

To,  
BEO/DDPI/CP/Secretary

Sir,

**Sub : Not to insist Exhibiting the fee structure details in the school for the year 2017-18.**

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With Ref: 1) In SLP (Civil) Nos [1265-67/1997](#) dated 26/02/2004.

2) Supreme Court of Constitution 11 Bench land mark Judgement in T.M.A. Pai Foundation and others V/S State of Karnataka and others – Reports 2003(1) Kar.L.J.I (SC) (CB) Dt : 31-10-2002 and 25-11-2002 parah 50 The Right to establish and administer broadly comprises of the following Rights a) To admit Students, b) To Set up a reasonable fee structure, c) .....d)..... e).....

3) W.P No [18809-18840/2012](#) and other set of WP & WA: Nos [660-661/2011](#), ..WP: Nos [40148-154/2012](#) on the file of High Court of Karnataka at Bangalore-Sri Guru Ragavendra Education Society & others Vs State of Karnataka Vs Others.

I the undersigned Secretary/President and the member of **Associated Management of Primary and Secondary Private Unaided English Medium Schools in Karnataka (KAMS)** bearing registration number \_\_\_\_\_ is here with recalls the following to your knowledge which is already brought through various correspondence already by Association.

Your department has been periodically attempting to check with the **fee regulation** within the **Karnataka Education Institutions (Regulation of certain fee & donations,) Rule 1999** and insisting to display on one hand is acceptable to certain extent, keeping in mind.

**With reference to 1. In SLP (Civil) Nos [1265-67/1997](#) dated 26/02/2004** of Honorable Supreme Court in its order Having looked atHonourable Supreme Court of India **The Karnataka Education Act, 1983**, its prima facie observes that the Government requires to reconsider various provisions of the Act in light of the Judgment of the Supreme Court in the case **T.M.A. Pai Vs State of Karnataka reported in (2002) 8 SCC 481**, and directed Government to do so within a period of 4 months and also allowed the appellants to make their suggestions to the Government and said to take decision by keeping those suggestion in mind, based on same **KAMS** on dated **31/6/2004**, submitted its suggestions, and in **Section 48** which deals with fee & says no Governing Council

of recognized educational institution shall levy or collect any fee or charges or donations or other payments by whatever name called and say at such rates and in such a manner as may be prescribed. The section imposes unreasonable restriction on the management of the educational institution. It is submitted as per the law declared in **T.M.A Pai case, the management shall be given liberty to fix and collect fee as per the quality of education being imparted by them.** In fact Rule 10(3) (b) of the Karnataka Educational Institutions (Classification Regulation & Prescription of Curricula etc., Rule 1995 say that the **institution shall be commensurate with the expenditure incurred towards the salary of staff and the quality of education provided by the institution.** Thus, the tuition fee was left to be decided by the management as per the quality of education being imparted by them.

With reference to 2. And also in various orders of the High Court in W.P Nos [18809-18840/2012](#) and in order dated 26/11/2012, it is ordered **“The management is permitted to collect the fee as they have prescribed”** and many other **cases are sub judice** in Division bench and also as per the order in WP Nos [31135-31148/2016](#) and others by Justice Shri Arvind Kumar who in interim ordered said, declare the fee fixed by individual school on or before 15 January before the commencement of admission is still pending final disposal.

After this the **EDUCATION SECRETARIAT’S NOTIFICATION – 01 No ED317PGC 2012 Bangalore Date: 05-10-2016 is published as a draft, looking at the draft we being the petitioner and member of KAMS filled our objections to the Education Secretary draft and the same by KAMS collectively is filled in the High Court of Karnataka as memo, further to it the Government has taken 4 weeks of time to consider the objections filed and finalise the fee regulation and publish to come in to operation officially.**

Mean while our association KAMS filed **WP No 58873/2015 (Edu-RES)** in the above High Court praying the RTE reimbursement amount by considering per child expenditure by the Government or per child Annual fee collected in school which ever in less and an 01-06-2016 direction is given to dispose within Six weeks. In this regards KAMS have also presented details in letter dated 29-06-2016 when called meeting at Secretary Office wide letter ED 324 PGC 2016 dated 23-06-2016.

Even now the Hon’ble High Court of Karnataka directions, which is not finalise within the time limit set by it, KAMS is forced to file contempt writ petition to the above bearing No. W.P. No 58873/2015. Now the department has taken time to consider the same.

Considering all the above facts we request the department (BEO Office) should not insist to display Fee boards, we shall declare that till the decision of Education Act case, all High Court cases and finalising the fee fixation rules from the state government, we are unable to arrive what should be the norms in fixing the fee, but as a budget private unaided school we declare that we shall abide to the **Hon'ble Supreme Court 11 bench Judgement in TMA Pai Foundation case**, and also Judgements in **W.P No: [18809-18840/2012](#) "The management is permitted to collect the fee as they have prescribed"** and state that we shall not charge any capitation or donation and make the commercialisation of education.

We the member of KAMS once again request not to insist just because a association in the name of parents & students has questioned under vested interest, as they are not having any say in the respective school and are not a part of PTA who is authorised to have dispute in case of any issues and in my institute there is no such dispute by Parents & Teachers Association, Hence under our available constitutional rights, we shall declare our fee on our Notice board for the general public or parents who shall choose considering our quality and facility within their personal choice & affordability.

Thanking you

Yours faithfully,

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Secretary / President