

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/ 884

Dated: 4/9/2017

ORDER

Whereas, the request of Sumermal Jain Public School, B-2, Janakpuri, New 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/13/241-245 dated 26.12.2016 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 Sumermal Jain 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, 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, in this connection, an opportunity of being heard was provided to the Manager/HoS of Sumermal Jain Public School on 17.05.2017 at 02.30PM at Conference Hall, Ludlow Castle School Sports Complex, Civil Lines, Delhi-110054.

And whereas, the submissions of the schools were heard by the above said committee on 17.05.2017 at 02.30PM 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 discrepancies	Submissions of the school	Remarks
1.	The Land was allotted to the society for construction of middle School and the school is currently paying Rs. 32,03,400 per annum to the society (Sumermal Jain Educational and Welfare Society) for service and maintenance of building of the school. The school informed that it is being paid to the society since long with periodic increments in the past. In return, the society issues a letter stating service and maintenance bill	According to the Supreme Court decision in the case of "Action Committee Unaided Private School & Others Vs. DoE & Others dated 07.08.2009, clause 8 of DoE order dated	It is surprised to note that the school is paying rent to the society which has been allotted land on the sponsorship of the DOE for establishment/ running of the school. Hence, any payment of rent for using building by school is

<p>without taxes. The amount paid to the society is in the nature of rent for building which should not be allowed as expense since the building was to be constructed by the society for running the school as per the allotment letter of land. These are in nature of indirect transfers made by the School and are in contravention to clause 8 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15/12/1999 and clause 23 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, which stipulates that no amount shall be transferred from the recognized unaided school fund of a school to the society or the trust or any other institution. The financial impact of this has been taken in the report.</p>	<p>15.12.1999 has application only in the cases of transfers of funds from a recognised unaided school funds of a school to a society or another school under different management. Hence, this clause 8 is not applicable.</p>	<p>contrary to the condition of sponsorship and allotment and also, a violation of clause 8 of the said order. The school is directed to recover the amount paid as rent within 60 days from the date of this order. If the said amounts are not recovered from the society within the stipulated time, then Directorate shall take appropriate action against the school in accordance with the provisions of DSEA&R, 1973.</p>
<p>2. As per point 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, upgradation and replacement of furniture, fixture and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining 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.' With regard to above, following observations were made :</p> <p>a) The school is not maintaining a depreciation reserve fund equivalent to the depreciation charged in the revenue accounts.</p> <p>b) The school is charging development fee higher than 15% of the total annual tuition fee.</p>	<p>The school is maintaining depreciation reserve fund. During FY 2015-16, due to deficit, the school was not able to appropriate any amount for depreciation reserve fund.</p> <p>Development fee seems to be slightly higher, if rounded off per section, otherwise when calculated on the total strength of all classes it does not exceed 15%.</p> <p>Expenditure on</p>	<p>Depreciation reserve fund was not appearing in the Financial Statements for FY 2015-16 submitted with the fee hike proposal by school. School is directed to follow DoE instructions in this regard.</p> <p>It shall be verified at the time of scrutiny of next fee increase proposal of the school, if any.</p> <p>Improper justification. The school should follow DOE instructions relation to development fund and depreciation reserve fund. School should follow clause</p>

	c) The development fund has been used for payment of smart class fees and other activities, not permissible as per the above order.	smart class is wrongly perceived as teaching expenditure. Though it is expended on infrastructure used in smart class.	14 of the order dated 11.02.2009 in letter and spirit. In case school is failed to comply the same, it shall not be allowed to charge any development fee in future.
3.	Depreciation 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.	The school is charging depreciation as per Income Tax Act, 1961 which is fully acceptable method sans any legal restrictions.	The school should follow DOE instructions in this regard.
4.	The school is giving concession to students other than EWS students as "Management Concession". A majority of the students to whom concession is allowed are those students whose parents are either working in school or within the group company of the promoters of the school. The concession allowed to the students, other than EWS, in past three years amounts to Rs. 35.15 lakhs (approx). The financial impact of this has been taken in the report.	The school can give concession to staff wards as per DSEA & R, 1973. The concession is not a charity but rather a privilege.	Details of the Management Concession, to be submitted at the time of next fee increase proposal so that genuineness of fee concession/ exemption can be examined.
5.	As per clause 22 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, 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. There is surplus in the total earmarked levies collected by the school such as Specific Lab fee, Computer Fee etc., which is utilized towards deficit in the Tuition Fee.	Surplus from earmarked levies is utilised to meet the deficit on account of tuition fees occasionally and this will be avoided in future.	School is not allowed to utilise the surplus of earmarked levies to meet the deficit on account of tuition fees. Further, students to be charged on such earmarked levies when accumulated collections are substantially exhausted.
6.	The school is collecting activity fee to meet the expenditure towards the co curricular activities and cultural events like school functions, Music Expenses, Teachers day celebration, Independence Day celebration, school magazine, sports consumable etc. The	Expenditure against activity fee includes common activities examination, medical check-ups, medical	No supporting documents are submitted by the school to substantiate its claim. Details shall be verified at the time of scrutiny of

	<p>school has started collecting Annual Charges in addition to the activity fee from the FY 2015-16. As per point no. 21 of Order No. F.DE./15(56)/ACT/2009/778 dated 11.02.2009, 'No annual charges shall be levied unless they are determined by the managing committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school.' All the expenditures for which Annual charges may be collected are already covered in the Activity Fee collected by the school. The total amount collected for the FY 2015-16, on account of this is Rs. 1,26,52,631 (i.e., Activity Fee - Rs. 76,81,935 and Annual Charges - Rs. 49,70,696). The Actual Expenditure incurred against the same is Rs. 80,38,915, thereby generating a surplus of Rs. 46,13,716 (i.e. Fee collected is more than the expenditure incurred on the same) which is utilised towards deficit in the Tuition Fee.</p>	<p>treatment, dance, yoga, debates, sports, etc. Whereas annual charges are utilised for large scale celebrations like annual day, sports day, etc., held outside school premises in auditorium or stadium. It involves hefty expenditure.</p>	<p>next fee increase proposal of the school, if any. Also it appears that Annual Charges proposed for Nursery are more than the permissible limit of 10% of Tuition Fee. The same if already charged should be refunded/adjusted in future session. m</p>
7.	<p>There are 1,811 students during the FY 2015-16. Caution money collected by the school is Rs 500 per student which aggregates to Rs 9,05,000. However, Caution Money outstanding in the books of the school as on 31.03.2016 is Rs. 21,04,014. As per clause 18 of order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, caution money collected from students shall be refunded to students at the time of his/ her leaving the school along with bank interest thereon irrespective of whether he/ she requests for a refund. In case it is not refunded within 30 days, the school shall treat the same as income.</p>	<p>Non-claimants of preceding years are being contacted to collect their caution money. In case some money still remains unpaid, same will be treated as income as per DoE instructions.</p>	<p>The school should follow DOE instructions in this regard. Compliance shall be verified at the time of next fee increase proposal of the school, if any.</p>

Other discrepancies:

S. No.	Detail of discrepancy	Submissions of the school	Remarks
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1.	<p>As per Order no. 7923 dated 16.04.2010, issued by DoE and point No. VII of allotment letter of land, letter No. F.18(20)/79- Instl. dated 06.01.1984 issued by DoE, 'the society shall not increase rates of tuition fee without the prior sanction / approval of the Department of Education (DOE).' The School has increased the Fee for the FY 2014-15 and 2015-16 by about 10% in each year but the prior sanction / approval of DoE, as required by above mentioned letter / order, is not available with the school. However, the school is increasing the fee with approval of its Managing Committee (MC) and informing the DOE post increase. This is non-compliance of the above mentioned order.</p>	<p>Fee structure of FY 2014-15 and FY 2015-16 are passed by managing committee and was intimated to DoE well in time. It was subsequently implemented which is in compliance with section 17(3) of DSEA & R, 1973.</p>	<p>As per order No.F.DE-15/Act-1/WPC-4109/13/6750 dated 19.02.2016, the school is not allowed to increase fee for the session 2016-17 without prior approval of the Director, Education. Accordingly, school is not allowed to charge increase fee for FY 2016-17. School is directed to refund/ adjust the excess fee charged to the concerned students. Compliance shall be verified at the time of next fee increase proposal of the school, if any.</p>
2.	<p>The school is taking Original Birth Certificates of the students at the time of admission. In case any parent requires the original birth certificate of the student, the school gives it back to the parent after taking a security of Rs. 2,500 from the parents. The school refunds the security if the parent returns the original birth certificate back to school. As on 31.03.2016, Rs. 25,500 are outstanding as security amount received from the parents against the certificates returned by the school to the parents.</p>	<p>Taking short term security from parents is not an issue. It is neither irregularity nor violation of any rule. Parents are approached to take back their amounts.</p>	<p>Incomplete response. The purpose of taking original birth certificates is not clear. School is directed to refund the amount to all the parents at the earliest within 60 days from the date of issue of this order. Compliance shall be verified at the time of scrutiny of next fee increase proposal of the school. No such amount to be charged from parents.</p>

And whereas, after going through the representations dated 03.03.2017 and submissions made by the school during the hearing held on 17.05.2017 as well as

financial statements/budget of the school available with this Directorate, it emerges that:-

The school is having a surplus of Rs. **26,84,713** /- as per the following details:-

Particulars	Amount (Rs)
Cash and Bank balances as on 31.03.16	-15,60,211
Investment as on 31.03.16	2,52,48,249
Add: Amount recoverable from Society for payment of rent	96,10,200
Total	3,32,98,238
Less: Development Fund and Depreciation Reserve Fund#	0
Less: Provision for Retirement Benefits*	2,40,19,760
Available Funds	92,78,478
Fees for 2016-17 as per financial statement as per school submission	8,96,03,979
Estimated availability of funds for 2016-17	9,88,82,457
Less: Expenses for the session 2016-17 as per school submission**	9,61,97,743
Net Surplus	26,84,713

#The school has not maintained development fund and depreciation reserve fund in accordance with Clause 14 of Order No. F.DE./ 15 (56) /Act /2009 / 778 dated 11/02/2009 and there is no equivalent investments against that. Hence, the same is not considered for above calculations.

* Provisions for retirement benefits have been considered to the extent of available investments/assets as detailed in the above table. Further, the school is hereby directed to invest this amount provided for creating provisions 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. And provisions for retirement benefits should be based on actuarial valuation.

**The school has submitted its total expenses for FY 2016-17. The increase in establishment expenses for the year is around 24%. It was found to be unreasonable increase and accordingly, the same is not considered in above calculations and only 10% increase in establishment expenditures is considered.

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 whereas, it is noticed that the school has paid to the society as rent during the period under inspection amounting to Rs. 96,10,200/-. The school is hereby directed to recover this amount. Further, the school is also directed to recover the amount of rent paid to the society for the period prior to the period covered under inspection i.e., before FY 2013-14. The deposits 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 issuance of this order. Non-compliance of this shall be taken up as per DSEA & R, 1973.

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 03.03.2017 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.

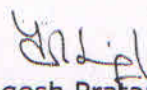
Accordingly, it is hereby conveyed that the representations for fee hike of Sumermal Jain Public School, B-2, Janakpuri, New Delhi, has been rejected by the Director of Education.

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 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 mentioned in the order dated 26.12.16 will be seen/examined during the scrutiny of fee hike proposal for session 2017-18, if any.
3. In the light of Judgment of Modern School vs Union of India, the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings. Therefore it is to be ensured not to include capital expenditure as a component of fee structure, to be submitted by the school under section 17(3) of DSEA&R, 1973.
4. 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).

Non compliance of the orders shall be viewed seriously.

This issues with the prior approval of the Competent Authority.


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

To

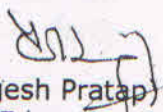
The Manager/HoS
Sumermal Jain Public School,
B-2, Janakpuri, New Delhi

No. F. DE-15/ACT-I/WPC-4109/PART/13/ 884

Dated: 4/9/2017

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