

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

No. F. DE-15/ACT-I/WPC-4109/PART/13/811

Dated: 03/07/2017

ORDER

Whereas, the request of Bal Bharti Public School, Parwana Road, Pitampura, Delhi for increase in fee for the academic session 2016-17 was rejected by Director (Education) vide order No.F.DE.15/Act-1/WPC-4109/PART/13/477-481 dated 20.02.2017 with the specific direction to rectify the deficiencies as illustrated in the said order and submit compliance report to Dy. Director of Education concerned within thirty days.

And whereas, the Director (Education) had referred to the representation of Bal Bharti Public School against the fee hike rejection order of this Directorate and had decided to give an opportunity to the school to be heard in person.

And whereas, in this connection, an opportunity of being heard was provided to the Manager/HoS of Bal Bharti Public School, Parwana Road, Pitampura, Delhi on 18.05.2017 at 03.30PM at Conference Hall, Ludlow Castle School Sports Complex, Civil Lines, Delhi-110054.

And whereas, a committee was constituted to hear the case of the school in detail with a view to assist the Director of Education to dispose of the representation.

And whereas, the submissions of the schools were heard by the above said committee on 18.05.2017 at 03.00PM and during the hearing, the issues raised in the representation of the school were discussed at length. The submissions made by the school are taken on record and analyzed in accordance with the provisions of Delhi School Education Act and Rules, 1973 and directions issued there-under.

Financial discrepancies:-

S. No.	Detail of discrepancy	Submissions of the school	Remarks																												
1.	The school has paid / transferred funds to the other educational establishments or schools under the same management. From the available records it cannot be ascertained whether the transactions are authentic and are on arm's length price. Details of the amounts so paid / transferred are as follows:	There is a difference between transfer and a payment. 'Transfer' is without obtaining any service whereas payment is against getting some service. It is clarified that: i) School had made payment to Bal Bharati Activity Centre-Rohini only for organizing the tailor made indoor activities on behalf of school. ii) School has made payment to Bal Bharti-Solan to organize outdoor activities for the school students. iii) All payments made to training centre were against the services of continuous training and skill enhancement of the teachers. iv) The school	The school should keep record of all services availed from society or the institutions under the same management and along with the basis on which such cost has been charged from the school by these related entities. The reasonability of pricing and arm's length nature of transaction has not been demonstrated by the school even during personal Hearing, issue remains unresolved. These shall be reviewed at the time of fee increase proposal for FY 2017-18.																												
	<table border="1"> <thead> <tr> <th>Name of Organization</th> <th>Financial Year</th> <th>Amount</th> <th>Nature of Payment</th> </tr> </thead> <tbody> <tr> <td>BBPS Training Centre</td> <td>2013-14</td> <td>5,58,800</td> <td>Training of Teachers</td> </tr> <tr> <td>BBPS Training Centre</td> <td>2013-14</td> <td>13,57,200</td> <td>Orientation Charges for Mont. Student & Parents</td> </tr> <tr> <td>BBAC, Solan</td> <td>2013-14</td> <td>66,33,000</td> <td>Expedition Charges for Students visiting</td> </tr> <tr> <td>BBPS, GR Unit</td> <td>2013-14</td> <td>2,50,000</td> <td>Inter Unit Sports Meet</td> </tr> <tr> <td>BBPS Training Centre</td> <td>2014-15</td> <td>4,41,800</td> <td>Training of Teachers</td> </tr> <tr> <td>BBPS Training Centre</td> <td>2014-15</td> <td>11,53,200</td> <td>Orientation Charges for Mont. Student & Parents</td> </tr> </tbody> </table>	Name of Organization	Financial Year	Amount	Nature of Payment	BBPS Training Centre	2013-14	5,58,800	Training of Teachers	BBPS Training Centre	2013-14	13,57,200	Orientation Charges for Mont. Student & Parents	BBAC, Solan	2013-14	66,33,000	Expedition Charges for Students visiting	BBPS, GR Unit	2013-14	2,50,000	Inter Unit Sports Meet	BBPS Training Centre	2014-15	4,41,800	Training of Teachers	BBPS Training Centre	2014-15	11,53,200	Orientation Charges for Mont. Student & Parents		
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BBPS, Solan	2014-15	41,40,000	Expedition Charges for Students visiting	<p>had made payments to BBPS, Gangaram and BBPS, Manesar towards its share of expenses on account of participation of school students in inter school sports meet organized by the said two schools. Some payments have been made to BBPS, Gangaram on account of centralised purchase of software and defraying cost of Kindle and Walk hope event.</p> <p>(v) Payment made to BBPS, Neel-bad were loans.</p> <p>The aforesaid facts clearly establish that the payment made were only against the availing of various services. Hence, the contention of DOE that the school had</p>
BBPS, RH (Sec-25)	2014-15	10,64,500	Activity expenses for Montessori students	
BBPS, DK Unit	2014-15	4,00,000	Inter Unit Sports Meet	
BBPS, Neelbad Bhopal	2014-15	14,00,000	Loan for purchase of Bus	
BBPS, Rohini	2014-15	98,000	Defraying cost of Kindle on our behalf.	
BBPS, GR Unit	2014-15	1,60,000	Towards software licensing compliance on our behalf	
BBPS, GR Unit	2014-15	4,00,000	Adobe India Pvt. Ltd.	
BBPS Training Centre	2015-16	11,18,000	Training of Teachers	
BBPS Training Centre	2015-16	11,56,000	Orientation Charges for Mont. Student & Parents	
BBPS,	2015-16	70,98,	Expedition	

