

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/ 895

Dated: 15/09/2017

ORDER

Whereas, the request of Birla Vidya Niketan, Pushp Vihar-IV, 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/13/522-526 dated 27.02.2017 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 Birla Vidya Niketan 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 Birla Vidya Niketan, Pushp Vihar-IV, Delhi on 18.05.2017 at 12.30PM 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 18.05.2017 at 12.30PM 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 discrepancy	Submissions of the school	Remarks
1.	As per Rule 176 of DSEA & R, 1973 and Clause 22 of Order No. F.DE./15 (56) /Act /2009 /778 dated 11/02/2009, earmarked levy will be calculated and collected on 'no profit no loss' basis and spent only for the purpose for which they are being charged. The school has charged the following earmarked levies: a. Transportation fee b. Mid-Day Meals c. Medical Charges	The school has started maintaining fund wise accounts. All the expenses as well as the receipts are routed through it.	Accepted by School. The school is directed to follow DoE instructions in this regard and maintain its books of accounts in the prescribed manner. Compliance shall be verified at the time of next fee increase proposal of the school, if any.

<p>d. Indoor sports complex fee e. Computer, Maths & E-learning</p> <p>But the school does not maintain fund wise accounts and all the expenses as well as the receipts are routed through the income & expenditure account.</p>								
<p>2. The following has been reported in the inspection report:</p> <p>a. The school has transferred a sum of Rs.7.50 crores to Birla Institute of Management & Technology (BIMTEC) in the F.Y. 2012-13.</p> <p>b. The school has transferred Rs.150 lakhs to the main society (BAAC) on 01-03-2014.</p> <p>c. The school has transferred Rs.101 lakhs to BAAC on 26-08-2014.</p> <p>d. The school has transferred Rs.70 lakhs to BAAC on 13-03-2015. The school has transferred Rs.60 lakhs to BAAC on 31-03-2016 .</p> <p>e. The school is paying/transferred a sum of Rs.1.71 crores p.a. to BAAC since last 3 years as rent and establishment expenses.</p> <p>f. Income from canteen, book shop and uniform shop are not accounted for in the books of school. The income is being accounted for in the books of BAAC. The values given below have been calculated on the basis of students of FY 2016-17. The income is as follows:</p> <table border="0" data-bbox="235 1355 852 1579"> <tr> <td>Rent of Canteen: Lakhs p.a.</td> <td>Rs.4.98</td> </tr> <tr> <td>Royalty @ Rs.110/student: lakhs p.a. approx</td> <td>Rs.4.38</td> </tr> <tr> <td>Royalty @ Rs.100/student: lakhs p.a. approx.</td> <td>Rs.3.98</td> </tr> </table> <p>As per Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980, appropriation of savings is different from transfer of funds. The management is restrained from transferring any amount from the Recognized Unaided School Fund to society or trust or any other institution.</p>	Rent of Canteen: Lakhs p.a.	Rs.4.98	Royalty @ Rs.110/student: lakhs p.a. approx	Rs.4.38	Royalty @ Rs.100/student: lakhs p.a. approx.	Rs.3.98	<p>This is assistance in accordance with DSEA & R, 1973 and not the transfer and relates to FY 2012-13.</p> <p>The school has paid rent of Rs 381 lacs during the period under inspection and rents are a normal expenditure and not transfer of funds.</p> <p>The Book store, uniform store and canteen are using Birla Logo, hence are paying nominal amount of royalty to the owner of land and building amounting to Rs. 35.47 lacs during the period under inspection and as such these receipts are not income of the school.</p> <p>For related party transactions, please refer balance sheet.</p>	<p>Improper justification. The school is continuously paying to the society which is not in line with Rule 177 of DSEA & R, 1973 and Modern School Judgement. It was upheld in Modern School case that 'no amount whatsoever shall be transferred from the recognised unaided school fund of a school to the society or the trust or any other institution'. Further, Rule 177 discusses about appropriation of savings of the school and stipulates that assistance to other school or institution can only be made from the savings of the school and cannot be charged from 'increase in fees'. <i>The school has increased fees every year and yet transferred funds to group institutions making the transfers a charge on fees and not on savings, as stipulated under Rule 177 of DSEAR, 1973.</i> Accordingly, the quoted transfer is illegal.</p> <p>The school is directed to recover these amounts from society including the amount paid as rent within 60 days from the date of this order. If the said amounts are not recovered from the</p>
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	The school does not disclose the Related Party Transaction in the Financial Statement.		society within the stipulated time, then Directorate shall take appropriate action against the school in accordance with the provisions of DSEA&R, 1973. Also, school should book income from canteen, book shop and uniform shop in the school accounts and consider the same while proposing any fee hike.
3.	As per Clause 18 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, 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 the bank interest thereon irrespective of whether or not he/she requests for a refund. It is reported that, Caution money is not kept in the separate bank account with the scheduled bank in the name of the school. Caution money along with bank interest is not refunded to the students at the time of leaving the school.	Separate security deposit / caution money is maintained in books of accounts and unpaid caution money amount is carried over next three years to meet any claim. After three years, unclaimed amount is treated as income.	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.
4.	Caution money of Rs.2,01,500 belonging to 403 ex-students is still lying with the school and this has not been shown as income in the next financial year and taken into account while projecting fee structure for the ensuing academic year. Thus, the amount of Rs. 2,01,500 is considered as income.	Unpaid caution money is carried over to the next three years to meet any claim. After three years, unclaimed amount is treated as income.	The school should follow DOE instructions in this regard.

Other discrepancies:

S. No.	Detail of discrepancy	Submissions of the school	Remarks
1.	The school is not preparing its Financial Statements as per the format specified under Rule 180 read with appendix-II if the DSER	The school assures that it has complied and shall always comply with all the rules and regulations of	Improper response. The compliance shall be reviewed at the time of next fee

	1973 which shall be as per the Guidance Note on Accounting by School issued by the ICAI.	DSEA & R, 1973 and guidance note issued by ICAI. The Financial Statements shall be prepared as per rules.	increase proposal, if any.
2.	<p>Discrepancies have been noted between the amount of fees filed with DOE and the fees actually charged by the school. In the following fees discrepancies have been noted:</p> <ol style="list-style-type: none"> Registration Fees. Prospectus and processing fee E-learning Fee Math Computer Fee Transport Fee Mid-Day Meal <p>In the Inspection Report, discrepancy has been observed in the amount of fee intimated to DoE and the amount of fees actually charged thereafter.</p>	The school has been submitting fee schedule after approval from school management committee and PTA to DOE. There is no deviation in charging fee from the students than fee specified by SMC/manager.	The compliance shall be reviewed at the time of next fee increase proposal, if any.
3.	<p>The school has entered into the following major contract:</p> <ol style="list-style-type: none"> Transport arrangement for students. Security guards for watch and ward. Hire of temporary supporting staff. <p>These contracts are renewed annually and no tenders are invited for the same at the time of renewal since the ongoing contracts were continuing since many years and the school management is satisfied with their services.</p>	<p>For transport arrangements, comparative quotes were not asked during inspection by CA firm. The same were submitted to PMU as response on inspection report.</p> <p>For security guards, payments are made as per Govt. rates along with social welfare benefits.</p> <p>For hiring of temporary supporting staff, contracts are minor in nature.</p>	School is directed to implement effective internal control system in relation to procurement of goods and services so as to safeguard the interest of school and to ensure that the transactions are entered into on reasonable prices. The compliance shall be reviewed at the time of next fee increase proposal, if any.
4.	<p>The following discrepancies were observed in respect of Fixed Asset Register:</p> <ol style="list-style-type: none"> It is not maintained and updated properly. Entries for purchase of assets have been entered but depreciation after FY 2011-12 was not recorded 	<p>Fixed assets register is maintained and updated. It is not in the format desired by CA firm. Depreciation amount is also posted. FA schedule is part of Balance sheet and was provided to CA firm during</p>	School is directed to prepare its Fixed Assets Register in proper format so as to disclose name, type, quantity/ units, purchase amount, depreciation, location, etc., of the

