J-17022/03/2016-DDU-GKY
Government of India
Ministry of Rural Development
(Department of Rural Development)
(Rural Skills Division)

1st Floor, Western Wing Thapar House,
124, Janpath, New Delhi - 110001
Dated: 24.05.2017

Subject:- Removal of major penalty order dated 18th January 2018 passed by Mission Director, KSRLPS, Karnataka issued against ICA Edu Skills Pvt. Ltd. from the DDU-GKY website- Regarding.

Madam/Sir,

I am directed to state that the termination and blacklisting order dated 18.01.2018 passed by the Mission Director, KSRLPS, Karnataka against the DDU-GKY project of M/s ICA Edu Skills Pvt. in Karnataka was uploaded on DDU-GKY website. Further, the Appellate Authority i.e. Secretary, Skill Development, Entrepreneurship and Livelihood Department, Govt. of Karnataka vide his order dated 02.05.2018 has set aside the major penalty order passed by the Mission Director, KSRLPS, Karnataka.

2. In view of above, termination and blacklisting order dated 18.01.2018 passed by the Mission Director, KSRLPS, Karnataka against the DDU-GKY project of M/s ICA Edu Skills Pvt. in Karnataka has been removed from the DDU-GKY website and the Order dated 02.05.2018 of the Appellate Authority i.e. Secretary, Skill Development, Entrepreneurship and Livelihood Department, Govt. of Karnataka has been uploaded on the DDU-GKY website. This is circulated for the information and necessary action.

Yours faithfully

(S. B. Tiwari)

Under Secretary to the Government of India
Tel: 011-23743625-26

To:- The CEO/MD/State Skill Development Mission/SRLM’s (All States)
Vice president – Govt projects, ICA EDUSKILLS PVT LTD, No 27, Netaji Subhash Road, Kolkata-01.
PROCEEDINGS BEFORE THE APPELLATE AUTHORITY SECRETARY TO GOVERNMENT, SKILL DEVELOPMENT DEPARTMENT, GOVERNMENT OF KARNATAKA, AT BENGALURU.

Sub:- Appeal against the penalty as per the termination and blacklisting order in the file No. KSRLPS/74/SP/2014/AD-2.

      2. SOPs Volumes 1 & 2 of DDU-GKY.

PRESENT

AMLAN ADITYA BISWAS, IAS,
SECRETARY TO GOVERNMENT
DEPARTMENT OF SKILL DEVELOPMENT, ENTREPRENEURSHIP AND LIVELIHOOD

Applicant
Vice President,
ICA EDU SKILLS Pvt. Ltd.
#27, Nethaji Subhash Road,
4th & 5th Floor, Kolkata-70000

Respondent
(i) Mission Director, KSRLPS,
Represented by C.O.O, NRLM,
Karnataka State Rural Livelihood
Promotion Society,
Bengaluru
(ii) NIRDPR, Represented by
      (a) Shri Jeevan, Asst. Director, NIRDPR,
      (b) Shri Supreet B.V, NIRDPR

Bench Officers:
(i) Sri. S.A. Kataki, Consultant, SDEL
(ii) Sri. Franna, US, SDEL, GoK

Represented by
Sri. Saubhik Saha,
Shri Nimesh Mehta,
Shri Sudheer Rao,
Shri Pravin Kumar,
Shri Vinod Kumar

Penalty imposed was stayed until next hearing and appellant was directed to produce records mentioned at (a) to (d) of the interim order on 19.04.2018 at 3.00 PM before the appellate authority. The records produced by PIA and NIRDPR representatives were examined by the appellate authority and following is recorded.

i) NIRDPR representatives asserted that, as verification is in initial stage, question of Q-team does not arise. This is rebutted by ICA Edu Skills on the ground that as per the SF 7-1F: Procedure for verification of candidate who are tracked as per SF 7-1B1, the SRLM in PPS & CTSA per YPS will take 50% of samples from PIA & Team and the SF 7-1B1 & B3 provide for separate dates for Q team which is 10th to 14th of the month and SRLM in PPS & CTSA for YPS team which is from 15th to 18th of the same month. The arguments of the NIRDPR officials are not convincing
in this matter and they may have jumped a step involved in the evaluation procedure, as established in the SoP for DDU-GKY.

ii) Regarding not following of Round 1 and Round 2 norms as alleged by Appellant, the NIRDPR again states that they have not yet come to that stage. The Appellant point out that this is a violation of procedure given in DDU-GKY SOP manual and the checking and verification is done beyond the norms and methods established in the SOP. It appears, on a reading of the relevant portions of the SoP that the NIRDPR while they have verified all data, have not followed the procedure as given in SF 7 – 1F of the SOP. While this does not negative the action of NIRDPR, it also raises doubts about the need to do it without sending in a Q-Team are following the Round 1 and Round 2 protocol as per SF 7 – 1F.

iii) The third charge made by the Appellant is that the recommendation of imposition of penalty is given in violation of the norms, i.e., the NIRDPR has itself recommended penalty suo moto and the same has been imposed without due application of mind by the state NRLM authorities. The NIRDPR argues that for YPS there is provision for it to recommend penalty as per circular of GOI Dated: 26.08.2016. However, a reading of the said circular shows that this is not for State Government operated schemes as per guidelines, and the circular itself refers to Gol Schemes. It is admitted that the project under appeal is a scheme operated through the state Government.

iv) The Appellant’s charge that the COO is not the authority to hear the matter, is borne out by table 10.4 of SOPs which clearly mentions the authority who is to hear and decide penalty. Further, if direct penalty is imposed, only Principal / Secretary of State Government can impose major penalty. The COO admits that the matter was not heard properly earlier and the last hearing was not conducted and no opportunity was given to argue the matter. The order was issued and penalty was almost a direct imposition and cannot be treated as a case where proper opportunity has been given to hear all parties. The file on the case maintained by the NRLM authority of the state does not record proceedings of hearing conducted nor shows a recorded appreciation of evidence or arguments offered by the Appellant before this authority.

Further, the NIRDPR is requested to explain the actual nature of the charges and documents, and their explanations are recorded as below:

i. The documents for second instalment were submitted in October 2017. Certain discrepancies were found and the PIA was informed & meeting called on 30.11.2017 and on 11.12.2017 2nd meeting was held and PIA presented pass books which were verified and following errors confirmed.
   a. Entries uploaded in ERP does not match with original bank statement.
   b. Mismatch in candidates with Common Account Number.
   c. Changes in dates of transaction of the account documents are provided regarding these.
   d. Sri. N.M. Ravi a trainee has given statement to NIRDPR stating the entries in the bank account are not his.
ii. However, the COO has not clearly framed the above charges nor evaluated the evidences or arguments on them.

The appellant argues that they have uploaded documents as received and have not been able to do sample check because Q-team was not constituted and activated. This is an acceptable defence.

Further, the appellant argues that (a) the punishment of termination and blacklisting is too draconian for the errors and (b) no penalty is imposed by any other State. Hence, they plead for leniency.

Hence, the following order.

ORDER

FILE NO. SDEL 65 ELM 2018, DATED: 21-04-2018

After carefully examining all the Standard Operating Procedures of DDU-GKY the order of the major penalty passed by Mission Director, Karnataka State Rural Livelihood Promotion Society the documents and submissions presented by Appellant, NIRDPR and KSRLPS, and in the light of paras stated after the hearing on 19.04.2018 the order of major penalty is set aside and the Mission Director, KSRLPS and NIRDPR are directed constitute a Q-Team and follow in detail the procedure laid down by the DDU-GKY SOP in totality before re-evaluating the placement records. The records which are under question shall till this fresh evaluation is completed, remain pending for payment. The normal training programme will continue.

(Amlan Aditya Biswas)
Secretary to Government,
Skill Development, Entrepreneurship and Livelihood Department.