	Solan		000	Charges for Students visiting BBAC, Solan	transferred funds to other schools and establishment running under the same management is absolutely untenable and is entirely contrary to the record.	
	BBPS, MN Unit	2015-16	5,00,000	Inter Unit Sports Meet		
	BBPS, MN Unit	2015-16	10,00,000	Assistance on refundable basis		
	BBNS, RH (Sec-25)	2015-16	16,32,800	Activity expenses for Montessori students		
	BBPS, GR Unit	2015-16	4,50,000	Defraying cost of Software Licensing compliance of M/s Adobe India Pvt. Ltd		
	BBPS, GR Unit	2015-16	2,00,000	Defraying cost towards Walk of Hope		
	Total		3,12,11,300			
2.	Depreciation is being 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.					

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		consequent proposal of fee hike, since it is a non-cash item. Further, the depreciation rates as per Income Tax Act, 1961 is lower than the rates prescribed in the guidance note issued by ICAI.	
3.	Campus Development expenses has been incurred by the school amounting to Rs. 72,62,095, Rs. 43,07,822 and Rs. 62,56,807 during the FY 2013-14, 2014-15 and 2015-16 and has been charged to Income & Expenditure Account under School Fund. While calculating the revised fund balance, these expenses have been transferred from School Fund to Development Fund specifying that the Development of Campus expenses incurred are Capital in nature. But the school has charged Campus Development expense to Income and Expenditure Account (School Fund) and deficit reported by the school has been inflated in the relevant years.	From the details annexed, it can be verified that expenditure is in the nature of revenue expenditure. These were absolutely essential and indispensable to keep the building in usable condition for longer period. This has also been audited and certified by a Chartered Accountant.	The school is to provide necessary documents/ evidences to substantiate the same at the time of fee increase proposal for FY 2017-18.
4.	Capital Expenditure incurred on Campus Development adds to the value of Building and thus leads to utilisation of School funds for the construction/ development of building while school has reported deficit in school fund in last 3 financial years thus it is in contravention of Rule 177. Further, this is also be considered as violation of Clause 2 of Public Notice dated 04.05.1997 which states that it is the responsibility of the society who has	As stated above, there was no capital expenditure on campus development and thus, there was no contravention of Rule 177 and	The school is to provide necessary documents/ evidences to substantiate the same at the time of fee increase proposal for FY

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	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.	clause 2 of public notice.	2017-18.
5.	The school has spent Rs. 36,85,140 on Lift and Rs. 44,90,503 on Swimming Pool as per the Fixed Asset schedule forming part of the Audited Financial Statement and this has been charged against the Development Fund utilisation. Lifts and Swimming Pool forms an integral part of the Building and as per Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009 Development Fund can be utilised only for supplementing the resources for purchase, upgradation and replacement of furniture fixtures and equipment's and as per Clause 2 of Public Notice dated 04.04.1997 school fund cannot be utilised for construction of Building. Accordingly, the expenditure incurred on lift and swimming pool are in contravention to the above given clauses.	The said expenditure comprises of equipments and their installation and hence, the same was booked under the head development fund. Hence, there was no contravention of their order dated 11.02.2009 under reference.	Wrong accounting treatment on part of school. The school should follow DoE instructions in this regard.
6.	The school has used the Transport fund for the purchase of New Cars and Bus amounting to Rs. 40,37,570 during the FY 2015-16. Transport Fund is an earmarked levy and as per Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009 earmarked levies should be charged on 'no-profit no loss' basis. Accordingly, school is not expected to purchase any kind of capital assets out of the funds / surplus available from the earmarked levies charged from the students.	The school has purchased the bus to carry students from their home to school and back. Similarly, car is also used for transportation of students for any outdoor activities and during any emergency. Thus, the school has used transport fund for the purpose for which it was charged. The	Improper justification. The school should follow DoE instructions in this regard. Transport fund cannot be used to purchase luxury cars. The same has been added back.

		school levies the charges on 'no profit no loss' basis. Surplus, if any, is booked under the same fund and finally used for running the transport in future.	
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Other discrepancies:

S. No.	Detail of discrepancy	Submissions of the school	Remarks
1.	The school has collected increased fees from the students during first quarter of 2016-17 in contravention to Order no. F.DE-15/Act-I/WPC-4109/Part/13/7914-7923 dated 16-04-2016. The school has intimated to the parents of the students that the excess fee collected by the school shall be refunded or adjusted, if required; this reflects that the school has yet not refunded or adjusted the excess fee collected from the students in first quarter of 2016-17.	Since the school is in deficit and the case of the school, based on audited financial records, has been accepted by special inspection/audit team appointed by the DOE itself, there is no reason for the school to refund the fee charged during 2016-17. In fact the school shall now be recovering the fee for 2016-17 at the rates permitted and approved by the inspection team appointed by	Improper justification and the school is not allowed to override the instructions of the DoE. The school must follow DoE instructions in this regard.

		DOE.	
2.	The school is not adopting general practice of inviting tenders / bids for the selection of vendor and award of contracts; all major contracts entered by the school are renewed and extension is given to the existing contractors.	At the outset, this contention is vehemently denied that the school does not follow such practices. Further, there is not even a single circular, guideline, rule or bye laws ever pointed out or issued by the DOE which mandates that all the purchases in the school are to be made through tender process.	The funds of the school are derived from fees from parents. As per Modern School Judgement, school cannot indulge in commercialization and profiteering. Insistence of the school to not follow transparent and arm's length price discovery mechanisms, this reflects an irresponsible attitude to dealing with children's fees money.
3.	Interest has not been paid on the caution money refunded to the students and the amount of caution money/security deposit received by the school has not been deposited in a scheduled bank in the name of the school. This is contravention of Clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009.	The order dated 09.09.2010 issued by DOE itself does not mandate that interest is to be paid along with refund of caution money. This order supersedes the previous order dated 11.02.2009. Thus the school has refunded the amount accordingly.	Improper justification and the school is not allowed to override the instructions of the DoE. The school should follow DoE instructions in this regard.
4.	The school is charging admission fee	This is	The school is to

	<p>in excess of Rs. 200 but as per Clause 17 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/ 02/ 2009 admission of fee of more than Rs. 200 cannot be charged at the time of admission of the student in school.</p>	<p>absolutely incorrect and denied. The school is charging Rs. 200/ student as admission fee and this can be verified from the financial statements which are certified by qualified chartered accountant.</p>	<p>provide necessary documents/ evidences to substantiate the same at the time of fee increase proposal for FY 2017-18.</p>
5.	<p>The school has made profits out of the earmarked levies charged from the students. This is contravention of Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009 which prescribes that the earmarked levies should be collected on 'no profit, no loss' basis. The school has accumulated profits of Rs. 9,68,55,909 and Rs. 5,36,70,345 as at March 31, 2016 under the Transport Fund and Activity Fund respectively as per the Audited Financial Statements of the School.</p>	<p>The school maintains separate set of books for school fund, activity fund, development fund and transport fund. These are being charged on 'no profit no loss' basis. If there is any surplus, the same is incidental and credited to respective fund and is being utilised for the same activity in future.</p>	<p>Improper justification. It is not explained that how the school was able to accumulate such huge surpluses. The school is directed to follow DoE instructions in this regard.</p>

And whereas, after going through the representations dated 29.03.2017 and submissions made by the school during the hearing held on 18.05.2017 as well as financial statements/budget of the school available with this Directorate, it emerges that:-

The school is having a surplus fund of Rs. **11,41,84,208/-** as per the following details:-

Particulars		Amount(Rs)
Cash and Bank balances as on 31.03.16 as per audited Financial Statements		1,94,24,505
Investment as on 31.03.16 as per audited Financial Statements		24,38,29,799
Add: Amount recoverable against purchase of Luxury Cars from Society		33,45,789
Add: Amount recoverable from Society and Inter-unit (Transport fund)		6,22,89,200
Add: Amount recoverable from Inter-unit (Activity fund)		42,50,000
Total		33,31,39,293
Less: Development Fund	6,06,06,976	
Less: Depreciation Reserve Fund	3,64,61,504	9,70,68,480
Less: Provision for Gratuity*		
School Fund	7,82,94,669	
Transport Fund	32,85,884	8,15,80,553
Less: Provision for Leave Encashment*		
School Fund	2,22,95,938	
Transport Fund	30,99,936	2,53,95,874
Available Funds		12,90,94,386
Tuition and other fee for 2015-16 as per School submission		22,17,48,483
Other income for 2015-16 as per School submission		93,40,000
Estimated availability of funds for 2016-17		36,01,82,869
Less: Budget expenses for the session 2016-17 as submitted by school management		24,59,98,661
Net Surplus **		11,41,84,208

*The school is hereby directed to make earmarked equivalent investments against provision for Retirement Benefits with LIC (or any other agency) within 90 days of the receipt of this order, so as to protect the statutory liabilities.

**As sufficient funds are available with the school, it is 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.

And whereas, in view of the above examination, it is evident that the school is having sufficient surplus funds even after meeting all the budgeted expenditure for the financial year 2016-17 and after considering the significant amount for development fund, depreciation reserve fund, 3 months' salary provisions, gratuity and leave encashment.

And whereas, it is also evident the school has accumulated surpluses under earmarked levies namely Activity Fund and Transport Fund which is in contravention of Clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009. The aforesaid clause provides that 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. However, keeping in view of best interests of the students and the school, these accumulated surpluses has been treated as part of general reserves.

Also, 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. Still, if there are any surpluses under any earmarked levy collected from the students, the same shall be considered or adjusted for determining the earmarked levy to be charged in the next academic session.

And whereas, as per clause No. 14 of Order No. F.DE./15(56)/ACT/2009/778 dated 11.02.2009, 'Development Fee, not exceeding 15% of the total annual tuition 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.' Accordingly, school is advised to maintain separate development fund and utilized the same strictly in accordance with the DSEA & R, 1973 and orders, circulars, etc., issued there under.

And the school is also advised to create appropriate provisions for gratuity and leave encashment based on actuarial valuation.

And whereas, these recommendations alongwith relevant materials were put before Director of Education for consideration and who after considering all the material on the record has found that the school is having sufficient surplus funds to meet the financial implications for the financial year 2016-17 and the representation dated 03.02.2017 and subsequent submissions made thereafter in this regard find no merit in respect of sanction for increase in fee and hereby rejected on the basis of above mentioned observations.

Accordingly, it is hereby conveyed that the representations for fee hike of Bal Bharti Public School, Parwana Road, Pitampura, Delhi, has been rejected by the Director of Education.

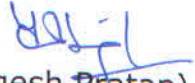
Further, it is noted that school has paid approximately Rs. 2.42 crores during three years under inspection to the related parties in relation to the , orientation charges, expedition charges and activity expenses. But the school has not submitted any justification regarding reasonability of pricing. Also arms length nature of transaction has not been demonstrated by the school during personal hearing. The school shall submit proper documentation and vouchers which shows proper justification of reasonability of pricing and arms' length nature along with the next fee increase proposal, if any.

Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. It is strictly directed, not to increase fee for the session 2016-17. If, in case, increased fee has already been charged from the parents, the same shall be refunded/ adjusted.
2. Compliance of all the instructions as mentioned in the order dated 20.02.17 will be seen/examined during the scrutiny of fee hike proposal for session 2017-18, if any.
3. The fee should be utilised as per letter and spirit of Rule 177 of the DSEA & R, 1973 and the judgement of the Hon'ble Supreme Court in the case of Modern School Vs Union of India (2004).

This issues with the prior approval of the Competent Authority.

Non compliance of the order shall be viewed seriously.

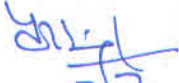

(Yogesh Pratap)
Deputy Director of Education
Private School Branch
Directorate of Education

To
The Manager/HoS
Bal Bharti Public School,
Parwana Road, Pitampura, Delhi
No. F. DE-15/ACT-I/WPC-4109/PART/13/ 811

Dated: 03/07/2017

Copy to:-

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


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