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

No. F.DE.15(679)/PSB/2022/ 4110-4114 **Dated:** 03/06/22

ORDER

WHEREAS, **Springdays Model School (School ID-1411229), Ashok Vihar, New Delhi,** (hereinafter referred to as "**the School**"), run by the **Modelways Educational and welfare Society** (hereinafter referred to as "**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, every School is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the DSEA, 1973 to the DoE. Such full statement of fee is required to indicate estimated income of the School to be derived from the fees and estimated operational expenses to be incurred during the ensuing year towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the DSER, 1973.

AND WHEREAS, as per Section 18(5) read with Sections 17(3), 24 (1) and Rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon to 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 recognised 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 recognised 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 authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.'*

AND WHEREAS, besides the above, 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 fee and other charges, with the objectives 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 in case of private unaided recognized Schools situated on the land allotted by DDA at concessional rates that:

"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 the Writ Petition No. 4109/2013 in the matter of Justice for All vs. 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 private unaided recognized Schools to whom land has been allotted by the DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/2698-2707 dated 27.03.2019, directed to all the private unaided recognized Schools, running on the land allotted by the DDA/other land owning agencies on 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 session 2018-19 and 2019-20.

AND WHEREAS, in pursuance to order dated 27.03.2019 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2019-20. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by the School for the academic session 2019-20.

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 for fee regulation.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2019-20, necessary records and explanations were also called from the School through email. Further, the School was also provided an opportunity to be heard on 21.11.2019 but the School neither appeared nor submitted the complete details for the purpose of evaluation of fee of fee increase proposal. In this regard it is also pertinent to mention that the School not even cooperated this time but also the school reacted the same way while the Department was evaluating the fee increase proposal of FY 2017-18 wherein the was asked to provide number of details/ information, but school did not provide the same. This indicates that the school is trying to hide some vital information from the department, and it appears that the school does not want to get its fee proposal evaluated and not willing to cooperate with the Directorate in evaluation of its fee increase proposal.

AND WHEREAS, in the light of provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, the evaluation of fee enhancement proposal for FY 2018-19 submitted by the School have been evaluated based on the documents uploaded by the department on web port of the Department.

AND WHEREAS, based on the documents uploaded on the web portal for fee increase by the school were thoroughly evaluated by the team of Chartered Accountants and key findings noted are as under:

A. Financial Observations

1. Section 18(4) of DSEA, 1973 states "*Income derived by unaided recognised schools by way of fees should be utilized only for such educational purposes as prescribed.*"

   Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/883-1982 dated 10 Feb 2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure..... capital expenditure/investments have to come from savings.*"

   Further, Rule 177 of the DSER, 1973 states "*income derived by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by school may be utilised by its management committee for* meeting capital or contingent expenditure of *the school.*"

   Review of the financial statements from 2016-17 to 2018-19 revealed that the school has purchased bus for INR 13,52,410 in FY 2017-18 by taking loan of INR 11,77,000 from financial institution and has shifted the burden of the financial/interest cost on non-user of the transport facility. The school has purchased this bus without complying with the requirement of Rule 177 of DSER, 1973. During the last two years the school has paid INR 5,25,521 towards repayment of loan and interest cost leaving the closing balance of loan of INR 6,51,479 as 31.03.2019. In addition to the repayment of loan the school has also paid INR 1,75,410 as down payment out the school funds.

   Thus, the total payment of INR 7,00,931 (i.e., INR 5,25,521 plus INR 1,75,410) made by the school out of the school funds is recoverable form the Society and therefore, has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order. The school is further directed not make any further payment with respect to the above loan from the school funds.

2. Clause 2 of Public notice dated 04.05.1997 states *"Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges"*. Moreover, the Hon'ble High Court of Delhi in its Judgment dated 30.10.1998 in case of Delhi Abibhavak Mahasangh concluded that *"Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society"*. Also, clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10.02.2005 issued by this Directorate states *"Capital Expenditure cannot constitute a component of financial fee structure.*

   Rule 177 of DSER,1973 states *"income derived by an unaided private recognised school by way of fees shall be utilised in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that savings, if any, from the fees collected by such school may be utilised by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to* *students, establishment of any other recognised school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The abovementioned savings shall be arrived at after providing for the following, namely:*

a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school;*
b) *The needed expansion of the school or any expenditure of a developmental nature;*
c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation;*
d) *Co-curricular activities of the students;*
e) *Reasonable reserve fund, not being less than ten percent, of such savings."*

Based on the aforesaid Public Notice and Judgement of the Hon'ble High Court, the cost relating to construction of Building has to be met by the Society, being the property of the Society and the school funds should not be used for this.

