

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

No. F.DE.15 (1204)/PSB/2023/1149-1154

Dated: 03/02/23

Order

WHEREAS, MR Vivekanand Model School (School ID: 1821229), Sector-13, Dwarka, New Delhi-110075, (hereinafter referred to as "the School"), run by the Shishu Nav Nirman Shiksha Samiti (hereinafter referred to as the "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The School is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177 (1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and Rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): *'every recognized school shall be inspected at least once in each financial year in such manner as may be prescribed'*

Rule 180 (3): *'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorized by the Director in this behalf and also by officers authorized by the Comptroller and Auditor-General of India'*.

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools for some of the schools which have been allotted land by the DDA/ other land-owning agencies with the

condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fees and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 that in the case of private unaided schools situated on the land allotted by DDA/other land-owning agencies at concessional rates:

"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 High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ other land-owning agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to examine the proposals submitted by the schools for fee increase for justifiability or not, the DoE has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the School carefully in accordance with the provisions of the DSEAR, 1973, and other Orders/ Circulars issued from time to time by the DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 17.11.2022 to present its justifications/ clarifications on the fee increase proposal and full statement of fees filed under

section 17(3) of the DSEA, 1973. However, based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, post personal hearing, necessary records and explanations were called from the school vide email dated 24th November 2022, but the school neither submitted the requested documents nor given any communication to the department for not submitting the same. It is also important to mention that the department by taking lenient view and has sent another e-mail dated 12th December 2022 requesting the school to submit the required documents mentioned in the above sent e-mail. But the school, like earlier, didn't sent the requested documents. Therefore, after waiting for more than 30 days for the documents, it is concluded that the school is not interested in submitting the required documents/explanations to get its fee increase proposal evaluated by the department. The list of documents which the school have not provided are given below:

- a) Complete set of financial statements along with the schedules & FA schedules for last 3 years.
 - b) Society ledger account (Detailed) for the last 3 financial years.
 - c) Actual payment towards gratuity and leave encashment during the FY 2021-22 with details such as the name of the employee, date of joining, date of resignation/ retirement, date of payment and amount of paid.
 - d) Declaration with respect to related party transactions
 - e) Expense details of EWS students for last 3 years
 - f) Cash & Bank book for last 3 years
 - g) Waiver details given to students in last 3 years
 - h) Fee reconciliation statement for the last 3 FY's.
 - i) Soft copy (Excel file) of calculation of 'arrear payables' and 'provision for DA revision' claimed by the school in its budget of FY 2022-23
 - j) Accounting policies of the School.
 - k) All bills of expenditure incurred under head building of INR 69,02,327 during FY 2019-20 and charged in income and expenditure account.
 - l) Details of expenditure incurred on hired 'Security and housekeeping staff' during FY 2019-20, FY 2020-21 and FY 2021-22.
2. Further, based on the documents uploaded/provided on personal hearing by the school, the following primary observations have been noted:
- a. Audited financial statement of FY 2021-22:
 - a. Previous year figure has not provided.
 - b. School has been following hybrid model for maintenance of its books of accounts. It appears that the school has recorded income on cash basis while the expenditure has been recorded on accrual basis. Thus, the school is not following matching concept for recording of its income and expenditure for the year.

- c. It appears that the school has been charging capital expenditure incurred on construction of building in its income and expenditure account. The school was asked to submit the relevant documents for the same, but no response has been received from the school.
- d. It appears that the school has been utilizing development fee as revenue receipt for meeting revenue expenditure of the school which is not in accordance with the Clause 14 of the order dated 11.02.2009. As per clause 14 of the order 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, fixtures 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 Reserve 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.”*
- e. The School is not complying with Para 99 of Guidance Note-21. As per para 99 of Guidance Note on Accounting by Schools (2005) issued by the Institute of Chartered Accountants of India states *“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 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.”* From review of the audited financial statements submitted by the school, it appears that the school has not been complying with para 99 of GN -21. Therefore, the school is hereby directed to comply para 99 with respect to collection and utilization of development fee.
- f. The school has not provided the fixed assets schedule. In the absence of such details the addition made by the school during the financial year cannot be ascertained.
- g. The school has not provided EWS details. In the absence of such detail income receivable by the school towards tuition fee and annual charges and development fee cannot be computed.
- h. No details regarding fee arrears of FY 2020-21 recorded in FY 2021-22 was submitted the school.

AND WHEREAS, after going through the documents uploaded by the school on the web portal of the department, it emerges that:

- i. The school has failed to submit complete financial statements and other financial information and data in respect the school. Accordingly, on account of incomplete financial information available with the Directorate, correct fund position of the school for FY 2021-2022 could not be determined.
- ii. The school submitted incomplete financial statements, as the same did not include Auditor's Reports and Notes to Accounts, previous year balances, accounting policies, etc.

AND WHEREAS, the evaluation of fee increase proposal of the School cannot be carried out as the school has not submitted required documents/ clarifications which was necessary for evaluation of the fee increase proposal. Thus, it appears that the school does not want to get its fee hike proposal to be evaluated.

AND WHEREAS, in light of the above provisions of DSEA, 1973, DSER, 1973, guidelines orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that since the evaluation of fee proposal of the School could not be carried out as the school did not submit any documents/ clarifications as was necessary for carrying out the fee increase proposal of the school, the fee increase proposal of the school may be rejected.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director (Education) for consideration and who after considering all the material on record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that since the School did not submit the relevant documents /clarifications for evaluation of the fee hike proposal for the academic session 2022-23. Therefore, Director (Education) has rejected the proposal submitted by the school for the academic session 2022-23 with the direction to DDE (District) to initiate necessary action against the School as per the provisions of DSEA & R, 1973 as well as direction of the Hon'ble Courts.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the suggestions noted during the above evaluation process and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).

Accordingly, it is hereby conveyed that the proposal for fee hike of **MR Vivekanand Model School (School ID: 1821229), Sector-13, Dwarka, New Delhi-110075** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusion and suggestions.

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

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. 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 in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
MR Vivekanand Model School (School ID: 1821229),
Sector-13, Dwarka, New Delhi-110075

No. F.DE.15 (1204)/PSB/2023/1149-1154

Dated: 03/02/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (South West B) ensure the compliance of the above order by the school management.
4. DE's nominee concerned.
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi