

**BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH, KOLKATA**

**O.A. No. 04/2015/EZ**

**SOUTH CITY PROJECTS (KOLKATA) & ANR**

**VS**

**STATE ENVIRONMENT IMPACT ASSESSMENT  
AUTHORITY & Ors**

**CORAM:** Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member  
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

**PRESENT:** Applicants : Mr. Shatadeep Bhattacharya, Advocate  
: Mr. Navaneet Misra, Advocate  
Respondent No. 1 & 2 : Mr. Bikas Kar Gupta, Advocate  
Respondent No. 3 : None

<b>Date &amp; Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 7 10<sup>th</sup> July, 2015.</b>	<p style="text-align: center;">Heard Id. advocate for the applicants.</p> <p>Assailing the order of stay on further construction on 5<sup>th</sup> tower club house without environmental clearance, this application has been preferred by the applicant. The applicant's appeal seeking environmental clearance was disposed of by rejecting the appeal vide order dt. 18.12.14 (annexure-A15). According to the Id. Advocate as per deeming clause of Regulation 2006 and notification dated 14<sup>th</sup> Sept 2006 the State Level Impact Assessment Authority (SLIAA), recommended their case for EC for which the applicant is entitled to raise the construction. It will be necessary to quote the relevant statutory regulation (SO 1533(E), which reads as follows :-</p> <p style="text-align: center;">“ 8(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraph (1) or (ii) above, as applicable, the applicant may proceed as if the environmental clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.”</p> <p>It is contended by the applicant that State Level Expert Appraisal Committee recommended in favour of the applicant for raising the construction. We wanted to know whether the applicant has, as yet, received the final copy of SLEAC recommendation from the competent authority. By way of a supplementary affidavit filed today, it is submitted that the matter is still under process. The supplementary affidavit be kept with the record. It is further submitted that a RTI application has been filed but as yet no reply has been received.</p> <p>Having regard to such position, we are of the view that the applicant has failed to satisfy us on the applicability of the said</p>

deeming clause 8(iii) of the Notification as quoted above. It appears that the language is couched in a manner by which it can be said that the recommendation denied in view of the phraseology of the word as interpreted. The two words viz. "granted" and "denied" are connected with the word 'or' and is to be considered as disjunctive.

Having regard to the language used in the aforesaid clause, it appears that the proceeding with the construction by a deeming environmental clearance has been recommended if within time limit as provided in clauses 8(1) and 8(ii) is not adhered to. In our considered opinion, the contention of the applicant to apply deeming clause as per clause 8(iii) cannot be accepted.

Considering the legal aspect of the matter, the prayer concerning grant of deeming approval at the present moment has no merit. Accordingly, the OA stands dismissed without any order as to costs. However, dismissal of the OA will not debar the applicant to approach afresh before this Tribunal as and when copy of the final recommendation is available from the State Level Expert Appraisal Committee.

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Justice Pratap Kumar Ray, JM

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