From review of the audited financial statements of the School from FY 2016-17 to 2018-19, it has been noted that the school has capitalised INR 17,43,187 under the head building during FY 2016-17 and 2107-18. The above capitalization was not in accordance with Rule 177 of the DSER, 1973. Therefore, the amount incurred by the school is recoverable from the Society. Accordingly, this amount of INR 17,43,187 has been included while deriving the fund position of the school with the direction to the school to recover this amount from the society within 30 days from the date of issue of this order.

3. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

    a. Assets held by a long-term employee benefit fund; and
    b. Qualifying insurance policies.

    Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

    On review of the financial statements of FY 2018-19, it has been noted that the school has made provision for gratuity of INR 59,48,324. However, the basis on which this provision has been made has not been provided by the school as the school did not turn up for personal hearing and not submitted the complete records. The audited financial statements further reflect the school has FDR of INR 2,66,025 against the aforesaid provision. The investment of the form of FDR does not qualify as plan assets within the meaning of AS-15. Therefore, this amount has not been considered while deriving the fund position of the school. Further, the amount of INR 12,00,000 proposed by the school in tis budget has not been considered in the total expenditure of the school.

The school is hereby directed to get the actuarial valuation of its retirement benefit and report the same in the audited financial statements and invest equivalent of its liability determined by the actuary that qualify as 'Plan Assets' within 30 days from the date of issue of this order.

B. Other Observations

1. Rule 176 - 'Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

   Para No. 22 of Order No. F.D E./15(56)/ Act/2009/778 dated 11.02.2009 states "*Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged.*" Sub-rule 3 of Rule 177 of DSER, 1973 states "*Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students of the concerned school and shall not be included in the savings referred to in sub-rule (2).*" Further, Sub-rule 4 of the said rule states "*The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund is administered.*"

   From review of the audited financial statements of the school, it has been noted that the school has bus but neither transport income nor the transport expenses are appearing in the audited financial statements of the school. Therefore, the school is hereby directed to submit these details within 30 days to the department from the date of issued of this order.

2. Clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009 states "*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 Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

   - Not to charge development fee for more than 15% of tuition fee.
   - Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
   - Development fee will be treated as capital receipts.
   - Depreciation reserve fund is to be maintained.

   Para 99 of Guidance Note-21 'Accounting by School' 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.*"

On review of the audited financial statement of FY 2017-18 and 2018-19, it has been noted that after purchase of fixed assets out the development fund, the school transfer equivalent amount to general fund thereby increasing the closing balance of general fund with notional amount. Further, the school has not been maintaining the deprecation utilisation fund on assets purchased out of the development fund. Thus, the school is neither complying with clause 14 of the order dated 11.02.2009 nor following the correct accounting treatment specified in the guidance note cited above.

The school is hereby directed to ensure the compliance with clause 14 of the order dated 11.02.2009 and following the accounting treatment specified in para 99 of the guidance note.

3. From review of the audited financial statements of the school, it has been noted that the school has bus but neither transport income nor the transport expenses are appearing in the audited financial statements of the school. Therefore, the school is hereby directed to submit these details within 30 The Fixed Asset Register should capture the details of the asset name, date of purchase and the amount serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

   However, the School had not prepared Fixed Asset register (FAR) in proper format and captured the asset name, date of purchase and the amount in the FAR. The School had not included complete details in the FAR such as amount, serial number, location, invoice number, supplier, identification number, depreciation, etc. to facilitate identification of asset and documenting complete details of assets at one place.

   Therefore, the School is directed to prepare the FAR with relevant details mentioned above and the same shall be verified at the time of examination of fee proposal for next financial year. The above being a procedural finding, no financial impact is warranted for deriving the fund position of the School. days to the department from the date of issue of this order.

4. As per clause 103 on Related Party Disclosure, contained in Guidance Note 21 on 'Accounting by Schools', issued by the ICAI, there is requirement that keeping in the view the involvement of public funds, Schools are required to disclose the transactions made in respect of related parties.

   It has been noted that no such disclosure for FY 2018-19 has not been available on records with us. It is directed to the School to provide such details in compliance with AS-18 (Related party disclosures) to us within 30 days from the date of issue of this order.

