

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

No. F.DE.15(54)/PSB/2019/1664-1668

Dated: 20.9.19

ORDER

WHEREAS, in pursuance to the order of Hon'ble High Court of Delhi dated 19 January 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 April 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 pursuance to order dated 27.03.2019 of this Directorate Sanskriti School (School ID – 2026118), Dr. S Radhakrishna Marg, Chanakyapuri, New Delhi – 110021 had submitted the proposal for fee increase for the academic session 2018-2019. Accordingly, this order is dispensed off the proposal for enhancement of fee submitted by Sanskriti School (School ID – 2026118), Dr. S Radhakrishna Marg, Chanakyapuri, New Delhi – 110021 for the academic session 2018-2019.

AND WHEREAS, in order to ensure that the proposals submitted by the Schools for fee increase are justified or not, this Directorate has 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, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2018-2019, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 19th July 2019 at 11:30 AM, 6th September 2019 at 10 AM and 14th September 2019 at 11:30 AM to present its justifications/ clarifications on fee increase proposal including audited financial statements 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 till 17th September 2019 were thoroughly evaluated. The key finding and status of compliance to the instructions/direction included in the previous order are as under.

S. No.	Observations in the previous Order	Direction in the previous order	Submission of the school	Remarks on follow up of the previous order orders and observations noted for the current year.
A. Financial Discrepancies:				
1.	As per clause 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. However, on review of audited financial statement for the FY 2014-15, 2015-16 and 2016-17, it was observed that the school had utilized the development fee for other	The school was directed comply with clause 14 of the order dated 11.02.2009.	No response	No discrepancies noted for the FY 2017-18.

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	than furniture, fixture and equipment in contravention of clause 14 of the order dated 11.02.2009.			
2.	<p>In respect of earmarked levies, school is required to comply with:</p> <p>a) 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;</p> <p>b) Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';</p> <p>c) 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.</p> <p>On review of audited financial statements for FY 2014-15, 2015-16 and 2016-17 it was noted that the School is collected earmarked levy in the</p>	The school was directed to follow fund-based accounting in accordance with the provisions of clause 22 of the order dated 11.02.2009.	No response	Till date the school has not compiled with the directions of the previous order issued by the Department with respect to earmarked levies and transportation fee.

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	name of Transport Fee and Earmarked Fees from the students, but the same is not being charged on 'no profit no loss' basis.			
3.	As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit obligations and their fair value of any plan asset so that the amounts recognized in the financial statements do not differ materially from the amounts that would be determine at the balance sheet date. However, on review of the financial statement it was observed that the School had provided provision for leave encashment on the basis of management estimates for Rs. 2,64,92,634 as on 31.03. 2017 without earmarking any investments against this provision.	Sine, the school had the enough fund therefore, the school was directed to earmarked equivalent investment with LIC (or any other agencies) within 90 days of the receipts of this order and ensure the compliance with the provisions of AS-15.	The school has submitted that it has got the actuarial valuation for leave encashment and has invested Rs. 2,64,92,634 in the form of fixed deposit.	As per AS-15 'Employee Benefit' issued by ICAI. "An entity should determine the present value of defined benefit However, vide order no. FDE.15 (657)/ PSB/2018/ 31091-31095 dated 31.12.2018 for academic session 2017-18, the school was directed to get the actuarial valuation for leave encashment and deposit the equivalent amount to the LIC (or similar agency) within 90 days from the date of order. But the school failed to comply with the aforesaid direction till date. Further, the school has indicated that it has created fixed deposit with bank against its liability towards leave

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				encashment but did not made corresponding investment under 'plan assets' in accordance with AS-15. Hence, in order to protect the rights of the staff and to minimise the financial hardship on parents. The school is once again directed to deposit the amount of leave encashment with LIC (or similar agency) in proportionate manner over the period of 14 years. Thus, Rs. 18,92,331 (1/14 of of Rs. 2,64,92,634) and Rs. 7,83,714 (1/14 of amount proposed in Rs. 1,09,72,000 in FY 2018-19) has been considered in the evaluation of fee increase proposal of the school.
4.	As per Para 99 of Guidance note on "Accounting by School" issued by ICAI, "where the fund is meant for meeting	The school was directed vide order no. FDE.15 (657)/PSB/2018/	No response	On review of the financial statement it has been observed that the school has partly

