152 1737 152

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

No. F.DE.15(628)/PSB/2018/ 30557-30561 Dated: 14.12.2018

ORDER

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17 Oct 2017 of Directorate of Education, Govt. of NCT of Delhi, has issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and required that private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, need to submit its online fee increase proposal for the academic session 2017-2018. Accordingly, vide circular no. 19849-19857 dated 23 Oct 2017 the fee increase proposals were invited from all aforesaid schools till 30 Nov 2017 and this date was further extended to 14 Dec 2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20 Nov 2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14 Nov 2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19 Jan 2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others where it has been directed by the Hon'ble Delhi High Court that the Director of Education has to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, The Hon'ble High Court while issuing the aforesaid direction has observed that the issue regarding the liability of Private unaided Schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27 Apr 2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

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

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

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

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

AND WHEREAS in response to this directorate's circular dated 23 Oct 2017 referred to above, **Red Roses Public School (School ID-1923340), D Block, Saket, New Delhi - 110017** submitted its proposal for enhancement of fee for the academic session 2017-2018 in the prescribed format including the impact on account of implementation of recommendations of CPC with effect from 1 Jan 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 has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

WHEREAS, the team of Chartered Accountants have referred to the Directorate's "previous orders" (No. F. DE-15/ACT-I/WPC-4109/PART/13/186-190 dated 26 Dec 2016 and No. F.DE-15/ACT-I/WPC-4109/PART/13/830 dated 18 July 2017) issued to **Red Roses Public School (School ID-1923340), D Block, Saket, New Delhi - 110017** in relation to evaluation of the proposal for enhancement of fee for the academic session 2016-2017, wherein it was mentioned that the compliances to the instructions/directions given in the said orders will be seen/examined during the scrutiny of fee hike proposal for session 2017-2018 including recovery of amounts from its Society.

AND WHEREAS, necessary records and explanations with regard to compliance by school to the instructions/directions included in previous orders were called from the school through email. Further, school was also provided an opportunity of being heard on 30 July 2018 at 2:30 PM to present its justifications/ clarifications on the status of its compliance to the instructions/directions included in the previous orders and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were thoroughly evaluated by the team of Chartered Accountants and status of the compliance to the instructions/directions included in the previous orders are as under:

A. **Financial Discrepancies:**

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
1.	As per clause No. 14 of Order No. F.DE./15	No supporting documents/	Details of students along with fee	Based on the submission of the

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	(56)/ACT/2009/778 dated 11.02.2009, '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, 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 a depreciation reserved fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained development fund account.' The school is not utilising Development fund for purchase, up-gradation and replacement of furniture, fixture and equipment which is contravention to the above mentioned	calculation submitted by the school. Compliance against this shall be verified at the time of next fee increase proposal of the school, if any.	receipts from whom one-time school development fund was received during FY 2016-2017 has been enclosed. Further, after receiving DoE's order no. DE-15/ACT-1/WPC-4109/PART/13/830 dated 18 July 2017, the school stopped collecting one-time development fund of INR 5,000 from the students. Details of development fee utilised during FY 2016-2017 is also submitted. The school purchased vehicles from surplus funds available and reflected the same as utilization of development fund in ignorance, which should be allowed either from development fund	school, it collected one-time school development fund collected from students of INR 1,50,000 during FY 2016-2017 and collected it again in FY 2017-2018, details of which were not provided. The school is directed to refund/adjust this amount to the students from whom it was collected during FY 2016-2017 and FY 2017-2018 within 30 days from the date of this order. Accordingly, INR 3 lakhs (1.5 lakhs for both FY 2016-2017 and FY 2017-2018) has been adjusted while deriving the fund position of the school for FY 2017-2018 (enclosed in the later part of the order). Further, the school should ensure that it does not collect the same from FY 2018-2019 onwards. Additionally, the details submitted by the school regarding utilisation of development fund were reviewed and it was noted that the school

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	clause. School is also charging one time school development fee of INR 5,000 at the time of admission in addition to annual development fees which is below 15% of annual tuition fees.		or from general fund.	has purchased a school bus for INR 19,92,577 utilising development fees. As the school purchased a bus from development fee, which was a non-compliance of the said order and also did not comply with the requirements of Rule 177 before purchasing the vehicle. Thus, the cost of bus purchased of INR 19,92,577 is considered as fund available with the school, which should be recovered from the society within 30 days from the date of order. The school should ensure compliance with the provisions of DSER, 1973 and directions issued regarding development fund.
2.	As per clause 18 of order No. F.DE./15(56) /Act/2009/778 dated 11 Feb 2009, caution money collected from students shall be refunded to students at the time of his/ her	Instructions issued by the DoE in this regard are to be complied with by the school.	Details of students (name, class, and amount) against whom the caution money is appearing in the financial statements as on 31 march 2017 has	As confirmed from the response of the school, the school has treated unclaimed caution money as income during FY 2016-2017. However, based on the fact that no interest has

1341

S. No.	Observations in Previous Order	Directions in Previous Order	Submissions of the School	Remarks
	leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund. However, it was reported that caution money disclosed as liability in the financials statement pertains to ex-students to whom the money was not refunded. The un-refunded caution money which has exceeded the stipulated period of 30 days (as required per the above mentioned clause) is being shown as liability and has not been treated as income. Moreover, caution money of more than NR 500 per student is being charged by the school.	The school has not submitted any supporting documents. Compliance against this shall be verified at the time of next fee increase proposal of the school, if any.	been enclosed. Caution money refunded to the students without any interest (as it is a very nominal amount) and caution money is not kept in a separate bank account. Further, as per DoE order no. F.DE-15/ACT-I/WPC-4109/PART/13/ 186-190 dated 26 Dec 2016, a sum of INR 7,39,370 of un-refunded caution money, which pertain to the years 1980 till 2017 is treated as income in the financial statements for the year 2016-2017.	been paid on the caution money refunded to the students, it is a contravention of the said order. The school is directed to deposit caution money in a separate bank account and refund caution money to students along with the interest.
3.	School has collected excess fees which was evident from the reconciliation of the income shown in the financial statements received from the management corroborated with the fee structure of the school and the number	No supporting documents/calculation submitted by the school.	Excess fee has not been charged from the students. Fee collection register and fee reconciliation summary for the FY 2013-2014, 2014-2015 and 2015-2016 has been enclosed.	Considered.

S. No.	Observations in Previous Order	Directions in Previous Order	Submissions of the School	Remarks
	of students. Amount of such excess collection has been as follows: a) 2013-2014 INR 4,77,904 b) 2014-2015 INR 9,12,467 c) 2015-2016 INR 6,64,867			
4.	School is charging earmarked levies and school is recognizing the surplus in income & expenditure account but no fund is created by the school which is not as per Clause 22 of Order No. F.DE/15 (56)/Act/2009/778 dated 11 Feb 2009 which states that earmarked levies will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged.	Instructions issued by the DoE in this regard are to be complied with by the school.	Reconciliation of earmarked levies has been enclosed. Whatever amount is collected/spent is reflected in the Income and Expenditure A/c; no part of it is spent for any other purpose or misused.	The school submitted the reconciliation of collections and expenses incurred against earmarked levies. However, the school has not done fund based accounting for each earmarked levy collected from students. The school is directed to maintain separate fund in respect of each earmarked levies charged from students in accordance with the DSEA & R, 1973 and orders, circulars, etc., issued there under.

B. Other Discrepancies:

1343

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
1.	As stipulated in Order No. F.DE-15/ ACT-I/WPC-4109/Part/13/7905-7913 dated 16-04-2016, school is required to follow accrual system of accounting for maintaining its books of accounts. The school is following hybrid of Accrual and cash basis of accounting system. Incomes are being accounted for on cash basis whereas expenses are being accounted for on accrual basis. This is in contravention to the above mentioned clause.	The School has assured to comply in future.	The audited financial statements for FY 2016-2017 and FY 2017-2018 are enclosed, which represents that the school has started following accrual system of accounting from the financial year 2016-2017.	Considered.
2.	Depreciation is charged by the school as per the Income Tax Act, 1961, however the same should be as per the Guidance note (GN 21) on Accounting by Schools, issued by the Institute of Chartered Accountants of India.	The School has assured to comply in future.	The audited financial statements for FY 2017-2018 submitted by the school indicates that depreciation has been charged by the school as per the Guidance note (GN 21) issued by the Institute of Chartered Accountants of India.	While broadly the school has complied with the direction of charging depreciation as per GN 21, depreciation charged on buses is incorrect, as buses were clubbed with other vehicles of the school in the financial statements. The school is directed to rectify the mistake and ensure compliance.
3.	The management of the school does not have a specific process of inviting	Improper response. Following the	The vendors are associated with the school since a long	The school submitted documents relating to one expenditure

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	quotes/bids from other parties for the particular contract.	tendering process shall signify that the school have effective and efficient internal control system for procurement.	time. At the time of awarding any new contract, the school compare prices from various suppliers/ vendors and online suppliers. The specific process of inviting quotes/bids consumes time and being a private school, they believe in getting work speedily. After receiving DoE's order no. DE-15/ACT-I/WPC-4109/PART/ 13/830 dated 18 July 2017, the school started complying with inviting quotes/bids from other parties for the particular contract.	where it invited quotations. The school is instructed to strengthen its internal control mechanism on awarding contracting to ensure that the same are awarded at competitive and arm's length prices.
4.	The school has made provision for gratuity and leave encashment which amounts to INR 2,29,77,449 on the basis of actual liability and actuarial valuation has not been done, as required	Improper Response.	Actuarial valuation for gratuity and leave encashment for the FY 2016-2017 has been enclosed. Also, the school has started investing in LIC	The school has obtained actuarial valuation for gratuity and leave encashment as on 31 Mar 2017. However, the school has created provision

<table>
<tr><th>S. No.</th><th>Observations in Previous Order</th><th>Directions in Previous Order</th><th>Submissions of the School</th><th>Remarks</th></tr>
<tr><td></td><td>by Accounting Standard (AS) 15 issued by ICAI.</td><td></td><td>policy for gratuity and leave encashment from FY 2018-2019.</td><td>more than the amount determined by the actuary, which has been indicated by the school as liability towards 5 staff members transferred. The school has not provided further details as to why the liability determined by the actuary is not sufficient. Details of differences noted are as under:
<table>
<tr><th>Particulars</th><th>Amount</th></tr>
<tr><td>Gratuity liability determined by actuary as on 31 Mar 2017</td><td>1,35,08,275</td></tr>
<tr><td>Provision for Gratuity created by school as on 31 Mar 2017</td><td>1,50,55,171</td></tr>
<tr><td>Excess provision of Gratuity created by school as on 31 Mar 2017</td><td>15,46,896</td></tr>
<tr><td>Leave Encashment liability determined by actuary as on 31 Mar 2017</td><td>51,69,958</td></tr>
<tr><td>Provision for Leave Encashment created by school as on 31 Mar 2017</td><td>59,05,864</td></tr>
<tr><td>Excess provision of</td><td>7,35,906</td></tr>
</table>
</td></tr>
</table>

