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

No. F.DE. 15 (281)/PSB/2019 /1530-1534 Dated: 04/04/19

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 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 where it has been directed by the Hon'ble Delhi High Court that the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding 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, **Saraswati Bal Mandir, Mata Mandir Gali Jhandewalan, New Delhi- 110055 (School Id: 2128125)** 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 July 13, 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 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 dated July 18, 2018 and September 18, 2018 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 statement for the Financial Year 2015-16 and 2016-17, it has been noted that the school has utilised development fee for meeting revenue expenditures in contravention of clause 14 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009. Therefore, the school is directed to make adjustment in Development Fund account and General Reserve for revenue expenditure incurred out of Development Fund.

Details of revenue expenditures incurred out of development fee are as under:

(Figures in Rs.)

Particulars	FY 2015-16	FY 2016-17
Administrative expenses	15,74,350	12,90,328
Total	**15,74,350**	**12,90,328**

II. As per Para 99 of Guidance note 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

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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 cognisance from the above para, it has been observed that school has not created Development Utilisation Account. Therefore, the school is directed to follow the Guidance Note- 21.

III. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of 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."

However, on review of financial statements for FY 2014-15, it has been observed that society has transferred building amounting of Rs. 15,79,777 to school in FY 2014-15. And subsequently the school has increased the liability of the society with the cost of building transferred as aforesaid. Thus, the school has made payment to the society for cost of building transferred.

Further, in FY 2015-16 the school has utilised its funds for additions to building of Rs. 4,66,510 which is in contravention of above mentioned provisions. Therefore, the school is directed to recover total amount of expenditure of Rs. 20,46,287 incurred on building.

IV. 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 has charged earmarked levy namely computer fee from the students but this fee is not charged on 'no profit no loss' basis as the school is earning surplus from computer fee. Further, fund based accounting has not been followed by the school for earmarked levy. Therefore, the school is directed to adjust General reserve for the surplus earned on this earmarked levy.

Moreover, on review of financial statement submitted by the school, it has been noted that the school was collecting Pupil fund and PTA fund. 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" which is 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.

Based on the aforesaid provisions, earmarked levies are to be collected only from the user students availing the facilities and if, the services are extended to other Students of the school, a separate charge should not be levied by the school as it would get covered either from the Tuition Fee or from Annual Charges accordingly school is directed not to charge Pupil fund, PTA fund from all the students and computer fee from the students of class I to X.

Other Irregularities

I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with above requirement in the FY 2014-15, FY 2015-16 and FY 2016-17. Therefore, DDE District is required to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below.

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total Students	452	496	446
EWS Students	75	83	82
% of EWS Students	17%	17%	18%

II. On review of Financial statements for the FY 2014-15 to 2016-17, following irregularities has been noted:

a. As per clause 18, Caution money collected shall be kept deposited in a Scheduled Bank in the name of the concerned school and shall be returned to the student at the time of his/her leaving the school along with interest thereon. However, on review of Financial Statements, it has been observed that the school is being refunding only principal amount of caution money without interest thereon which is in contravention of clause 18 of the order dated 11.2.2009.

b. Further, as per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09/09/2010, after the expiry of 30 days, the amount of un-refunded caution money belonging to ex-students shall be reflected as income in the next financial year and it shall not be shown as liability. Further, this income shall also be considered while projecting fee structure for ensuing academic year. However, the school has not considered the amount of un-refunded caution money as income in its proposed budget.

III. The school is not charging depreciation on building to the income and expenditure account in any of the FY 2014-15, 2015-16 and 2016-17 as required by Accounting Standard -6 on "Depreciation Accounting" or Revised Accounting Standard -10 "Property, Plant and Equipment" resulting in understatement of surplus/deficit as appearing in the financial statements. Therefore, school is directed to comply with the accounting standard issued by ICAI.

IV. The school is charging depreciation as per the rates prescribed by the Income Tax Act, 1961 and not as per the Guidance note on "Accounting by Schools" issued by ICAI. Therefore, the school is directed to follow the Guidance Note-21 "Accounting by 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 year 2017-18 amounting to Rs. **1,61,11,072** out of which cash outflow in the year 2017-18 is estimated to be Rs. **1,43,90,171.** This results in net surplus of amounting to Rs. **17,20,901**. The details are as under:

Figures (Rs.)

Particulars	**Amount**
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	25,26,301
Add: Investments as on 31.03.17 as per audited Financial Statements	6,28,854
Add: Recoverable from society incurred on building in FY 2014-15 and 2015-16 (Point III of Financial irregularities)	20,46,287
Less: Student Security as on 31.03.2017	3,74,000
Total	48,27,442
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)	1,11,62,695
Add: Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	1,20,935
Estimated availability of funds for FY 2017-18	**1,61,11,072**
Less: Budgeted expenses for the session 2017-18 (after making adjustment) Refer Note 1 to 4	**1,43,90,171**
Net Surplus	**17,20,901**

Note 1: The school has proposed salary arrears of Rs. 38,77,734 in budget FY 2017-18 which is 53% of previous year salary expenses. By taking lenient view, 3[illegible]% of previous year salary has been considered for evaluation of fee increase proposal.