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	<p>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 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".</p> <p>It was observed that school had created a fund in the name of 'Assets Fund-Development Account' for the assets purchased out of the development fund which was in the nature of deferred income and it was not being written off in the proportion of depreciation charged to the income and expenditure account.</p>	31091-31095 dated to comply with Para 99 of Guidance note on "Accounting by School" issued by ICAI.		complied with the provision of Para 99 of Guidance note on "Accounting by School" issued by ICAI. As the school has adjusted amount of assets fund -development fund against the accumulated losses in FY 18-19.
5.	As per the audited financial statement of FY 2016-17, Rs 33,81,890/- was recoverable from the society on account of TDS on fixed deposit received by the Society. Thus, the	The school was directed to recover this amount from the society.	Pending for recovery.	As per order no. FDE.15 (657)/PSB/2018/ 31091-31095 dated 31.12.2018 for academic session 2017-18 it was



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	amount recoverable from the society was included in the calculation of the fund availability of the school.			noted that Rs 33,81,890/- was recoverable from the society on account of TDS on fixed deposit as on 31.03.2017 which has now increased to Rs. 72,75,107 as on 31.03.2018. Therefore, Rs. 72,75,107 has been included in the calculation of fund availability of the school with direction to the school to recover this amount from society.
B.	Other Discrepancies:			
1.	The school has not complied with the DOE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04-06-2012, which provides for 25% reservation to children belonging to EWS and DG category at the entry level. The DDE concerned is required to look into this matter.	The DD district was requested to ensure that the school is complying with this clause.	The school has been complying with direction of the order.	The school statement has been taken on record.
2.	As per Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009, no caution money/ security deposit of more than Rs. 500 per	The school was directed to comply with clause 18 of the order dated 11.02.2009.	No response	Clause 18 of Order No. F.DE. /15 (56) /Act /2009 / 778 dated 11.02.2009 states, no caution money/ security

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	<p>student shall be charged. The caution money thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving from the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, during the discussion held on 12.06.2018, school has accepted that only principal amount is being refunded to the students.</p>			<p>deposit of more than Rs. 500 per student shall be charged. The caution money thus collected shall be kept deposited in a schedule bank in the name of concerned school and shall be returned to the student at the time of his/her leaving from the school along with the bank interest thereon irrespective of whether or not he /she request for a refund. However, during discussion with the school, it has confirmed that only principal amount is being refunded to the students. Thus, the school is once again directed to comply with the direction of order no. FDE.15 (657)/PSB/2018/ 31091-31095 dated 31.12.2018.</p>
3.	<p>On review of audited financial statements of the school of FY 2014-15,</p>	<p>The school is required to follow generally</p>	<p>The school has noted this observation and</p>	<p>Considered</p>

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	2015-16 and 2016-17, it was observed that few assets were sold during the period under review and the sale proceed of which were directly deducted from the gross block of the assets.	accepted accounting principles in respect of sale/ disposal of fixed assets.	will be taking requisite action.	
4.	The school was not maintaining depreciation reserve fund equivalent to the depreciation charged in the revenue account during the FY 2015-16 & 2016-17 as required by clause 14 of order dated 11.02.2009	The school was directed to comply with Para 99 of Guidance note on "Accounting by School" issued by ICAI.	No response	On review of the financial statement it has been observed that the school has partly complied with the provision of Para 99 of Guidance note on "Accounting by School" issued by ICAI. As the school is adjusting the amount of assets fund -development fund against the accumulated losses in FY 18-19.
5.	On review the audited financial statements for FY 2014-15, 2015-16 and 2016-17, it was noted that income under the following heads were reflecting in the financial statement on net basis (i.e. net of expenditure incurred against these incomes). Therefore, the school is required to present its income and expenditure on gross basis rather than	The school was directed to follow fund-based accounting	The school has noted this observation and will be taking requisite action	The school submission has been taken on record.

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	<p>on net basis. Heads of income which were being shown on net basis is as under.</p> <p>a) Sport and club activity b) Year book c) Occupational and Speech Therapy d) Summer camp e) Trip money/ Adventure Camps f) Robotics Workshop g) SARANG interschool music competition h) Learning Centre- Indhradhanush</p>			

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 available funds for the year 2018-19 amounting to Rs. **35,98,22,511** out of which cash outflow in the year 2018-19 is estimated to be Rs. **42,06,52,431**. This results in deficit amounting to Rs. **6,08,29,920**. The details are as follows:

(Figures in Rs.)

