



Dear Parents,

Greetings from DAV Fraternity!

Darbari Lal DAV Model School, Pitampura always extends the heart felt gratitude to all the parents for their constant support to attain the coveted position in the education world. Parents and teachers together play a great role in the child's holistic development.

Your kind attention is drawn to the judgement of Delhi High Court dated 15.03.2019 passed in W.P. (C) No. 4374 of 2018, (copy attached) whereby the order dated 13.04.2018 stands quashed and set aside, and the earlier order dated 17.10.2017 for interim increase in fees pursuant to 7th CPC has been upheld. The court has held for immediate implementation of the said interim increase in fees without any prior approval of D.O.E. or Govt. of NCT of Delhi.

As per order of DOE dated 13.4.2018 and Honble High Court order dated 31.5.2018 the school had rolled back increased fee of 15% w.e.f. 1.7.2018 and has been accepting fee as per 2015-16 fee schedule.

In view of the above, the parents are required to deposit the said interim increase (Tuition Fee only) vide D.O.E. circular dated 17.10.2017. Though the school is within its rights to charge the fees from 01.01.2016, however keeping in view the difficulties and financial hardship it will cause to the parents, the management has decided to implement interim hike in fee (Tuition) w.e.f. the year 2018-2019 (1st April 2018 – 31st March, 2019). This hike is imperative to maintain the standard of education, import quality education to your wards and meet the increase in salaries and wages of teaching and non teaching staff members as per 7th CPC.

We are pleased to share that maximum parents have already paid the arrears for the Session 2017-18. It is our request to the remaining parents to kindly clear the same as early as possible.

Vide circular of the school dated 19.12.2017 revised fee was charged from students till March 2018. Accordingly, parents are requested to deposit the difference in increased fees for the period April 2018 onwards till 31st March 2019, on or before 31st March, 2019. We are in the process of generating Arrear Bills payable by students respectively for the Session 2018-19 and the same will be available shortly on Student Login of the School web portal.

You are requested to kindly cooperate.

Yours faithfully,

(Mrs. Anita Wadehra)
Principal

GIST OF JUDGMENT DATED 15.3.2019
IN RESPECT OF 7TH CPC
QUASHING THE ORDER DATED 13.4.2018

After extensively referring to the judgment of the Hon'ble Supreme Court in the cases of *TMA Pai, Islamic Academy, PA Inamdar and Cochin University* and the judgment of the DB of the Delhi High Court in *DAM II*, it is held as under:-

1. The regulatory measures to be taken by the DoE for preventing "commercialization" of education have to operate within the parameters and peripheries of Section 17(3) of the DSE Act.
2. Regulatory measures cannot be permitted to tress-pass on the autonomy of the unaided schools in the matter of Fixation of Fee or even the appropriation of financial resources.
3. Unaided Institutions cannot be called upon to explain their Receipts & Expenses as before a Chartered Accountant.
4. The right to establish and administer unaided schools is essentially absolute and bureaucratic and governmental interference therewith has to be necessarily minimal.
5. Regulation, of the fundamental right to establish and administer an Unaided Educational Institution, by the Government was permissible, but it could not however, tress-pass into the arena of administration; complete discretion in respect thereof has been left with the Unaided Institution.
6. A reasonable profit can be earned by the Institution after providing for investment and expenditure.
7. So long the fee charged by an Institution did not amount to "commercialization", the Constitution of India clearly advocates a 'hands off' the approach by the government in the matter of fixation of fee. It immunizes the institution from the requirement of being called upon to explain its receipt and expenses as before a Chartered Accountant.
8. When Schools, across-the-Board were subjected to escalated financial burden on account of 7th CPC, it could not be expected that a situation of flux to continue to exist.

9. It was permissible for the DoE to issue an across-the-Board executive Order applicable to all schools to provide an Interim Fee Hike subject to an upper limit. Such an interim fee hike as a temporary measure, did not infract the fundamental rights of either the School Managements **or of the Parents/Students**.

10. The interim fee hike permitted by the DoE in its Order dated 17.10.2017 was sanctioned by the DoE itself and was in accordance with the decision in *Delhi Abhibhavak Maha Sangh (2011)*. It was not an act of increase of fees by the schools. The Land Clause contained in the allotment letter, did not prevent the DoE from allowing an Interim Fee Hike.

11. The Interim Fee Hike being the decision of the DoE itself, the requirement of prior approval could not be said to have been violated.

12. The decision for allowing the interim fee hike vide Order dated 17.10.2017 being that of the DoE itself, there was no justification for jettisoning the said Order as was done by the Order dated 13.4.2018. The Order dated 13.4.2018 is hereby quashed and set-aside.

13. **The Interim Fee Hike under the Order dated 17.10.2017 would operate immediately in favour of all Private Unaided Schools, without the requirement of any prior approval.** However, the Statement of Fees submitted by the schools under Section 17(3) would be subjected to scrutiny by the DoE to ensure no commercialization/profitteering takes place. **While undertaking this exercise, the DoE would be required to keep in mind the principles enunciated hereinabove.**

14. The SC in *Modern School* nowhere directs the DoE to ensure compliance with the Land Clause and does not authorize the DoE to withdraw recognition of any school for such non-compliance.

15. Even if a particular school violates the Land Clause i.e. increases the fee without prior approval of the DoE, it does not violate any provision of the DSEAR.

16. Legality or otherwise of fixation of fee, does not amount to any 'defect' or 'deficiency' in the working of a school and thus, no power of de-recognition under Section 24 of the Act could be exercised in regard to the matter of fixation of fee.

17. The contention of the DoE that *Modern School* authorized and directed the DoE to take action of de-recognition under Section 24 is rejected as completely misconceived.

18. Since there is no provision under the DSE Act, requiring an unaided school to obtain prior approval before increasing its fee (except mid-session increase), therefore, if the school does not obtain such prior approval, no provision of DSE Act is violated and hence, no de-recognition can be done.

19. Both unaided minority & non-minority schools are entitled to complete autonomy in fixation of their fee and management of their accounts. There is no requirement for the school to take prior approval of the DoE before enhancing its fee. The only responsibility of the school is to submitting its statement of fee under Section 17(3) and having done so, the school could not be made to wait *ad infinitum* before the said Statement of Fee was verified by the DoE.

20. Any examination and verification by the DoE of the Statement of Fee is to be limited to the issue of "*commercialization*" or "*profiteering*". If therefore, the school starts charging enhanced fee from the beginning of the session, no provision of the DSEAR would be violated.

21. If an Order contains no allegations against a school for "*commercialization*" or "*profiteering*", recognition cannot be withdrawn merely because prior approval of the DoE before increasing its fee was not taken.

NEW DELHI

DATED: 16.03.2019

(KAMAL GUPTA)
ADVOCATE
FOR THE ACTION COMMITTEE
C-124, Defence Colony
New Delhi-110024
41401700/9810988094/9318376774