	<p>in the register. The school has not provided the FA schedule with its Financial Statements for FY 2013-14, 2014- 15 and 2015-16 but depreciation has been charged to Income & Expenditure account and the FA in the Balance Sheet is shown at WDV for FY 2013-14, 2014-15 and 2015-16.</p>	inspection.	fixed assets so as to protect the fixed assets effectively. The compliance shall be reviewed at the time of next fee increase proposal, if any.
5.	<p>As per Clause 14 of Order No. F.DE./15 (56) /Act /2009 / 778 dated 11/02/2009, 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 Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head. The school has not created Depreciation Reserve Fund for FY 2013-14 and 2014-15. For FY 2015-16, Depreciation Reserve Fund has been created as an appropriation out of general reserve. At the same time Depreciation is also charged to Income & Expenditure Account and deducted from Fixed Asset. For the FY 2013-14, depreciation for the year has been charged from Development fund.</p>	<p>During FY 2013-14 to FY 2015-16, development fund amounting Rs. 365.74 lacs was collected and Rs. 431.63 lacs were incurred as capital expenditure. Rs.55.70 lacs were utilised from depreciation reserve and Rs. 10.9 lacs from surplus of school.</p>	<p>Improper justification. The depreciation reserve was not maintained by the school in accordance with the clause 14 of the order dated 11.02.2009. School is directed to maintain depreciation reserve fund in proper manner and to follow DoE instructions in letter and spirit. Proper disclosure in 'Notes to accounts' should be made wherever any adjustments were made in Depreciation Reserve Fund vis-à-vis General reserve. Compliance shall be verified at the time of next fee increase proposal of the school, if any.</p>

And whereas, after going through the representations dated 23.03.2017 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. **8,25,35,234/-** as per the following details:-

Particulars	Amount (Rs)
Cash and Bank balances as on 31.03.16	45,85,390

Investment as on 31.03.16	6,53,594
Add: Amount recoverable from society	11,31,00,000
Total	11,83,38,984
Less: Development Fund	4,886
Less: Depreciation Reserve Fund	19,77,656
Less: Provision for Retirement Benefits*	7,10,26,786
Available Funds	4,53,29,656
Fees for 2015-16 as per financial statement(We have assumed that the amount received in 2015-16 will at least accrue in 2016-17)	26,47,48,723
Other income for 2015-16 as per financial statement	71,39,855
Estimated availability of funds for 2016-17	31,72,18,234
Less: Budget expenses for the session 2016-17 as submitted by school management#	23,46,83,000
Net Surplus	8,25,35,234

*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. The provisions for retirement benefits should be based on actuarial valuation.

It is also noted that the school has not followed prudent financial practices over the years and has not built up any reserves. Though, the school has not able to built up adequate tangible investments/liquid assets to cover up the 03 months salary reserves as mandated by the Act, but still the school is proposing the capital expenditure to the tune of Rs. 2,80,00,000 which includes Rs. 1,50,00,000 for civil works, sanitary and electrical works. As per Modern School judgment read with rule 177 of DSEA & R, 1973 capital expenditure for constructions activity cannot be a charge on financial fee of the school. Accordingly, the same has not been considered in above calculations.

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 transferred Rs. 11.31 crores, including Rs. 3.81 crores paid as rent, to the society during the period under inspection. These amounts are to be recovered from Society. 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, 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. 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

ere under. If there are large 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 utilize the same strictly in accordance with the DSEA & R, 1973 and orders, circulars, etc., issued there under.

And whereas, it is evident that the school is not maintaining depreciation reserve fund in proper manner in accordance with clause 14 of Order No. F.DE./15 (56)/Act /2009 /778 dated 11/02/2009. The school has followed unsustainable financial practices and improper accounting procedures and using development fund for non permissible items. The school has neither reserves, nor investments and yet continues to incur and budget capital expenditure. Hence, development fee already charged @15% has in reality been used for other purposes, and in effect already tantamount to a hike on tuition fee. School shall not be allowed to charge development fee in FY 2017-18 unless it follows the directions of this Directorate.

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 23.03.2017 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.

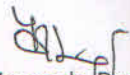
Accordingly, it is hereby conveyed that the representations for fee hike of Birla Vidya Niketan, Pushp Vihar-IV, Delhi, has been rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

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 as mentioned in the order dated 27.02.17 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 order shall be viewed seriously.

This issues with the prior approval of the Competent Authority.


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


To
The Manager/HoS
Birla Vidya Niketan,
Pushp Vihar-IV, Delhi

No. F. DE-15/ACT-I/WPC-4109/PART/13/895

Dated 15/09/2017

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