Particulars	Amount
Cash and Bank balances as on 31.03.18 as per audited Financial Statements	23,15,851
Investments as on 31.03.18 as per audited Financial Statements net of Earmarked Investment (as per Note 1)	9,35,68,467
Add: Recoverable balance from society against building construction	1,91,34,630
Add Recoverable from society towards TDS receipts as on 31.03.2018	72,75,107
Less: Caution Money as on 31.03.2018	3,80,000
Less: Leave Encashment as on 31.03.2018 (Rs 2.64 crores apportioned over the period of 14 years) *	18,92,331
Less: Gratuity payable as on 31.03.2018	3,09,48,859

Particulars	Amount
Less: Provision for VII CPC as on 31.03.2018	4,32,32,619
Less: Utilised during the year	1,52,61,730
Balance	<u>2,79,70,889</u>
Total	6,11,01,976
Fees for 2018-19 as per audited Financial Statements	28,80,42,887
Other income for 2018-19 as per audited Financial Statements	1,06,77,648
Estimated availability of funds for 2018-19	35,98,22,511
Total cash outflow	
Revenue Expenditure + Capital Expenditure - Depreciation)	42,06,52,431
Surplus/(Deficit)	(6,08,29,920)

Note 1: The amount refundable against caution money as on 31.03.2018 amounting to Rs. 3,80,000 has been adjusted while calculating the fund availability of the school.

Note 2: As per actuarial valuation report total provision for gratuity is Rs.3,09,49,859 as on 31.03.2018 has adjusted in the calculation of availability fund position of the school.

Note 3: Total income as per audited financial statements of FY 2018-19 has been considered for evaluation of fee increase proposal.

Note 4: The total cash outflow has been taken from the audited financial statements of FY 2018-19 and additional amount proposed by the school towards provision for 3 months' salary amounting Rs. 47,35,714 (Rs. 6,63,00,000 apportioned over period of 14 years) and arrears payable towards 7th CPC Rs. 3,02,29,111 (Rs. 4,15,00,000 + 1,67,00,000 – 2,79,70,889).

Note 5: The school has proposed Rs. 1,79,40,993 as liability in compliance with JADSC's order. Since this matter is under trial before the Hon'ble High Court of Delhi against which the school has lien the FDR amounting to Rs. 1,79,40,993 as per the direction of the Hon'ble High Court. As matter is still under trial, same cannot be considered in the above calculation of fund availability.

- ii. The school do not have sufficient funds to carry on the operation of the school for the academic session 2018-19 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"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."

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, that though certain financial discrepancies exist (appropriate financial impact of which has been taken on the fund position of the School) and also, funds are not available with the school to carry out its operations for the academic session 2018-19, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is also noticed that **Rs. 2,64,09,737** is recoverable from the Society for construction of Building and for TDS on Interest on FDR. The amount of above receipt along with copy of bank statement showing the 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, a WPC No. 3395/2019 titled as "Meeta Chakraborty vs GNCTD, Delhi & Others" is also pending in Hon'ble High Court of Delhi. The said case was filed by the employees of the Sanskriti School regarding not giving full benefit of 7th CPC to them. On the last date of hearing that was on 06.09.2019, Learned Single Judge again appointed an independent CA Anuj Jain to examine the financial records of the School for FY 2018-19 and 2019-20 and directed DOE to engage one officer, not below the rank of Dy. Director Education and one CA to assist the said independent CA. Director (Education) was also present in the said court proceedings dated 06.09.2019. However, no official order has been uploaded on the official website of the Hon'ble Delhi High Court.

AND WHEREAS, all relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, found it appropriate to allow the increase in fee by 20% from April 01, 2019.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Sanskriti School, Dr. S Radhakrishnan Marg, Chanakya Puri, New Delhi - 110021 (School Id: 2026118)** is hereby accepted by the Director of Education with effect from April 01, 2019 and the school is hereby allowed to increase the fee by 20%.

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


1. To increase the fee only by the prescribed percentage from the specified date.
2. To rectify all the financial and other discrepancies as listed above and submit the compliance report within 30 days from the date of this order to the D.D.E (PSB).
3. To ensure payment of salary as per recommendation of 7th CPC.
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

and others. 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 utilize 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.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of section 24(4) of DSEA, 1973 and DSER, 1973.

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
Sanskriti School,
Dr. S Radhakrishnan Marg, Chanakya Puri,
New Delhi - 110021 (School Id: 2026118)

No. F.DE.15(540)/PSB/2019/ 1664-1668

Dated: 20.9.19

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 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