

MINUTES OF 167th MEETING OF THE TOWN & COUNTRY PLANNING BOARD HELD ON 08/11/2019 AT 4:00 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

The following attended the meeting:

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| 1. Shri. Chandrakant Kavlekar,
Hon. Minister for TCP | ... | Chairman |
| 2. Shri Glenn Souza Ticlo,
Hon'ble MLA | ... | Member |
| 3. Shri Daulat Hawaldar,
Secretary (TCP) | ... | Member |
| 4. Shri Manoj M. Caculo,
President, GCCI | ... | Member |
| 5. Shri Gopal A. Parsekar,
Director of Panchayat | ... | Member |
| 6. Shri Pradeep Verekar,
Dy. Conservator of Forest,
North Goa Division | ... | Member |
| 7. Shri Tolentino Furtado,
Dy. Director, DPSE
Porvorim – Goa. | ... | Member |
| 8. Shri. Shivanand Wagle,
Dy. Director of Agriculture,
Tonca, Caranzalem – Goa. | ... | Member |
| 9. Dr. Surekha Parulekar,
CMO (NLEP) | ... | Member |
| 10.Smt. Megha S. Kerkar,
Supdt. of Fisheries | ... | Member |
| 11.Shri. Antonio P. Diniz | ... | Member |
| 12.Arch. Rajeev M. Sukhthanker | ... | Member |
| 13.Shri. Rajesh J. Naik,
Chief Town Planner (Planning) | ... | Member Secretary |

Item No. 1: Confirmation of the minutes of the 166th(Adj.) meeting of Town & Country Planning Board held on 11/10/2019.

The minutes of 166th(Adj.) meeting of TCP Board held on 11/10/2019 were circulated to all the members and since no comments have been received from any member, the same were confirmed.

Item No. 2: Appeal under Section 52(2)(b) of the Town & Country Planning Act, 1974 filed by M/s Goa Resorts (Hotel Baia do Sol) against North Goa Planning and Development Authority (File No. TP/B/APL/177/2019).

Member Secretary TCP Board informed Board members that the appeal was taken up previously in the 165th (Adj.) 166th&166th(Adj.)meeting of the TCP Board, during which, brief was given by NGPDA however, the appellant had remained absent on all three occasions. Board however had felt it appropriate to hear the appellant, so as to arrive to a particular decision, and accordingly in the last meeting held on 11/10/2019, it was decided to give last opportunity to appellant to remain present for the next hearing to give his say in the matter.

Advocate Shri Pravin C. Naik on behalf of the appellant and advocate Pankaj Vernekar on behalf of NGPDA defended the matter. The advocate of the appellant placed before the authority the following facts:

The appellant had undertaken the alteration/modification to the existing motel lomir in property bearing Sy. No. 281/1 Calangute village, Bardez Taluka, on the basis and in terms of NOC dated 21/7/1976 from TCP Department and permission dated 16/08/1976 from Gram Panchayat.

In the year 2008, the Village Panchayat issued a Show Cause Notice dtd. 04/07/2008 calling upon the appellant to Show Cause as to why these structures in the said property should not be demolished. This was followed by personal hearing on 27/01/2009. A demolition Order dtd. 27/02/2009 was thereafter issued, against which an appeal was filed and in the same matter of Appeal No. 97 of 2009 before Dy. Director of Panchayat, vide order dtd. 26/06/2009, the Dy. Director of Panchayat had directed the Village Panchayat to withdraw the Demolition Order dtd. 27/02/2009.

The Panchayat thereafter issued another notice dtd. 10/03/2010 and 09/07/2010, followed by notice dtd. 07/10/2011 and 21/07/2012 for demolition. Vide Order dtd 17/10/2012, the Director of Panchayat quashed and set aside the said demolition order.

Thereafter, the appellant received notice dtd. 08/09/2016 from North Goa PDA, which was replied on 21/09/2016. The appellant was then given personal hearing on 01/06/2018, in which the appellant produced all the required documents. The Show Cause Notice dtd. 08/09/2016, mentions about RPG-2001 and RPG 2021, which is objected by the appellant on the ground that the structures referred are existing since 1976.