   During the evaluation of fee hike proposal for the academic session of FY 2017-18, the school was asked to provide and submit the justification for the following, but the school had not provided the same despite of sending several reminders. The list of the clarification/ document which is pending at the school end until now is as under:

   a) Basis for creation of depreciation reserve fund and its utilization assets wise for the FY 2014-15 to 2016-17 and justification with compliance of clause 14 of the order dated 11.02.2009.
   b) Clarification regarding not routing depreciation through Income & Expenditure account for the FY 2014-15 to 2016-17.
   c) Copy of FDR Receipts for FY 2014-15,2015-16 and 2016-17.

d) Reconciliation Statement of Fee as per Financial Statements with Fee Structure & Student Strength along with justification for the differences if any for the FY 2014-15 to 2016-17

e) Statement of surplus or deficit in respect of each earmarked levies.

f) Calculation of arrears salary as per the recommendation of 7th CPC (both in hard & soft copy) and its impact on the financial statements.

g) Copy of Fixed Asset register for FY 2014-15 to FY 2016-17.

h) Detailed note regarding addition in Building during FY 2014-15 to FY 2016-17.

i) Details of transport routes along with transport slab charged by school in FY 2014-15 to 2016-17. And details of vehicles owned by the school.

j) Copy of agreement for outsource staff along with invoice copy for the month of March 2016 and March 2017.

k) Copy of contract for smart class along with copy of invoice for Mar 2016 and Mar 2017.

l) Details of vehicle owned by school.

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 2019-20 amounting to INR **2,72,45,877** out of which cash outflow in the year 2019-20 is estimated to be INR **2,41,01,724**. This results in net surplus amounting to INR **31,44,154.** The details are as follows:

Particulars	**Amount (in INR)**
Cash and Bank balances as on 31.03.19 as per audited Financial Statements	7,81,444
Investments as on 31.03.19 as per audited Financial Statements	5,32,109
Liquid Fund	**13,13,553**
Add: Fees for FY 2018-19 as per audited financial statements of FY 2018-19 on the assumption that income received by the school during FY 2018-19 will at least accrue in FY 2019-20	2,20,96,726
Add: Other income for FY 2018-19 as per audited financial statements of FY 2018-19 on the assumption that income received by the school during FY 2018-19 will at least accrue in FY 2019-20	14,84,885
Add: Amount recoverable from society from repayment of loan for purchase of car **(Refer financial observation 1)**	7,00,931
Add: Amount recoverable from society for construction of building **(Refer financial observation 2)**	17,43,187
Total Available Funds for FY 2019-20	**2,73,39,282**
Less: FDR in case of school and Secretary, CBSE as on 31.03.2019	-
Less: Development fund balance as on 31.03.2019	93,405
Less: Depreciation Reserve Fund as on 31.03.2019	
Less: Retirement Benefit **(Refer financial observation 3)**	-
Estimated availability of funds for FY 2018-19	**2,72,45,877**
Total cash outflow (Revenue Expenditure + Capital Expenditure - Depreciation) **(Refer Note 1 below)**	2,41,01,724
Cash Surplus/(Deficit)	**31,44,154**

Note 1: All income budgeted by the school has been considered except the INR 12,00,000 towards provision for retirement benefit and INR 1,08,08,276 towards provision for salary.

ii. In view of the above examination, it is evident that the School has sufficient funds to carry on the operation of the School for the academic session 2019-20 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 the 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, it was recommended by the team of Chartered Accountants along with certain financial observations (appropriate financial impact has been taken on the fund position of the School) and certain other observations (appropriate instructions have been given in this order), that the sufficient funds are available with the School to carry out its operations for the academic session 2019-20. Accordingly, the fee increase proposal of the School may be rejected.

AND WHEREAS, it has been noted that the School has paid INR 24,44,118 towards repayment of loans for purchase of car, construction of building, which is of capital nature, which is not in accordance with clause 2 of public notice dated 04.05.1997 and Rule 177 of DSER, 1973. Thus, the School is directed to recover INR 24,44,118 from the Society. The receipt of the above amount along with the copy of the bank statement showing the receipt of above-mentioned amount should be submitted with DoE, in compliance of the same, within thirty days from the date of issuance of this Order. Non-compliance of this shall be taken up as per DSEA&R, 1973.

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 the record, and after considering the provisions of sections 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 the funds are available with the School for meeting its financial implication for the academic session 2019-20. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2019-20.

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

Accordingly, it is hereby conveyed that the proposal for enhancement of fee for the session 2019-20 of **Springdays Model School (School ID-1411229), Ashok Vihar, New Delhi,** has been rejected by the Director of Education.

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 2019-20. In case, the School has already charged increased fee during FY 2019-20, 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 order is issued with the prior approval of the Competent Authority.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To,
The Manager/ HoS
Springdays Model School
School ID- 1411229
Ashok Vihar,
New Delhi - 110052

No. F.DE.15(679)/PSB/2022/ 4110-4114 Dated: 03/01/22

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. DDE (North West-B) to ensure the compliance of the above order by the School Management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi