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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 (57)/PSB/2019/954-958 Dated: 23/01/19

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized Schools in Delhi' and directed that the private unaided Schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid Schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided Schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under: -

"27....

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

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

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

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3),18(4) of Delhi School Education Act, 1973 read with rule 172,173,175 and 177 of Delhi School Education Rules 1973, Directorate of Education 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, **Sri Venkateshwar International School, Sector 18, Dwarka, Delhi- 110078 (School Id: 1821231)** 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 April 05, 2018. Further, School was also provided opportunity of being heard on June 19, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, School was further asked to submit necessary documents and clarifications on various issues noted.

AND WHEREAS, the reply of the School, documents uploaded on the web portal for fee increase and subsequent documents submitted by the School were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities:

I. As per clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the development fee shall be treated as capital receipt and it should be utilized for the purpose of supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. However, on review of audited financial statements for the FY 2014-15 and 2016-17, it is noted that the school has utilised its development fund for upgradation of building amounting to Rs.1,58,22,152 and Rs.1,68,54,640 respectively in contravention of aforesaid clause 14. Therefore, school is directed to make necessary adjustment in development fund for aforesaid expenditure incurred.

Further, as per clause 2 of public notice dated 04 May 1997, it is the responsibility of society who has established the school to raise such funds from their own resources or donations from other associations because immovable property of the school becomes the sole property of the society. Therefore, the students should not be burdened by the way of collecting the Building fund or Development Charges. Also, as per Rule 177 of DSER, 1973 income derived by an unaided recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school.

However, it is noted that in the FY 2014-15 and FY 2016-17, the school has spent Rs.1,5 8,22,152 and Rs.1,68,54,640 respectively for upgradation of building. The school has not provided for employee benefits completely and has utilised school funds for construction of school building which is the responsibility of the society in contravention of aforesaid clause 2 of Public Notice read with Rule 177 of DSER, 1973. Therefore, the school is directed to recover Rs.3,26,76,792 from the society.

II. 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".

Taking cognizance from the above para, it is observed that the School was not maintaining Development Utilization Fund. Therefore, school is directed to follow Guidance Note-21.

Since, the School has not created Development Fund Utilisation account in FY 2014-15, 2015-16 and 2016-17, an amount equivalent to assets purchased out of development fund were transferred from development fund to general reserve account due to which the balance of general reserve is overstated. In FY 2014-15, 2015-16 and 2016-17 school has transferred Rs. 2,36,77,375, Rs. 1,95,50,749 and Rs. 2,65,94,338 respectively from development fund to general reserve. Hence, the School is directed to make necessary adjustments in the General Reserve balance.

III. On review of audited financial statements for the FY 2014-15, FY 205-16 and FY 2016-17, it is noted that balance of development fund in all the three financial years was negative. The school has shown more utilisation out of development fund than the fund actually available in the development fund account which imply that school has utilised general fund for excess amount. Details of closing balance of development fund as per audited financial statements of the school are as given below:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Closing balance of Development Fund Account	(35,24,809)	(29,32,563)	(77,20,368)

Therefore, accounting treatment followed by the school for utilisation of development fund is not as per clause 14 of the order dated 11.02.2009 and GN-21 "Accounting by School" issued by the ICAI. Hence, School is directed to prepare and present its financial statements as per GAAP.

IV. As per Rule 177 of DSER, 1973 income derived by an unaided recognised school 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. However, school has utilised its funds for repayment of loan taken for purchase of vehicles despite of having deficit in all three financial years. During the last three financial years, the School has paid Rs.1,47,17,310 for repayment of principal amount of loan and Rs.39,99,163 towards interest thereon from the school fund before complying with the requirement of Rule 177 of the DSER, 1973. Therefore, the school is directed to recover Rs.1,87,16,473 from the society and accordingly, the same has been adjusted in the fund availability position. Summary of repayment of loan and interest thereon are given below:

(Figures in Rs.)

Particulars	Interest paid during the year	Amount of loan repaid
FY 2014-15	16,84,217	52,01,408
FY 2015-16	11,09,221	55,62,278
FY 2016-17	12,05,725	39,53,624
Total	**39,99,163**	**1,47,17,310**

In addition to above, school has purchased new vehicles of Rs.1,17,37,500 in the FY 2016-17. As per school, these vehicles were purchased out of loan amounting Rs.96,00,000, Which implies that the balance amount of Rs. 21,37,500 was paid out of school funds. Further, during the year, School has repaid loan of Rs.15,38,582 along with the interest of Rs.6,25,878. However, the interest of Rs.6,25,878 is not reflecting separately in the income and expenditure account but has been shown in the ledger account provided by the school. Hence, there is a possibility that the school has merged the same in some other head of income and expenditure account. Thus, total school funds utilised for purchase of these vehicle amounting to Rs.43,01,960 (i.e. summation of Rs. 21,37500, Rs. 15,38,582 and Rs. 6,25,878) is directed to be recovered from society. Also, the School is further directed not to utilise school funds for payments of outstanding balance of bus loan and interest thereon in subsequent years.

V. On review of audited financial statements, it has been noted that school has taken term loan of Rs.7,00,00,000 from Kotak Mahindra bank in FY 2014-15. During the FY 2014-15 to FY 2016-17, school has repaid principal amount of loan amounting to Rs.2,78,03,234 along with interest of Rs.1,81,10,603 thereon. Further, out of the above loan the school has also repaid an outstanding loan of Rs.4,65,82,976 along with the interest thereon amounting to Rs.11,74,291 in FY 2014-15. As per the discussion with the school, the loan was taken few years back from a NBFC (Reliance capital) and this was shifted to Kotak Mahindra Bank as rate of interest of Kotak Mahindra Bank was lower. School has also admitted that the land is owned by the society and land is used as security against this loan and hence, the loan is in society name. The school has also admitted that this loan was taken to meet infrastructural needs of the school. However, school has not submitted the exact details of actual utilisation of the loan. It is also submitted that the School has shown this loan as amount payable to society at the end of FY 2014-15, 2015-16 and 2016-17 and not as loan repayable to the Kotak Mahindra Bank. As mentioned above, this loan amount is not presented in the financial statements of the school at the end of each of these financial years.

As per Rule 177 of DSER, 1973 income derived by an unaided recognised school 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. However, school has utilised its funds for repayment of loan taken for infrastructure purposes and interest thereon despite of deficit in all three financial years.

Accordingly, the school is directed to recover Rs.4,70,88,128 from the society for the amount repaid as principal and interest thereon in the FY 2014-15, 2015-16 and 2016-17 along with the amount of interest paid on the payment of outstanding loan in FY 2014-15. The details of loan and interest thereon paid out of school funds are as follows:

(Figures in Rs.)

Particular	**FY 2014-15**	**FY 2015-16**	**FY 2016-17**	**Total**
Opening balance	7,00,00,000	6,27,84,835	5,31,32,609	
Amount repaid during the year	72,15,165	96,52,226	1,09,35,843	2,78,03,234
Balance Transferred to society	6,27,84,835	5,31,32,609	4,21,96,766	
Interest paid during the year	74,62,929	65,52,348	52,69,617	1,92,84,894
Total amount paid including Interest				**4,70,88128**

Further, school is directed not to use school funds for repayment of balance loan amounting Rs.4,21,96,766 as on 31.03.2017 and any interest thereon.

VI. 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 & others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

In FY 2014-15, 2015-16 and 2016-17, the school has collected earmarked levies namely i.e. mid-day meal fee, computer fee, health and medical fee and transport fee from the students but these levies were not charged on 'no profit no loss' basis as the school is either earning surplus or incurring deficit from these levies. During the period under evaluation, school has earned surplus on account of mid-day meal fee, health and medical fee and IT fee and incurred loss under transport fee. Further, the school is not following the fund-based accounting in respect of these earmarked levies collected from the students. 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.

However, it is noted that school is collecting fee under the head "Health and Medical fee" and "computer fee" from each of the students and that would not fall under earmarked levies as per the recommendation by the committee. Therefore, the school is directed to stop collection of fee under these heads.

Other Irregularities

I. The school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012 and condition of land allotment letter which provides that 25% reservation to the children belonging to EWS/DG categories. Since, the school is not complying the aforesaid provision therefore the respective DDEs is directed to look into the matter. The summary of admission allowed by the school under EWS/DG 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	1988	2154	2329
EWS Students	113	172	216
% of EWS students	6%	8%	9%

II. 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). School is directed to follow the depreciation rates as prescribed the Guidance Note-21 "Accounting by Schools".

III. On review of the documents submitted by the school, it is observed that financial statements submitted by the school for the FY 2015-16 along with proposal of fee increase is not matching with the financial statements submitted along with return file under rule 180 for the FY 2015-16. Further, during the discussion school has explained that this is due to changes took place in the format of financial statements. The school is directed to furnish the reason of such difference in financial statements with next year fee increase proposal along with copy of auditors report on the name of school.

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 financial year 2017-18 amounting to **Rs.37,49,60,133** out of which cash outflow is estimated to be **Rs.23,24,45,739.** This results in surplus of funds amounting to **Rs.14,25,14,394**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.17 as per Audited Financial Statements	93,24,993
Investments as on 31.03.17 as per Audited Financial Statements	12,94,487
Add: Amount recoverable from society for upgradation of building in FY 2014-15 and 2016-17 **(Refer Observation I of Financial Irregularity)**	3,26,76,792
Add: Amount recoverable from society for Principal and Interest paid towards kotak mahindra term loan in FY 2014-15, 2015-16 and 2016-17 **(Refer Observation V of Financial Irregularity)**	4,70,88,128
Add: Amount recoverable from society for Principal and Interest paid towards Vehicle loan in FY 2014-15, 2015-16 and 2016-17 **(Refer Observation IV of Financial Irregularity)**	1,87,16,473
Add: Amount recoverable from society for school fund incurred on vehicles in the FY 2016-17 **(Refer Observation IV of Financial Irregularity)**	43,01,960
Less: Fixed deposit for CBSE	3,16,690
Less: Fixed deposit for DOE	3,86,757
Total	**11,26,99,386**
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)	25,93,08,969
Add: Other income for FY 2016-17 as per Audited Financial Statements	29,51,778
Estimated availability of funds for FY 2017-18	**37,49,60,133**
Less: Budgeted expenses for the session 2017-18 (after making adjustment in Note 1& 2)	23,24,45,739
Net Surplus	**14,25,14,394**

Adjustments:

Note 1: The school has proposed for the salary arrear of Rs.3,22,96,800 due to implementation of 7th CPC recommendations. However, as per the arrear calculation provided by the school, the liability to pay arrear salary is Rs.2,59,27,053. Hence, excess amount proposed by the school for amounting Rs.63,69,747 has been disallowed.

Note-2: The school has proposed capital expenditure of Rs.62,00,000 for construction of Building which is not allowed in terms of public notice dated 04.05.1997. Therefore, the same has not been considered in evaluation of fee increase proposal.

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

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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 incurred Rs. **3,26,76,792** in FY 2014-15 and 2016-17 for construction of building. School has also purchased vehicles during the FY 2014-15 to 2016-17 by taking loan despite of claiming to have deficits in all these years. Therefore, principal amount repaid and interest thereon amounting to Rs.**2,30,18,433** during all these three years is to be recovered from society. In addition to above school has also taken loan from kotak Mahindra bank for infrastructural needs which is in the name of society. School has paid total of Rs.**4,70,88,128** out of school fund towards the repayment of this loan and interest thereon. Therefore, the school is directed to recover the above amounts 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 increases of **Sri Venkateshwar International School, Sector 18, Dwarka, Delhi- 110078 (School Id: 1821231)** 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.

3. 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.

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

To
The Manager/ HoS
Sri Venkateshwar International School,
Sector 18, Dwarka, Delhi- 110078 (School Id: 1821231)

No. F.DE.15 (57)/PSB/2019 1954 - 958 Dated: 23/01/19.

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 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