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
				Leave Encashment created by school as on 31 Mar 2017 Accordingly, the school is directed ensure that provisions towards gratuity and leave encashment are equivalent to the amount determined by the actuary.
5.	(i) Following related party transaction has been entered into by the school:- a. Honorarium paid to Mrs. Krishna Nayyar (Director of the school who is also the trustee) 2013-14-INR 9,00,000 2014-15-INR 15,75,000 2015-16- INR 18,00,000 b. Salary to Mrs. Anuradha Mehta (Principal and Manager of school who is also relative of trustee) and also to her son Mr. Karan Mehta 2013-14– INR 11,40,153 2014-15– INR 14,45,172 2015-16– INR 16,79,866 Mr Karan Mehta 2013-14 – INR 4,26,532 2014-15 – INR 6,56,400 2015-16 – INR 40,492	School is not allowed to pay honorarium to the Director of the school, from school fee. Hence, the amount paid should be refunded to the school fund.	There are no related party transactions. All three are employees of the school, in their own right and by no means have entered into any transaction with the school, other than employee-employer relation. Mrs. Nayyar, M.A., B.Ed., the founder Principal of the School, was appointed by the Trust as Director after reaching the age of superannuation and guiding the destiny of the school with a total experience of over	The explanation of the school that it has stopped paying honorarium to the Director of the school from Oct 2017 after receipt of previous order of the Directorate has been taken on record. However, the school has not recovered the amount of honorarium paid to the Director (being the trustee of the school), which was directed to be recovered, as the same was not allowed to be paid. Therefore, the amount paid to the director as honorarium in FY 2013-2014 – INR 90.000, FY 2014-2015 – 15,75,000, FY

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	(ii) The school was making payments on behalf of both its branches (i.e. Nursery school and Palam Vihar School) towards routine expenditure of these schools. However, the inter balances are squared off in the subsequent period.		50 years as educationist; Dr. Anuradha Mehta, both State and CBSE Teacher Awardee is Principal of the school, duly selected by the selection committee constituted under Rule 96 of DSEA&R, 1973, with educational and professional post graduate degrees of M.Com, M.A. (Eco), M.A. (Edu), Ph.D and B.Ed with total academic and administrative experience of 28 years. Karan Mehta, Assistant Manager for 3 years 2012-2015 (since resigned) having qualification of B.Sc, MBA, was an ex-student of the school. Also, the honorarium paid to the Director during FY 2016-2017 was INR 18,00,000.	2015-2016 – INR 18,00,000, FY 2016-2017 – INR 18,00,000 and FY 2017-2018 – INR 9,00,000 (assuming that the school stopped paying from Oct 2017 based on explanation of the school), totalling to INR 61,65,000 has been considered as funds available with the school while deriving the fund position of the school (enclosed in the later part of this order) with the direction to recover the same from Director/ Society. On account of non-compliance to the direction, the school is liable for necessary action in accordance with section 24(4) of the DSEA, 1973. Regarding payments made on behalf of other branches, the response given by the school has been taken on record with instructions to the school that such

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
			However, the school has stopped making payments to Mrs. K. Nayyar, Director of the School after receipt of DoE's order dated 18 July 2017. Further, the school was not aware that the Director could not be paid out of fee paid by the students, for whom she worked. The school urge to DoE for condonation of the school. Further, regarding inter balances squared off that these were a few instances of minor nature which are being curbed.	transactions should not be done in future.
6.	Improper accounting of asset has been noted as follows: A. Handy cam was gifted by Ms. Anuradha Mehta to the school. The same has been recorded in the FA register but no recording of the same could be traced in the Books of Accounts.	Accepted in the light of lack of materiality of transactions.	The three items, i.e., Handy Cam, Water cooler and Musical Instrument for which minor accounting omissions which has been rectified and reported in the Balance Sheet for the year ending 31 March 2017.	Considered.

1749

S. No.	Observations in Previous Order	Directions in Previous Order	Submissions of the School	Remarks
	B. Water Cooler sold still exists in the Books of accounts. C. A musical instrument purchased of INR 17,437 was treated as revenue expense where it should have been capitalised.			
7.	Income and Expenditure account of the school shows only surplus from transport services instead of income and expenditure separately.	The school should follow proper accounting procedure.	Net surplus of the Transport Fee is shown in Income and Expenditure account. Even if the school shows income and expenses separately, it will not have any impact on the overall surplus/deficit of the School. However, the same has been rectified in the balance sheet for the year ending 31 March 2017.	As mentioned in Financial Discrepancy No. 4 above, the school has to follow fund based accounting for each earmarked levy.
8.	As per clause 2 of Order No. 1978 dated 16 April 2010, all schools to explore and exhaust the possibility of utilizing the existing funds/reserves to meet any shortfall in payment of salary and allowances, as a	Improper response.	While proposing increase in fee, the school reserves were taken into account to meet shortfall in payment of salary & allowances and	Based on the audited financial statements for FY 2016-2017 submitted by the school and fund position (enclosed in the later part of the order) derived basis

1750

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	consequence of increase in the salary and allowances of the employees. There exists a considerable amount of unutilized funds.		other expenses of the School.	the same, the school has considerable amount of unutilized funds, which should be utilized for meeting any shortfall payment of salary and allowances, as a consequence of increase in the salary and allowances of the employees.
9.	Audited final accounts i.e. receipts and payment account, income and expenditure account and balance sheet for the year 2013-2014, 2014-2015 and 2015-2016 are not in the prescribed format.	The school has assured to comply in future.	The audited balance sheets prepared for the year 2013-2014 and 2014-2015 and submitted to Income Tax department could not be revised. As regards, unaudited Balance Sheet for 2015-2016, it was submitted to the Directorate in the revised format on 31 may 2016 via school's email. However, Directorate's latest directions shall be duly followed for the balance sheet ending 31 march 2017.	Considered.
10.	As per the aforesaid order, As sufficient funds are available with the school, it	The school is directed to create 3	Detailed calculation of available funds	The fund position of the school derived for FY 2017-2018

S. NO.	OBSERVATIONS IN PREVIOUS ORDER	DIRECTIONS IN PREVIOUS ORDER	SUBMISSIONS OF THE SCHOOL	REMARKS
	was hereby directed that the school shall create 3 months' salary provision in accordance with the provisions of Right to Education Act, 2009 and to submit FDRs in joint name of Dy. Director (Education) and Manager of the School with DoE within 30 days of receipt of this order.	months' provision in accordance with the provisions of Right to Education Act, 2009 and to submit FDRs in joint name of Dy. Director (Education) and Manager of the School with DoE within 30 days of receipt of this order.	resulting in deficit of INR 18,06,231 as on 31 March 2016 has been enclosed. In addition to this, liability on account of fee refundable as per JADSC recommendations amounting to INR 3,03,25,998 is also looming large on the school. Hence, the school is not in a position to create 3 months' salary provision.	(enclosed in the later part of the order) also indicates that school has sufficient funds to create a salary reserve. Thus, the school is directed to create 3 months' salary provision in accordance with the provisions of Right to Education Act, 2009 and to submit FDRs in joint name of Dy. Director (Education) and Manager of the School within 30 days of this order. On account of non-compliance to the direction, the school is liable for necessary action in accordance with section 24(4) of the DSEA, 1973.
11.	The school shall not increase the rates of fees without the prior sanction of Director of Education. However, the school has started to charge Fees at the proposed fee structure from the students without approval from the DoE for financial year 2016-17.	The school is directed not to increase the fee for the FY 2016-2017. In case, increased fee has already been charged from the parents,	Summary of excess fee charged and fee refund to those students has been enclosed. Also, the fee receipts issued showing the excess fee adjustment amount in FY	The school only submitted a list of cheques issued as refund of increased fee and some sample of fee receipts reflecting adjustment of increased fee. However, the school did not provide complete details of increased fee

S. No.	Observations in Previous Order	Directions in Previous Order	Submissions of the School	Remarks
		the same shall be refunded/ adjusted.	2016-2017 have been enclosed.	collected and adjustment/refund of the same. During discussion with the school, the school mentioned that it has partly refunded/ adjusted increased fee during FY 2016-2017 and part during FY 2017-2018. The school is directed to provide complete details in this regard, compliance of which will be verified during evaluation of subsequent year's fee increase proposal. Also, the school is strictly instructed not to increase any fee charge without prior approval of the Directorate.