Now the appellant is in receipt of Final Notice dtd. 28/12/2018 against which the present appeal is filed.

After hearing Appellant arguments, the Member Secretary TCP Board questioned the appellant's advocate as to when the actual construction was carried out and whether any permission was sought from any competent authorities for said construction. It was also questioned whether any plans were approved for the original structure constructed prior to 1974 and if so, why the same approved plans are not produced before the North Goa Planning and Development Authority or before the Board.

The appellant's advocate responded saying that the said plans are misplaced and all efforts are done to search the said documents. The advocate also expressed the possibility that the documents related to building approvals may be available with NGPDA as the property under reference falls under jurisdiction of NGPDA. The Chairman enquired from Member Secretary, NGPDA as to whether the plans as referred are available with the Authority. The Member Secretary NGPDA replied in negative, for the same being old documents and opined that the Village Panchayat could be a right authority to have such documents.

Further, the NGPDA's Advocate argued the matter by saying that it is basic rule that defending respondent should prove about its legality on the basis of valid documents i.e. approved plans. In response to the same the appellant's advocate defended the matter saying that it is equally the responsibility of the NGPDA to

present before the authority about the original building plans on the basis of which the NGPDA issued show cause notices and gave directions to the appellant. The appellant's advocate argued on the point that the NGPDA can issue notice under section 52 only to those illegal structures which are constructed within 4 years from the date of construction of the illegal structure and in the present case the structure constructed was in the year 1976. In response to same, NGPDA's advocate stated that the same is not the case and the PDA can initiate action against any illegal structure within 4 years from date of noticing such illegal structures.

The Board members enquired as whether 10.5 mts. set back from center line of existing road as shown in approved plans are physically maintained at the site or not. The appellant's advocate said that the same were maintained at the initial stage when constructions was carried however, due to change in alignment of newly constructed road by Government, the setback as required is not available and hence appellant cannot be held responsible for violation of setback if any occurred at the site.

The members member were of unanimous opinion that the appellant may ask NGPDA a copy of the building plan, on the basis of which, the NGPDA has decided about the illegality of the structure and the same can thereafter be produced before TCP Board in its next meeting in order to take final decision in the matter. The Appellant was also asked to make all such effort to obtain copies of approved plans of existing structure also from Village Panchayat. The same was agreed upon by both the parties and accordingly the matter was adjourned.

Item No. 3: Representation by Dr. Suresh Shetye against Goa University (File No. 36/1/TCP/314/2019).

The Member Secretary informed Board members that the matter is regarding oral judgment dated 30/07/2019 by Hon'ble High Court of Bombay at Goa in Writ Petition No. 317 of 2019 filed by Goa University against Town & Country Planning Board and 4 others. Hon'ble High Court has set aside Order dated 15/10/2018 and 12/11/2018 and directed the Board to hear the petitioner, i.e. Goa University and Res. No. 3 of the Writ Petition No. 317/2019, i.e. Dr. Suresh

Shetye and dispose of the representation made by Res. No. 3 within 3 months from the date of the petitioner university filling response to the representation made by Res. No. 3.

Member Secretary further explained that the matter is regarding closure of access to the land bearing Sy. No. 193, 197 and 198 of Village Calapur by Goa University. Earlier, the Goa University commenced the work of construction of compound wall and building in its premises, which was brought to the notice of the North Goa PDA. The North Goa PDA, vide No. NGPDA/111/Gen/Vol.V/1993/14, dated 04/12/2014, issued stop work order, against which the Goa University filed an appeal before the Town & Country Planning Board. The matter was discussed in the 152nd meeting of the TCP Board held on 30/04/2015 under item No. 11 and the Board decided that:

A Sub-Committee comprising of Shri. Nilesh Cabral, Hon. MLA, Shri. Sandeep H. Falari, Architect and Chief Town Planner, members of the Board shall inspect the site and submit report before the Board. Meanwhile the North Goa PDA may decide on the application submitted by Goa University for regularization under Section 44 of TCP Act. The Board directed the Member Secretary to place matter before the Board once sub-committee submits report after site inspection". The report was subsequently submitted by the Sub-Committee.

Subsequently, the appeal was discussed in the 152nd meeting of the Town & Country Planning Board held on 17/08/2015 under item No. 6 and the Board after deliberation on report had passed following order:

ORDER

The Board after hearing both the parties and after deliberation took note of the fact that it is a building of the University built for academic purposes to house a faculty block. It is also noted that the building is at completion stage. The Board decided to allow the appeal with the following directions:

- (a) The University shall remove all blockages put up by them in the form of compounds/barbed wire fencing along their boundary, which are blocking access to the neighbouring properties.*
- (b) They shall submit the compliance to the North Goa PDA within 30 days from the date of this order.*

- (c) *The North Goa PDA shall keep the stop work notice dated 4/12/2014 in abeyance and see the possibility of re-aligning the proposed 30.00 mts. ODP road and reduction of right of way to 15.00 mts. at the time of reviewing/revision of the ODP, which is currently in progress.*
- (d) *The University shall take development permission/technical clearance, as the case may be, for any development in the University complex as per the provisions of the Goa Land Development and Building Construction Regulations, 2010, including regularization of any buildings already.*

The decision of the Board was communicated to the Goa University vide Order dated 27/10/2015.

Against the Order of the Board, the Goa University filed a Writ Petition No. 681 of 2017 before the Hon'ble High Court of Bombay at Goa and Hon'ble High Court vide Order dated 18/09/2017, was pleased to grant an interim injunction in terms of prayer clause (b), which reads as follows:

“(b) For stay of the consideration of the representation of the Respondent No. 4 by the Res. No. 1-7 so as to acquire part of the acquired land in possession of the Goa University surveyed under No. 126, 135, 132, 130 and 142 of Calapur Village and further restrain the Respondent No. 1-7 agents, servants from taking any steps pursuant to or in furtherance of the representation filed by the Respondent No. 8 or proceeding to acquire the property surveyed under 126, 135, 132, 130 and 142 of Calapur village in any manner whatsoever”.

Meanwhile, the TCP Department received a representation dated 29/07/2016 from Dr. Suresh B. Shetye regarding closing of access to the land bearing Sy. No. 193, 197 and 198 of Village Calapur by Goa University compound wall. It is mentioned in the representation by Sr. S. B. Shetye that he is the owner of the land bearing Sy. No. 193, 197 and 198 of Village Calapur. This University land is adjacent to East Boundary of the Goa University land. Upon visit to his property in the month of September 2015, he found that the University has erected a compound wall as a result of which, the access to his property is blocked. Since the time he purchased the land in 1981, University road was being used as a vehicular access to his property. The Original title holders of property were also using the same access earlier and hence he filed a representation before the TCP Department and subsequently sent reminders on 14/06/2018 and 02/07/2018. The

matter was then discussed in the 163rd (Adj.) meeting of the TCP Board held on 15/10/2018, under item No. 15 and the Board after deliberate discussion decided to once again inform Registrar Goa University to remove all the blockages and clear the access roads of the neighboring properties, by citing the provisions of Goa Land Development Building and Construction Regulations 4.1(i).

The decision of the Board was communicated to Goa University and copy to Dr. Suresh B. Shetye vide letter No. 36/1/TCP/314/2018/2637 dated 28/12/2018.

Against this decision of the Board, Goa University filed a Writ Petition No. 317 of 2019 before Hon'ble High Court of Bombay at Goa and the Hon'ble High Court of Bombay at Goa, vide oral judgment dated 30/07/2019 was pleased to dispose of the Writ Petition by quashing and setting aside order dated 15/10/2018 and 12/11/2018 and directed the TCP Board to give hearing to both, petitioner-University, as well as Res. No. 3 and to dispose of the representations made by Res. No. 3 within 3 months from the date of the petitioner-University filing response to the representations made by Res. No. 3.

Accordingly, the response of the University is received by TCP Department on 26/08/2019, citing the following points:

1. The TCP Board has got limited jurisdiction as provided in the TCP Act. Section 4 to 8 deal with the constitution of the TCP Board, its functions and powers. These sections do not empower the Board to consider the representation made by Dr. Shetye for providing an access through the University land to Dr. Shetye.
2. The Regulation 4.11.d of the Goa Land Development and Building Construction Regulations, 2010 is unconstitutional, ultra vires, illegal; and void and in Writ Petition No. 681/2017, Hon'ble High Court of Bombay at Goa has issued a rule by which Chief and Dy. Town Planner have been restrained from considering the representation of Res. No. 8 to the said petition under Regulation 4.11.d.

