

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

**Appeal No. 50/2013(T_{HC})
(W.P. No. 17900/2012 of Calcutta HC)
(M.A No. 571/2013)**

Bengal NRI Complex Ltd. & Anr. V/s Union of India & Ors.

**CORAM: HON'BLE SHRI JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE DR. P.C. MISHRA, EXPERT MEMBER
HON'BLE SHRI B.S. SAJWAN, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER**

Applicant / Appellant : Mr. U Lalit, Sr. Adv., Mr. Nanda, Sr. Adv., Mr. Ankur Chawla, Adv. Mr. Rajat Brar, Adv. Ms. Kalyani Lal, Adv., Mr. Biswajit Kumar, Adv. Ms. Shruti Swaika, Adv. And Mr. Jishnu Chowudhury, Adv.
Respondent No.1 : Mr. Vikaramjeet, Adv. for Ms. Neelam Rathore, Adv.
Respondents No. 2&3 : Mr. Bikas Kar Gupta, Adv.

Date and Remarks	Orders of the Tribunal
Order No. 6 July 19, 2013	<p>Heard. Perused.</p> <p>The noting reveals that the present Appeal is the outcome of the Writ Petition No. W.P. No. 17900/2012 transferred from the Hon'ble High Court of Kolkata and was registered in April, 2013.</p> <p>The Appellants contended that the Appellant No. 1 (Bengal NRI Complex Ltd.) qualified to proceed with the project as Environmental Clearance (EC) had been granted on following grounds:</p> <p>a) The failure of the Respondent No. 2 (State Environmental Impact Assessment Authority) to convey its decision on the complete application of the Appellant Company for EC within 105 days of the receipt.</p> <p>b) The Respondent No. 2 i.e. State Environmental Impact Assessment Authority's failure to convey its decision on receiving the Respondent No. 4 i.e. State Level Expert Appraisal Committee's recommendation within 45 days.</p> <p>It appears that on 18.07.2013 this Tribunal headed by Mr. Justice V.R. Kingaonkar after hearing the parties, passed the order.</p> <p>The material content therefore reproduced below:</p> <p>.....<u>"We request the authority to take decision, as early as possible, prior to the next date scheduled in this matter.</u></p>

The authority also shall file status report and the particulars about the activity of construction that was already undertaken and as to what extent it has been done. Parties to maintain status quo.”

Now, the Appellants are seeking withdrawal of the present Appeal. They have invited our attention to the minutes of 77th meeting of the State Level Expert Appraisal Committee (SLEAC), West Bengal held on 26th March, 2013 and the Committee’s reluctance to take decision in the matter of grant or refusal of the EC applied for by the Appellants on the ground “matter is sub-judice”

Learned Counsel appearing for the Respondent No. 2&3 submits that withdrawal is solicited without there being status quo, to the construction work undertaken by the Appellants before getting EIA study, would frustrate the purpose and object of the Environmental Clearance and therefore, the withdrawal of the Appeal can be allowed, if the appellants are prepared to maintain the status quo till the decision is taken by the SEIAA. The Appellants object to such qualified consent to the withdrawal of the Appeal given by the Respondents.

Issues are debatable and it would be proper that the Bench headed by Mr. Justice V.R. Kingaonkar gives its mind to the proposal for withdrawal of the Appeal.

Stand over to 24th July, 2013.

....., JM
(U.D. Salvi)

....., EM
(Dr. G.K. Pandey)

....., EM
(Dr. P.C. Mishra)

....., EM
(B. S. Sajwan)

....., EM
(Dr. R.C. Trivedi)