Though the school did not comply with many directions of this Directorate included in its previous orders, basis which the proposal for enhancement of fee submitted by the school for the academic session 2017-2018 should have been out-rightly rejected. However, the Directorate has gone further and carried out a preliminary analysis of the audited financial statements submitted by the school for FY 2016-2017 and budgeted income and expenditure for FY 2017-2018 in order to derive the fund position of the school in relation to FY 2017-2018 for which proposal for enhancement of fee has been submitted by the school. Based on the preliminary financial analysis, it has been derived that total funds available with the school for the financial year 2017-2018 are estimated to be INR 17,35,49,196 out of which cash outflow during FY 2017-2018 is estimated to be INR 89,007,188. This results in net surplus of INR 8,45,42,008 after meeting all the expenses for FY 2017-2018 (including financial implication of implementing 7th CPC) as detailed hereunder:

Particulars	Amount (INR)
Cash and Bank Balance as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	96,39,538
Investments (Fixed Deposits) as on 31 March 2017 (as per audited financial statements of FY 2016-2017)	8,39,76,123
Total Liquid Funds Available with the School as on 31 Mar 2017	**9,36,15,661**
<u>Add</u>: Estimated Fees and other incomes for FY 2017-2018 based on audited financial statements of FY 2016-2017 of the school [Refer Note 1]	8,09,81,830
<u>Add</u>: Recovery of cost of Building reflected in financial statement for FY 2015-2016 & 2016-2017 from the Society [Refer Note 2]	38,19,326
<u>Add</u>: Recovery of honorarium paid to Director [Refer Other Discrepancy 5]	61,65,000
<u>Add</u>: Recovery from society against purchase of vehicles [Refer Financial Discrepancy No. 1]	19,92,577
Gross Estimated Available Funds for FY 2017-2018	**18,65,74,394**
<u>Less</u>: Staff Retirement Benefits - Gratuity [Refer Other Discrepancy No. 4 and Note 3]	35,00,000
<u>Less</u>: Staff Retirement Benefits – Leave Encashment [Refer Other Discrepancy No. 4 and Note 3]	15,00,000
<u>Less</u>: Development Fund [Refer Note 4]	71,80,395
<u>Less</u>: Depreciation Reserve Fund [Refer Note 5]	-
<u>Less</u>: Caution Money (Net of transfer to income in FY 2017-2018) [Refer Note 5]	5,32,500
<u>Less</u>: Specific purpose Grant - from NCTD (as per audited financial statements of FY 2016-2017)	12,304
<u>Less</u>: Refund/adjustment of one-time school development fund collected from students during FY 2016-2017 and FY 2017-2018 [Refer Financial Discrepancy No. 1]	3,00,000
Net Estimated Available Funds for FY 2017-2018	**17,35,49,196**
<u>Less</u>: Budgeted Expenses for FY 2017-2018 [Refer Note 6]	7,24,02,000
<u>Less</u>: Arrears of salary as per 7th CPC since January 16 (as included in the Budget Estimate for FY 2017-2018 by the school) [Refer Note 6]	1,66,05,188
Estimated Surplus as on 31 Mar 2018	**8,45,42,008**

<u>Notes</u>:

1. Fee and income as per audited financial statements of FY 2016-2017 (excluding non-recurring incomes such as Employee Welfare Provisions written back, Profit on sale of assets and Caution Money Non-refundable) has been considered with the assumption that the amount of income during FY 2016-2017 will at least accrue during FY 2017-2018

2. As per direction no 2 included in the Public Notice dated 4 May 1997, "*it is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*" Additionally, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the case

