued by ICAI from the next year onwards.

VI. As per the condition of Land allotment letter, the School shall not increase the rate of 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. 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 fee receipts submitted by the school, it has been observed that the school has increased its Tuition Fee, Annual Charges, and Development Fee for Nursery and Pre-primary classes in FY 2016-17 without obtaining prior approval from Directorate of Education. The school may be show cause under section 24(4) of DSEA, 1973 why it has increased the fee in contravention of Order No. F. DE-15/ACT-I/WPC-5256/16/9352/-9359 dated 16.04.2016. The summary of fee increased made by the school are as under.

(Figures in Rs.)

Categories of Fee	**Classes**	**FY 2015-16**	**FY 2016-17**
Tuition Fee	Nursery & Pre-Primary	4,300	4,700
Annual Charges	Nursery & Pre-Primary	3,800	4,100
Development Charges	Nursery & Pre-Primary	300	400

VII. 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.

On review of audited financial statements of the FY 2014-15, 2015-16 and 2016-17, it has been observed that the school is charging earmarked levies namely activity fee, computer fee, computer aided learning system fee and additional subject fee from the students but these fees are not charged on 'no profit no loss' basis as school is either earning surplus or incurred deficit from these levies. During the period under evaluation, school has generated surplus in respect of additional subject fee and incurred deficit in respect of all other earmarked levies. Further, school is not following fund based accounting for these earmarked levies. Therefore, the school is directed to follow fund based accounting for earmarked levies and to adhere the abovementioned provisions. Also, make necessary adjustments in the General Reserve balance.

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 comprises 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. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009.

Based on the aforesaid provisions, earmarked are to be collected only from the user students availing the services/ Facilities. 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 form 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" and "Computer Aided Learning System Fee".

Other Irregularities

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

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Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	2431	2434	2376
EWS Students	227	205	198
% of EWS students	9%	8%	8%

II. 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 was making provision for gratuity on the basis of management estimates till FY 2016-17 and in FY 2017-18 the school has taken group gratuity scheme form LIC. Therefore, the actual liability of Rs.2,63,80,713 as per group gratuity scheme of LIC has been considered for evaluation of fee increase proposal.

Further, the school has not provided for any provision against leave encashment during the FY 2014-15 to 2016-17. Therefore, the school is directed to follow AS- 15 "Employees Benefits" Issued by ICAI as well as Guidance Note- 21 on "Accounting by School".

III. The receipt and Payment account submitted by the school for the FY 2014-15 to 2016-17 was not as per the format prescribed by appendix II of Order No. F.DE.-15/ACT-1/WPC-4109/Part/13/7905-7913 dated 16-04-2016. Further, the school also submitted unsigned revised receipt and payment account in reply to the discussion held with the school at DOE premises. On review of the revised receipts and payment account it has been noted that opening and closing cash and bank balance was not appearing in the revised receipts and payment account thus the both the receipts and payment account submitted by the school was not reliable. Therefore, the school is directed to prepare and present the receipts and payment accounts in accordance with the format specified by the DOE as per the order dated 16.04.2016.

IV. The school is charging depreciation at the rates prescribed under the Income Tax Act, 1961 and not as per the rates prescribed by the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note-21 issued by ICAI.

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 2017-18 amounting to **Rs. 17,35,08,766** out of which cash outflow in the year 2017-18 is estimated to be **Rs.13,53,52,532.** This results in surplus of funds amounting to **Rs. 3,81,56,234**. The details are as follows:

(Figures in Rs.)

Particulars	Amount	Remarks
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	84,56,688	
Investments as on 31.03.17 as per Audited Financial Statements	3,67,90,015	

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Particulars	Amount	Remarks
Add: Amount utilised for purchase of Luxury car in FY 2014-15 and FY 2016-17	40,17,211	
Add: Amount recoverable from society for transfer of School Fund and School Building to the Society	99,94,970	
Less: Development Fund closing balance as on 31-03-2017	2,42,052	
Total	5,90,16,832	
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)	10,99,90,835	
Add: Other income for the FY 2016-17 as per audited Financial Statements	45,01,099	
Estimated availability of funds for the FY 2017-18	**17,35,08,766**	
Less: Budgeted expenses for the session 2017-18 (after making adjustment)	13,53,52,532	**"Refer Note- 1 & 2"**
Net Surplus	**3,81,56,234**	

Adjustments:

Note- 1: Provision for Gratuity for the FY 2014-15 to 2016-17 has been made on the basis of management estimates and not as per actuarial valuation as specified by the Accounting Standard 15 on "Employee Benefits". Further, in FY 2017-18, school has opted for the group gratuity scheme of LIC and proposed the provision of Rs.45,00,000 according to the valuation report of LIC. In addition to that amount of Rs.42,00,000 was also proposed for gratuity on account of implementation of 7th CPC which is not considered for evaluation of fee increase proposal as the same would have been considered by the LIC in its Valuation Report.

Note- 2: The School has proposed for the capital expenditure of Rs.1,03,50,000. The school has neither furnished any details of the fixed assets to be purchased during the year nor provided any explanation and justification for such expenditure. This proposed amount has been compared with the actual expenditure incurred in the FY 2016-17 amounting to Rs.70,54,126 and noted that the school has budgeted 47% increase against the actual expenditure of the previous year. Thus, amount in excess of 10% of the last year actual expenditure has not been considered in the above calculation

Details of the school budget and amount disallowed are as under:

(Figures in Rs.)

Particulars	FY 2016-17	FY 2017-18	Net Increase/ (Decrease)	% Change	Amount disallowed in excess of 10%
Total Fixed Assets	70,54,126	1,03,50,000	32,95,874	47%	25,90,461
Total	**70,54,126**	**1,03,50,000**	**32,95,874**		**25,90,461**

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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 utilizing 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 utilized 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 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 also noticed that the school has transferred Rs.99,94,970 in FY 2015-16 to the society. Also, the school has incurred Rs.40,17,211 for purchase of luxury Car. Therefore, the school is directed to recover **Rs.1,40,12,181** 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 of **St. Cecilias Public School, F- Block, Vikas Puri, New Delhi, (School Id: 1618236)** 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 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.

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

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. 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 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.

6. 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 issues with the prior approval of the Competent Authority.

(Yogesh Pratap)
Deputy Director of Education-1
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
St. Cecilias Public School,
F- Block, Vikas Puri,
New Delhi, (School Id: 1618236)

No. F.DE.15 (654)/PSB/2018 | 30733 - 30737 Dated: 19/12/2018

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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-1
(Private School Branch)
Directorate of Education, GNCT of Delhi