3. The Order dated 27/10/2015 was passed in an appeal filed by the Goa University against stop work order dated 04/12/2014, the North Goa PDA had taken a view that finally approved sub-division road/proposed 30 mts. ODP road is blocked and further that the work of the building of RCC framework and further that the work of the building of RCC framework was going on and petitioners were directed to remove the barbed wire fencing along their boundary which are blocking access to neighbouring properties.
4. The Goa University removed the blockages at two points i.e. one on the Northern side and one on the Southern side, as those were the points which were inspected by the Sub-committee. The University submitted their compliance report to the Board but has not received any reply. No intimation was received by the University at any point of time from the Board that the University so required to remove the portion of the compound wall everywhere so as to give access to each and every land owner. Such a direction would never have been given and the TCP Board could not have constituted itself as an authority to provide access to one and all when none exists and it is for the person concerned to take appropriate proceeding in the court of law. The TCP Board has no jurisdiction to give such direction to Goa University.
5. The property of Dr.Shetye is on the eastern side of the University whereas the property which was inspected by the Sub-Committee was at one point on the northwest side and one point on the southern side.

The matter was heard in the 166th Adj. meeting held on 11/10/2019 under additional item No. 1. During the hearing, the respondent were present however the representative of the University informed the Board that the Advocate appearing for the University could not remain present for the hearing due to his prior engagement and hence requested for adjournment of the matter. The Board considered the request and adjourned the matter.

Notice were accordingly issued to both the parties to remain present for the next meeting and accordingly the matter was heard in present meeting. Advocate Agni defending on behalf of University stated that TCP Board does not have

power to consider the issues of easementary right for accessibility through universities property and the regulation of Development of land of land locked areas is unconstitutional.

Shri Suresh Shetye stated that property was purchased prior to the acquisition of land and old road existing at the site was used as motorable access since them.

Advocate Agni in response to same countered saying that the claim made by Shri Suresh Shetye is unreasonable with the pretext that the said road was being used for years since at the relevant period the land was open for all and people might be using the road as the property was not fenced all around.

The Board members inquired with Shri Suresh Shetye as whether the said road has been incorporated in the survey plan, to which Shri Suresh Shetye requested for time to file reply. Accordingly, the matter was adjourned for reply from Shri Suresh Shetye with regard to the survey plan showing said road as well as the existing compound wall on the site or to produce any such documents to substantiate his claim as contested.

The matter was therefore adjourned for further hearing in the next meeting.

Item No. 4: Appeal filed by M/s Swapna Developers against South Goa Planning & Development Authority (File No. TP/B/APL/163/2017-19).

The Member Secretary informed the Board that, the matter was taken up earlier in 163rd meeting of the Board held on 16/08/2018 under item no. 5. During the hearing on the appeal matter, neither the Appellant nor his lawyer was present. The Respondent was represented by Member Secretary, South Goa Planning and Development Authority.

The Member Secretary, TCP Board briefed that the Appeal was earlier placed before 160th meeting of TCP Board held on 23/11/2017, in which the Board after deliberation had passed the following order:

“The TCP Board dismissed the appeal since matter of illegality was before Hon’ble High Court of Bombay, Panaji Branch and Hon’ble High Court in W.P. No. 14/3027 has already passed an order directing South Goa PDA to take action

as per affidavit dated 07/12/2017, and whereas the South Goa PDA has already taken the necessary action after verifying that the development has been carried out without obtaining its prior approval, which is in violation of the rules and regulations”.

