



Slum Rehabilitation Authority

Administrative Building,
Anant Kanekar Marg,
Bandra (East), Mumbai-51.
Email: info@sra.gov.in

Slum Rehabilitation Authority
Administrative Building,
Anant Kanekar Marg,
Bandra (East),
Mumbai - 400 051.

Circular No. 136

No.SRA/ENG/3413/2012

Date: 05 JUL 2012

Subject : Submission of MOEF Clearance / No Objection for S.R. Schemes, to carry out construction beyond 20,000 square meters.

Ref. : Order dated 29.03.2012 passed by the Hon'ble Division Bench of High Court at Mumbai in O.O.C.J. Writ Petition No. 504 of 2012.

Naresh Janardan Mali Petitioners

V/s

State of Maharashtra and Others. Respondents.

As per the order dated 29.03.2012 passed by the Hon'ble Division Bench comprising of His Lordship Chief Justice Shri Mohit Shah and His Lordship Justice Shri Ranjit More, J.J. passed in Writ Petition No. 504 of 2012, it has been observed by the Hon'ble Division Bench, after taking into consideration the Notification dated 14.09.2006 issued by the Ministry of Environment and Forest, Government of India, under the provisions of the Environment Protection Act, 1986, read along with Rules 1986 ; the relevant portion of Para 7 of the order is as under :-

"..... and also having regard to the fact that large number of environmental clearance applications are pending with the Government and that

environmental clearance is required only when the built up area exceeds 20,000 sq. meters and having regard to the aforesaid undertaking given on behalf of respondent No.3, we are inclined to accept the submissions made on behalf of respondent Nos. 3 and 4".

Thus, from the aforesaid order passed by the Hon'ble High Court, it can be said that Hon'ble High Court has expressed their views, after taking into consideration the Notification and the Acts / Rules framed therein. As such, the said decision of the Hon'ble High Court which has been expressed and founded on reasons and has proceeded on the consideration of the issue (viz. MOEF Notification) shall be deemed to have binding effect on the concerned authority i.e. S.R.A. till the same is reversed by the Hon'ble Supreme Court of India.

Further, the aforesaid Judgment passed by the Hon'ble High Court has been passed after taking into consideration the MOEF Notification No. SO 1533 dated 14.09.2005 issued by the Government and has specifically observed that a clearance is required only if the construction exceeds 20,000 sq. mtrs. and if the developer restrict the construction work of built-up area admeasuring 20,000 sq. mtrs., then in that event, undertaking may be obtained from the developer that he will not exceed the construction work beyond built-up area admeasuring 20,000 sq. mtrs. As such, the said Judgment is a Judgment "per-curim" and "Ratio-decidenti" as the same is based on the facts actually decided and is an authority for those facts. The ratio of the Judgments will be binding on the SRA unless it is set aside by the Supreme Court as stated earlier.

In view of the aforesaid order passed by the Hon'ble High Court at Bombay, the Commencement Certificate cannot be withheld for want of MOEF clearance for the construction up-to built-up area admeasuring 20,000 sq. meters. As per above referred Court-Order and Notification No. SO 1533 dated September 14, 2006 under which built-up area is to include covered construction and in the case of facilities open to sky continue to be activity area. The Commencement Certificate to be granted by obtaining Affidavit Cum Undertaking from the concerned Developer as well as Architect stating that they shall not

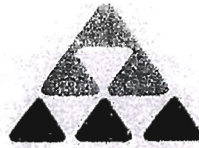
construct an area beyond built-up area admeasuring 20,000 sq. meters and shall submit MOEF Clearance as per LOI condition.



Chief Executive Officer,
Slum Rehabilitation Authority.

Copy to :

- 1) P.A. to CEO / SRA,
- 2) P.A. to Secretary / SRA,
- 3) P.A. to FC / SRA,
- 4) Dy. Chief Engineer / SRA,
- 5) Executive Engineer / SRA,
- 6) Executive Engineer-II / SRA,
- 7) Executive Engineer-III / SRA,
- 8) Town Planner / SRA,
- 9) Dy. Collector / SRA,
- 10) Deputy Registrar / SRA,
- 11) Assistant Registrar / SRA,
- 12) Administrative Officer / SRA,
- 13) P.R.O.,
- 14) Legal Adviser / SRA.
- 15) Legal Consultant / SRA.



Slum Rehabilitation Authority

Administrative Building,
Anant Kanekar Marg,
Bandra (East), Mumbai-51
Email: info@sra.gov.in

CORRIGENDUM TO CIRCULAR NO.136 DATED 5.7.2012.

No.SRA/ENG/Corrigendum to Circular 136/15518 /2013 /

Date: **9 JAN 2013**

Subject: Corrigendum to Circular dated 5th July 2012 for submission of MOEF Clearance / No Objection for S.R. Scheme to carry out construction upto 20,000 sq. mtrs.(Twenty thousand sq. mtrs.)

- Ref.
- 1) Order dated 29.03.2012 passed by the Division Bench of Hon. High Court at Bombay in OOCJ Writ Petition No.504 of 2012 (Naresh J. Mali V/s State of Maharashtra & Others).
 - 2) Circular No. 136 issued by the S.R.S. under No.SRA/ENG/3413/2012 dated 5th July, 2012.
 - 3) Letter under No. SEIAA-2012/CR62/TC-3 dated 3rd August, 2012 issued by Secretary, Environment Department, Mantralaya.

In view of the Letter under No. SEIAA-2012/CR62/TC-3 dated 3rd August, 2012 issued by the Secretary, Environment Department Mantralaya Mumbai and the order dated 29-03-2012 passed by the Hon'ble Division Bench of Hon'ble High Court, Bombay in Writ Petition No. 504 of 2012, the following modifications are carried out in the Circular No. 136 issued by the S.R.A. under No.SRA/ENG/3413/2012 dated 5th July, 2012.

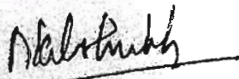
Accordingly, Para 5, Line 2 and 3 thereof is modified and replaced as below :

"Commencement Certificate cannot be withheld for want of MOEF Clearance for the construction of rehab tenement upto construction area admeasuring 20000 sq. mtrs. .(Twenty thousand sq. mtrs.)"

Further, the Para 5, 6th Line onwards thereof is also modified and replaced as follows :

"The Commencement Certificate for rehab tenement to be granted by obtaining Affidavit cum Undertaking from the concerned developer as well as Architect stating that they shall not construct rehab component beyond construction area admeasuring 20000 sq. mtrs. (Twenty thousand sq. mtrs.) and shall submit MOEF Clearance as per LOI condition".

This Corrigendum be read along with Circular No. 136 dated 5th July 2012.


Chief Executive Officer
Slum Rehabilitation Authority

Copy to:

- 1) PA to CEO/SRA,
- 2) PA to Secretary/SRA,
- 3) PA to FC/SRA,
- ✓ 4) Dy.Chief Engineer/SRA,
- 5) Executive Engineer-I/II/III-SRA,
- 6) Town Planner/SRA,
- 7) Dy.Collector/SRA,
- 8) Dy.Registrar/SRA,
- 9) Asstt. Registrar/SRA,
- 10) Administrative Officer/SRA,
- 11) P.R.O./SRA,
- 12) Legal Adviser/SRA,
- 13) Legal Consultant/SRA,
- 14) Dy.Legal Adviser/SRA.