1754

of Delhi Abibhavak Mahasangh concluded that *"The tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society."* Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10 Feb 2005 issued by this Directorate states *"Capital expenditure cannot constitute a component of the financial fee structure."* Accordingly, based on the aforementioned public notice and High Court judgement, the cost relating to land and construction of the school building has to be met by the society, being the property of the society and school funds i.e. fee collected from students is not to be utilised for the same. The financial statements of the school for FY 2015-2016 and FY 2016-2017 reflected additions to building of INR 2,29,000 and 35,90,326 respectively totalling to INR 35,90,326, which should have been incurred by the Society. Further, this capital expenditure was incurred on the building without complying the requirem prescribed in Rule 177 of DSER, 1973. Accordingly, the same has been considered as fund available with the school with the direction to recover the same from the society within 30 days from the date of this order.

3. The school submitted copies of receipts of amount deposited by it with LIC as investment against its liability towards retirement benefits. While the school did not deposit any amount with LIC during FY 2017-2018, the amount deposited by the school during FY 2018-2019 (evidence of which has been submitted by the school) has been considered while deriving the fund position of the school.

4. The Supreme Court in the matter of Modern School held that development fees for supplementing the resources for purchase, upgradation and replacements of furniture and fixtures and equipment can by charged from students by the recognized unaided schools not exceeding 15% of the total annual tuition fee. Further, the Directorate's circular no. 1978 dated 16 Apr 2010 states "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." Over a number of years, the school has accumulated development fund and has reflected the closing balance of INR 3,65,35,680 in its audited financial statements of FY 2016-2017. Accordingly, the accumulated reserve of development fund created by the school by collecting development fee more than its requirement for purchase, upgradation and replacements of furniture and fixtures and equipn has been considered as free reserve available with the school for meeting the financial implication of 7th CPC to be implemented by the school. However, development fund equivalent to amount collected in one year (FY 2016-2017) from students has been considered for deriving the fund position of the school, which is considered sufficient basis the spending pattern of the school in past.

5. The school has charged depreciation on fixed assets and has transferred the same to depreciation reserve on liabilities side of the Balance Sheet of the school. While development fund has been adjusted for deriving the fund position of the school as per Note 4 above, depreciation reserve is more of an accounting head for appropriate treatment of depreciation in the books of account of the school in accordance with Guidance Note 21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the school. Accordingly, it is not considered in table above.

6. Unclaimed caution money of INR 38,500, as proposed to be treated as income during FY 2017-2018 (based on audited financial statements for FY 2017-2018 submitted by the school), has been adjusted from the liability towards caution money as on 31 Mar 2017 of INR 5,71,000 and the net balance of INR 5,32,500 refundable to students has been deducted for deriving the net estimated available funds with the school for FY 2017-2018.

7. Per the Budgeted Receipt and Payment for FY 2017-2018 submitted by the school along with proposal for fee increase, the school had estimated the total expenditure of INR 9,63,57,188 (including arrears for salary as per 7th CPC of INR 1,66,05,188), which in some instances was found

to be unreasonable/ excessive Based on the explanations and details provided by the school during personal hearing, all the expense heads as budgeted have been considered even though certain expenditures were increased substantially by the school as compared to FY 2016-2017 However, during review of budgeted expenses, discrepancies were noted in some of the expense heads, which were adjusted from the budgeted expenses. Therefore, the following expenses have been adjusted while considering the budgeted expenses for FY 2017-2018:

Particulars	FY 2016-2017	FY 2017-2018	Amount allowed	Amount Disallowed	Remarks
Employee welfare including retirement benefits	14,82,518	25,00,000	-	25,00,000	Retirement benefits have been considered separately. Accordingly, it has been adjusted to avoid duplicity
Other Employee Cost	1,800,000	1,800,000	9,00,000	9,00,000	Honorarium paid to Director cum Trustee is not allowed. However, as recovery of honorarium paid during 6 months of FY 2017-2018 has been included as recoverable item, 50% of the budgeted expense has been allowed to nullify the impact of the same.
Library renovation	-	12,00,000	-	12,00,000	Cannot be constructed from Development Fund, as it becomes the integral part of building.
Depreciation	25,86,453	27,50,000	-	27,50,000	Depreciation, being non-cash item having no impact on the fund position of the school has not been allowed.
Total	**58,68,971**	**82,50,000**	**9,00,000**	**73,50,000**	

In view of the above examination, it is evident that the school has sufficient funds for meeting all the budgeted expenditure for the financial year 2017-2018.

Whereas, the school was also directed in the previous order to recover the amount paid as honorarium to the Director, which has not been recovered by the school and the school has failed to comply with the direction of the Directorate. The school is directed to recover total amount paid as honorarium to the Director within 30 days from the date of this order.

And whereas per direction no. 2 of Public Notice dated 4 May 1997, 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 for construction of building because the immovable property of the school becomes the sole property of the society. Further, Hon'ble High Court of Delhi in its judgement dated 30 Oct 1998 in the 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. Thus, the cost of additions to the building reflected in the financial statements of the school met out of the fee collected from students is required to be recovered from the society within 30 days from the date of this order.

And whereas, as per clause No. 14 of Order No. F.DE./ 15(56)/ACT/2009/778 dated 11 Feb 2009, "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, 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 a depreciation reserved fund, equivalent to the deprecation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained development fund account." The school has not complied with the directions in this regard included in the previous order of this directorate.

And whereas, as per clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11 Feb 2009, "user charges should be collected on no profit and no loss basis and should be used only for the purpose for which these are collected." The school has continued to charge earmarked fee higher than the expenses incurred against the same and has utilised the surplus earned for meeting other expenses of the school and has thus continued its non-compliance. Accordingly, the school is advised to maintain separate fund in respect of each earmarked levies charged from students in accordance with the DSEA & R. 1973 and orders, circulars, etc., issued there under. Surpluses under each earmarked levy collected from the students shall have to be adjusted for determining the earmarked levy to be charged in the academic session 2018-2019.

And whereas Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "Accounting for defined benefit plans is complex beca actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses." Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

(a) assets held by a long-term employee benefit fund; and

(b) qualifying insurance policies.

The school is been directed to ensure compliance with Accounting Standard 15 by making the equivalent investment against the liability so determined in the mode specified under the said Accounting Standard within a period of three years.

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 the school has failed to comply with most of the directions given to the school after evaluation of the fee hike proposal for the academic session 2016-2017 and that the funds available with the school for implementation of recommendations of 7th CPC and to carry out its operations for the academic session 2017-18 are sufficient and the fee increase proposal of the school may be rejected.

And whereas, recommendations of the team of Chartered Accountants along with relevant materials were put before Director of Education for consideration and who after considering all material on record has found that the school has faltered in complying in the directions of this directorate and has sufficient funds for meeting the financial implications of 7th CPC salary and other expenses for the financial year 2017-2018. Therefore, Director (Education) rejects the proposal submitted by the school for enhancement of fee for the academic session 2017-2018.

Accordingly, it is hereby conveyed that the proposal of enhancement of fee for session 2017-2018 **Red Roses Public School (School ID-1923340), D Block, Saket, New Delhi - 110017** has been 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/charges during FY 2017-2018. In case, the school has already charged increased fee during FY 2017-2018, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To communicate with 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 the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of this order to 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. The Compliance Report detailing rectification of the above listed deficiencies/ violations must also be attached with the proposal for enhancement of fee of subsequent academic session, as may be submitted by the school. Compliance of all the directions mentioned above will be examined before evaluation of proposal for enhancement of fee for subsequent academic session.

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

1238

This order has to be read in continuation to this Directorate's order No. F. DE-15/ACT-I/WPC-4109/PART/13/830 dated 18 July 2017 issued to the School.

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
Red Roses Public School,
School ID-1923340
D-Block, Saket
Delhi - 110017

No. F.DE.15(628)/PSB/2018/ 30557- 30561 Dated: 14.12.2018

Copy to:
1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Spl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.

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