The Member Secretary, South Goa PDA submitted that Hon’ble High Court of Bombay at Goa in Writ Petition No. 201/2018 has passed the following order:

- (i) The petition is partly allowed.*
- (ii) The impugned order dated 25/01/2018 passed by the Board is hereby set aside.*
- (iii) TP/B/APL/163/17(P)/175 is restored back to the file of the Town and Country Planning Board for deciding it afresh in accordance with law.*
- (iv) Needless to maintain that the Board shall also decide the application for intervention after hearing the intervenor, in accordance with law.*
- (v) The Board shall decide the matter as expeditiously as possible and within a period of six months from the receipt hereof.*
- (vi) The petition is disposed of in the aforesaid terms, with no order as to costs.*

Member Secretary then informed that the Board had decided to defer the case and to give one more opportunity to the Appellant to appear before it for the hearing and to give their say in the matter and accordingly the notices were issued. During the hearing, however the Member Secretary of the SGPDA informed that their Advocate could not remain present for the hearing due to his prior engagement and sought for the adjournment.

The same was agreed upon, and was therefore decided that the matter shall be taken up again in the next meeting. Member Secretary was therefore once again directed to issue the notices to both the parties to remain present for the next meeting of the Board.

The matter came up before the Board, however, the respondents were absent. The Board therefore decided to adjourn the matter for the final time and made it abundantly clear that the same shall be the last opportunity for both the parties to give their say.

Item No. 5: Appeal under section 52 of the TCP Act, 1974 filed by Engg. Sheldon S. Martins against Greater Panaji Planning & Development Authority (File No. TP/B/APL/184/2019).

The Member Secretary informed the Board that, the matter is regarding proposed building blocks A, B, C, D, E, F, G & H, the compound wall and gate in the property bearing Sy. No. 57/3-D, Taleigao, Goa.

The North Goa Planning and Development Authority granted Development permission for the same vide Order No. NGPDA/1231/2485/2010, dated 11/01/2010. The Village Panchayat Taleigao issued construction License No. VP/TLG/Const. LIC/26/2010-2011/1031, dated 28/06/2010. The construction began in January 2011 and by May 2011, the construction of compound wall and gates was completed.

The property is affected by a 10 m ODP road and appellants father had requested the TCP Department in September 2011 to delete the said ODP road as there were other roads on the site passing through the property which however were not reflected in the ODP and these roads provided access to neighboring properties. The Chief Town Planner, vide letter dated 20/09/2011 sought comments from the North Goa PDA. The North Goa PDA submitted report to Chief Town Planner vide ref. No. NGPDA/1231/2115/2011 dated 10/11/2011, in which North Goa PDA gave no objection for deletion of this proposed 10 mts. wide ODP road, citing various reasons.

In August 2011, the appellants father applied to NGPDA for revision of the earlier approved plans of the proposed complex in the said property. The NGPDA requested to show the proposed 10 mts. wide ODP road on the site plan, as at that time the said ODP road was not deleted. The appellant's father agreed to show the said road on the proposed site plan and thereafter vide ref. No. NGPDA/1231/1898/12 dated 17/10/2012, the NGPDA granted Development permission to the appellants father for the revision of proposed group Housing Scheme for building blocks A, B, C, D, E, F, G & H in the said property. Thereafter the Village Panchayat Taleigao issued construction License No. VP/TLG/Const. Lic/58/2012-2013/2464 dated 22/12/2012.

Vide public notice bearing ref. No. NGPDA/Taleigao/ODP/41/1092/15, dated 16/06/2015 in the local newspapers, the NGPDA has informed the public about ODP of Taleigao and invited corrections in it. In response to the same, the appellant filed the objections to the said ODP requesting “deletion of portion of 10 mts. proposed ODP road”. The appellant brought to the attention of the North Goa PDA, existing roads in and near his property which were not marked in the ODP. On 04/09/2018, the Greater Panaji PDA published a public Notice bearing Ref. No. GPPDA/PLUM&R/708/2018, dated 03/09/2018 informing the public that the present Land Use Map and Register of Taleigao 2018 has been adopted and the same can be inspected at NGPDA/GPPDA office at Mala, Panaji, Village Panchayat of Taleigao and Corporation of City of Panaji. When the appellant inspected the said Present Land Use Map of Taleigao Area 2018, it was observed that all the errors pertaining to existing roads passing through his property, which were earlier erroneously not shown in the ODP, were now shown in the Present Land Use Map of Taleigao Area, 2018. Also, the portion of proposed road passing through his property, is also clearly shown as not existing. Subsequently, the draft ODP of Taleigao Planning Area 2021 was prepared and the same was notified and kept open on 15/11/2018 for public ODP of Taleigao -2028. It was observed by the appellant that section of propose 10 mts. wide ODP road passing through his property, was still shown in the Draft ODP as an existing 10 mts. wide road.

Subsequently, vide ref. No. GPPDA/1231/896/2018, dated 16/11/2018, the Respondent GPPDA issued Show Cause Notice to the appellant to remove gates erected and restoration of ground to its original position within 15 days. The appellant replied to the Respondent vide letter dated 27/12/2018. The appellant filed his objection to the draft ODP 2028 of Taleigao to the Respondent vide letter dated 11/01/2019 requesting deletion of said ODP road through his property. On 15/01/2019, the appellant informed the Respondent that he has filed objections on the draft ODP 2018 and requested not to take any immediate follow up decision on the notice dated 16/11/2018 until the matter regarding omissions/mistakes in Taleigao ODP are rectified. The homeowners of ‘Martins Palm Fringe’ complex through which the proposed road passes also jointly filed their objections to the draft ODP-2028 of Taleigao vide letters dated 11/01/2019 and 21/01/2019. The appellant received an intimation from the Respondent vide Ref. No.

GPPDA/Taleigao/ODP-2028/1421/19 dated 18/01/2019 regarding site inspection on 22/01/2019 with reference to the Appellants objections and accordingly the site inspection was conducted. The appellant also received an intimation from the Respondent vide Ref. No. GPPDA/ODP-TPA/1477/2019 dated 18/01/2019 inviting the appellant for hearing on 25/01/2019 with reference to the appellants objections to the Draft ODP-2028. The appellant accordingly attended the hearing on 25/01/2019 and presented his case. News articles in various local dailies on 03/02/2019 announced that on 01/02/2019, the Government approved the ODP 2028 of Taleigao. On 06/02/2019, the home owners of 'Martins Palm Fringe' complex wrote to the Respondent informing that the ODP of Taleigao was finalized without hearing them. On 18/02/2018, the Taleigao ODP was published and kept open for public view. In the said ODP, the said 10 mts. wide road passing through the appellants property, was shown as an existing 10 mts. wide road.

On 18/06/2019, the appellant received final notice bearing Ref. No. GPPDA/1231/197/2019, dated 17/06/2019, directing him to "remove the gates erected on the land reserved for proposed ODP road of 10.00 mts. within 30 days from the receipt of this notice".

The appellant submits that the decision of the Respondent to issue final Notice under section 52 of the Town and Country Planning Act, 1974 was taken at the 09th Authority meeting held on 10/01/2019, which is during the period when the draft ODP 2028 of Taleigao was open for public objections. The appellant prays that the final notice dated 17/06/2019 be quashed and set aside on the following grounds:

- 1) It is beyond the scope of section 52 of the TCP Act, 1974 and therefore bad in law. Section 52 of the TCP Act, 1974 is for removal of unauthorized development, not otherwise. The appellant has all the permissions, licenses and plans for compound wall and gates duly approved from the concerned authorities.
- 2) The Show Cause Notice dated 16/11/2018 and Final Notice dated 17/06/2019 are bad because under Section 52 of the Town & Country Planning Act, 1974, the PDA has to take action within 4 years of any unauthorized development. In the present case, upon obtaining construction

license from the Village Panchayat of Taleigao on 28/06/2010, the construction of compound wall and gates was completed in May 2011 and as such the compound wall has been in existence from May 2011 to the knowledge of the authorities. The Show Cause Notice dated 16/11/2018 and Final Notice dated 17/06/2019 has been issued after a period of 7 years of the existence of the said approved compound wall and gates.

The Department is in receipt of a complaint by email dated 14/09/2019 from Shri Gaurav Bakshi against alleged illegal construction on a public road passing through Martins Palm Fringe, Taleigao enclosing various documents after perusal of which the following is stated:

- 1) As per the report of joint site inspection held on 21/06/2019 the following major deviations are observed.
 - a) Erection of two gates towards eastern and western sides on the land proposed for 10 mts. Wide ODP road.
 - b) Illegal construction of security room of approx.. 9.00 m² without obtaining prior approval.
 - c) Illegal construction of pump room of approx. 8.00 m² without obtaining prior approval.
 - d) Electrical Transformer has been extended towards the garbage disposal area and a gate has been provided.
 - e) Garbage disposal area shown on site plan has been shifted due to electrical transformer.
 - f) A partition wall and toilet block is constructed in building 'A' on ground level within the stilt area.
 - g) Access shown to building block 'H' on northern side of the property is found blocked by compound wall instead of gate.

- 2) The Village Panchayat Taleigao, vide ref. No. VP/TLG/Sus-Ord/2017-18/2791, dated 11/12/2017, has suspended the construction license bearing No. VP/TLG/Const/Lic/48/15-16/2342 dated 18/12/2015, pursuant to Order dated 13/08/2013 by Hon'ble High Court of Bombay at Goa in Suo Motu Writ Petition No. 02 of 2007 as per which it was directed not to issue construction license to multi-dwelling projects of 5 residential units and

above until the Goa State Pollution Control Board is satisfied that the plastic waste is collected weekly from all wards of the Village and loaded properly for onward disposal through the plastic waste collector.

- 3) The Village Panchayat Taleigao, vide ref. No. VP/TLG/Sus-Ord/2017-18/2775, dated 11/12/2017, has suspended the occupancy certificate bearing No. VP/TLG/Occup.Cert/12/16-17/580, dated 31/05/2016, pursuant to above mentioned order by Hon'ble High Court of Bombay at Goa.
- 4) It is mentioned in the letter addressed to Director of Panchayats by Shri Gaurav Bakshi, which is enclosed in the complaint dated 14/09/2019, that the Director of Panchayat has passed an order to revoke the suspension of occupancy certificate, but copy of order by Director of Panchayat is not enclosed.
- 5) The Goa State Pollution Control Board, vide ref. No. 1/25/19-PCB/19/1632, dated 30/04/2019, has directed the appellant to deposit Rs. 35,000/- with the Board, as penalty for damage to the environment and for operating without consent of the Board. The Board has also issued a Show Cause Notice on 30/04/2019 as to why action should not be initiated for operating without consent of the Board.
- 6) The letter by Shri Gaurav Bakshi to the Director of Panchayat further states the following:
 - a) Despite suspension of construction license, the builder continued the construction, which is incomplete till date.
 - b) The SDM, Panaji has issued Stop Order u/s 133 of CRPC.
 - c) VP Taleigao rejected house tax transfer due to following:
 - (i) Lack of inventory showing ownership.
 - (ii) Illegal sale of common terrace.
 - (iii) Public Road blockage.
 - d) F.I.R. is registered on the builder on 05/07/2019 u/s 420 & 406. Also, the complainant has listed many other actions taken by various agencies on the builder.

The matter came up before the Board and the Board decided that it shall hear only the appeal filed before it. The respondent PDA however informed that they have not received any copy of appeal memo. A copy of appeal memo was therefore made available to them during the hearing itself. The respondent PDA sought time to file their reply which was agreed upon and the matter was therefore adjourned.

Item No. 6: Appeal under section 52(2)(b) of the TCP Act, 1974 filed by Shri Farid Fatehali Habib Veljee against Greater Panaji Planning & Development Authority (File No. TP/B/APL/185/19).

The Member Secretary informed the Board that, the appellant is the owner of a showroom, bearing No. 1, under Sy. No. 82/01, at Taleigao, Goa which was purchased by him by a registered Deed of Sale dated 12/05/2014, which is admeasuring an area of 125 sq. mts. situated on the ground floor of the building known as “FELICITY APARTMENT”

On 21/02/2017, the Respondent issued a Show Cause Notice vide Ref. No. NGPDA/1374/2965/17, alleging that upon site inspection on 23/01/2015, it was observed that the appellant has carried out illegal construction in the property bearing Sy. No. 82/1, Taleigao, Goa. On 02/03/2017, the appellant sought time of 10 days to file a detailed reply to the Show Cause Notice dated 21/02/2017. On 11/06/2019, the Respondent issued notice for personal hearing on 14/06/2019 at 4.00 p.m. at the office of the Respondent Authority, which was conducted. During the hearing, the Respondent directed all the parties present, to file such further documents if they so desired in support of their reply. Accordingly, the appellant filed a compilation of documents along with a memo dated 18/06/2019. During the course of hearing, the Member Secretary of the Respondent Authority directed the officials of the Respondent to carry out inspection of the premises and make a report. The appellant applied for copy of said report under RTI Act, 2005, but till date it has not been made available. Then on 21/06/2019 vide ref. No. GPPDA/270/TAL/199/2019, the Respondent issued Order/Final Notice under section 52 of TCP Act, 1974 to demolish/remove the alleged illegal development within 30 days of receipt of notice failing which the Respondent shall cause the demolition/removal of the same and the cost of the said work would be recovered

from the Appellant. The appellant was also given notice that he would have to pay penalties under the Act for having carried out the alleged illegal construction.

The appellant has prayed for quashing and setting aside the Final Notice dated 21/06/2019, mainly on the following grounds apart from other grounds:

- 1) The impugned order is bad in law and contrary to material placed on record.
- 2) The impugned order is passed without giving valid reasons for the same.
- 3) The Respondent failed to consider the reply and compilation of documents filed before them by the appellant.
- 4) The impugned order is illegal as it fastens the liability of the illegal development on the appellant despite the documents. i.e. Deed of Sale dated 12/05/2014 and Deed of Rectification dated 05/12/2014, clearly mentions that, the Appellant was entitled to exclusively “use the area within compound wall” around the showroom”.

The Final Notice bearing Ref. no. GPPDA/270/TAL/199/2019, dated 21/06/2019, issued by Greater Panaji PDA mentions the following alleged illegal development.

- 1) Unauthorized construction of compound wall of length 4.00 mts. On South side and 5.50 mts. On North side in the building setbacks area at the height of 1.50 mts. and on top of the said compound wall erected the asbestos sheets with the help of M. S. Steel Frame and covered with mesh.
- 2) Erection of M. S. structural shed along with periphery of showroom/commercial shop at the height of 5.00 mts. i.e. at the level of First Floor Slab and in the set back area which admeasuring 15.00 x 5.00 = 75.00 sq. mts. in Northern set back of building.
- 3) Erection of glass sheet canopy to front set back of building, abutting the show room façade at the level of 5.50 mts. from the ground level.
- 4) Construction of platform of width 1.00 x length 2.00 mts. with one side ramp and other side step.

Thus, the access form the setback area facing 15.00 mts. road is blocked affecting the ingress/egress and circulation space of the building.

The matter came up before the Board and the Board decided that it shall hear only the appeal filed before it. The respondent PDA however informed that they have not received any copy of appeal memo. A copy of appeal memo was therefore made available to them during the hearing itself. The respondent PDA sought time to file their reply which was agreed upon and the matter was therefore adjourned.

Item No.7: Applications received under Section 16B of TCP Act for consideration under Section 12 of the TCP Act.

The Member Secretary informed the Board that, with notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The proposals as received under Section 16B are placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act as Annexure 'A'. On enquiry from Member Shri Manoj M. Caculo, Chairman briefed the Members of the matter before the Hon'ble High Court and read the contents of the Order dtd. 7/11/2019 pronounced in PIL No. 16/2019 with PIL WP No. 44/2018 issued in the matter. The Board took note of the same.

Only the discussion were then held on cases as placed before the Board under the provision of Section 12 of TCP Act and decision taken are as recorded in Annexure 'A' which forms part of these minutes.

Item No.8: Applications received under Section 16B of TCP Act for consideration under Section 13(2) of the TCP Act.

The Member Secretary informed the Board that with notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The proposals as received under Section 16B are placed before the Board for consideration as required under the provisions of Section 13(2) of the TCP Act as Annexure 'B'.

The Board only deliberated the proposals placed before it under Section 13 (2) of the Act, and decision taken are as recorded in Annexure 'B', which forms these part of this minutes.

Item No. 9: Any other item with permission of the Chair.

No items were taken up.

The meeting was adjourned as certain appeal cases were not disposed off.