Note 2: The school has proposed provision for gratuity & leave encashment of Rs. 12,40,000 in budget for FY 2017-18 which has not been considered for evaluation of fee increase proposal since the school has not made provision for gratuity and leave encashment on actuarial basis.

Note 3: Under the major head of expenditures, the budgeted figures in FY 2017-18 have been over estimated as compared to FY 2016-17, for which the school has not provided any justification. Therefore, such expenditure in excess of 10% has been disallowed in the evaluation of fee increase proposal. The details of such expenditure are as under:

Particulars	**2016-17**	**2017-18**	**Net Increase**	**% Change**	**Disallowance**
Salary & Wages including Allowances - Non Teaching Staff	73,37,804	93,48,304	20,10,500	27%	12,76,720

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Particulars	2016-17	2017-18	Net Increase	% Change	Disallowance
Bu'ding Repair & Ma'ntenance	1,56,877	10,00,000	8,43,123	537%	8,27,435
SS Centre sha	-	10,00,000	10,00,000	-	10,00,000
De opment exp ses	12,90,328	20,00,000	7,09,672	55%	5,80,639.20
To al	**87,85,009**	**1,33,48,304**	**45,63,295**	**52%**	**36,84,794**

Note : The school has proposed capital expenditure of Rs. 14,30,0000 in FY 2017-18. H ever, as per trial balance for FY 2017-18, school has made capital expe ure of Rs. 4,01,685 which is lower than capital expenditure proposed by the sch herefore, capital expenditure in excess of actual has been disallowed and has been considered in evaluation of fee increase proposal.

ii. The school has sufficient funds to carry on the operation of the school for the ademic session 2017-18 on the existing fees structure. In this regard, ectorate of Education has already issued directions to the schools vide der dated 16/04/2010 that,

ll schools must, first of all, explore and exhaust the possibility of utilising the isting funds/ reserves to meet any shortfall in payment of salary and owances, as a consequence of increase in the salary and allowance of the ployees. A part of the reserve fund which has not been utilised for years ether may also be used to meet the shortfall before proposing a fee rease."

) WHEREAS, in the light of above evaluation which is based on the prov of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time ime by this Directorate, it was recommended by the team of expert Cha Accountants that prima facie there are financial and other irregularities and sufficient funds are available with the school to meet its budgeted expe re for the academic session 2017-18 including the impact of impl tation of recommendations of 7th CPC, the fee increase proposal of the sch y not be accepted.

) WHEREAS, it is noticed that the school has incurred Rs. 20,46,287 on bui contravention of provisions of DSER, 1973 and other orders issued by the dep ts from time to time. Total amount to be recovered by the school from soc Rs. 20,46,287. The amount of receipts along with copy of bank statements sho eceipt of above mentioned amount should be submitted with DoE, in cor e of the same, within sixty days from the date of issuance of this order. Nor liance of this shall be taken up as per DSEA&R, 1973.

WHEREAS, recommendations of the team of expert Chartered Acc ts along with relevant material were put before the Director of Education for eration and who after considering all the material on the record, found that suf nds are available with the school to meet its budgeted expenditure for the aca session 2017-18 including the impact of implementation of

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rec ndations of 7th CPC. Therefore, Director (Education) has rejected the prc of fee increase submitted by the said school.

ordingly, it is hereby conveyed that the proposal of fee increase of **Sar i Bal Mandir, Mata Mandir Gali Jhandewalan, New Delhi- 110055 (Sc Id: 2128125)** is rejected by the Director of Education. Further, the mar nent of said school is hereby directed under section 24(3) of DSEAR 1973 to with the following directions:

1. increase any fee in pursuance to the proposal submitted by school for the mic session 2017-18 and if, the fee is already increased and charged for ademic session 2017-18, the same shall be refunded to the parents or ed in the fee of subsequent months.

2. mmunicate the parents through its website, notice board and circular about ion of fee increase proposal of the school by The Directorate of Education.

3. nsure that the salaries and allowances shall come out from the fees as capital expenditure will be a charge on the savings in accordance with inciples laid down by Hon'ble Supreme Court of Delhi in its Judgment of rn School vs Union of India. Therefore, school not to include capital diture as a component of fee structure to be submitted by the school under n 17(3) of DSEA, 1973.

4. lise the fee collected from students in accordance with the provisions of 177 of the DSER, 1973 and orders and directions issued by this Directorate me to time.

5. nove all the financial and other irregularities as listed above and submit the ance report within 30 days to the D.D.E (PSB).

6. In e of submission of any proposal for increase in fee for the next academic se n, the compliance of the above listed financial and other irregularities will als e attached.

n-compliance of this order or any direction herein shall be viewed seriously ar ill be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 19 3.

s 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

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To
The Manager/ HoS
Saraswati Bal Mandir,
Mata Mandir Gali Jhandewalan,
New Delhi- 110055 (School Id: 2128125)

No. F.DE.15 (281)/PSB/2019 /1530-1534 Dated: 04/04/19

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