

TECHNICAL SUB-COMMITTEE REPORT

In the matter of representation made by Dr. Suresh Shetye against Greater Panaji Planning and Development Authority and with regard to appeal under Section 52(2)(b) of TCP Act 1974 filed by Shri FaridFatehali Habib Veljee against Greater Panaji Planning and Development Authority, the TCP Board in its 168th meeting held on 27/01/2020 decided to refer the matter to the Sub-Committee comprising of members. 1) Shri Glenn Souza Ticlo, Hon'ble MLA 2) Shri Antonio Diniz and 3) Shri Rajiv Sunctankar, to study the issues and submit its report before the TCP Board for further deciding on the representations and appeals respectively.

Accordingly, 1st meeting of the Sub-Committee was held on 22/05/2020 in the office of the Chief Town Planner, Patto-Plaza and it was decided as under.

(1) In the matter of representation of Shri Suresh Shetye against Goa University:

Dr. Suresh Shetye made representation to TCP Board regarding blockage of traditional access road to his properties bearing Sy. No. 198 of Calapur village of Tiswadi Taluka through property bearing Sy. No. 226 owned by Goa University. Said representation was heard in TCP Board meetings and since the issue involved legal implications and required detail study, the TCP Board directed sub-committee as constituted by the Board to give its report.

During the meeting of the Technical committee held on 22/05/2020, the members perused the documents and observed that there was no clarity about the exact location of blockages to the access made by Goa University to the property of Dr. Suresh Shetye and as such decided to ask for detail survey plan showing the exact locations of the blockage to the access road as well as the boundaries of the property mentioning therein the areas of jurisdiction of PDA and TCP Department. Accordingly vide letter No. 36/1/TCP/395/Board.Sub-Committee/2020/959 dated 29/05/2020 requested Dr. Suresh Shetye to submit authentic survey plan showing property boundaries of his property as well as of the Goa University, as well as to demarcate exact location of blockage of access and the area of jurisdiction of concerned PDA and TCP Department.

Shri Suresh Shetye initially vide letter dated 14/06/2020 sought time for submissions of detail plan, and subsequently complied vide letter dated 29/06/2020. Along with letter a survey report prepared by registered surveyor Mr. Prazares A. Gonsalves and google image plan were also submitted.

From the plan enclosed to Survey report, committee observed that the traditional access as claimed is through Goa University's acquired area i.e. from property bearing Sy. No. 226 upto property bearing Sy. No. 198 owned by Dr. Suresh Shetye. The property acquired by University falls partly in Taleigao Village and partly under Calapur and Bambolim Village. GPPDA had issued permission to Goa University under section 52 vide No. GPPDA/08/475/18 dated 24/07/2018 for regularization of building/block/bungalow and part compound wall.

Committee further observed that as per the Regional Plan for Goa 2021 in force, a 10.00 mts. wide proposed road is passing partly along the western boundaries of Dr. Suresh Shetye's properties and partly along the eastern boundaries of Goa University properties and the same provision is not considered by PDA while issuing Development Permission. Committee took note that Shri Suresh Shetye did not produce any authentic document i.e. cadastral survey plan issued by DSLR indicating traditional path, in case existing any within the property. Shri Suresh Shetye has however relied upon Google image showing a pathway leading from internal tar road of University upto property bearing Sy. No. 198 of Calapur Village belonging to him.

Committee also noted that the Goa University vide letter No. GU/Legal/2020/142 dated 17/06/2020 has submitted a copy of site plan of University Campus approved by the GPPDA.

It was seen from the documents submitted by the Goa University that Greater Panaji Planning & Development Authority had issued permission dated 24/07/2018 for construction of part compound walls along with property boundaries. However considering provision under the Regional Plan 2021 for Goa, it was observed that 10 mts. road proposed over the property boundaries of University has been ignored by PDA thus faulting the approval given. The Committee felt that although the google images reflect a traditional path, the same might have been in existence long before the University acquired the land. The Committee is of the opinion that traditional access if any passing through the

property, shall be verified by local authority or any such other authentic document related to the existence of traditional access needs to be submitted by Dr. Suresh Shetye.

It is noted that the alignment of proposed of 10 mtr road shown in RP 2021 passing through the Goa University property bearing Sy. No. 226 partly tallyies for a certain stretch with the alignment of traditional access as shown in the survey report of surveyor Mr. Prazares A. Gonsalves, as submitted by Dr. Suresh Shetye. It is also noted that proposed 10 mtr road also passes partly through property bearing Sy. No. 198 of Shri. Suresh Shetye towards North West corner.

In the above referred circumstances the committee is of the opinion that since the GPPDA had issued Development Permission for compound wall which is almost over the alignment of the proposed road as reflected in Regional Plan, necessary directions needs to be given to GPPDA to review its Development Permission by following the provisions of Regional Plan for Goa 2021, which is in force for the area under the reference or any such other statutory plan in force for the area under reference.

2) In the matter of appeal filed by Shri Farid Fatehali Habib Veljee

The Appellant is the owner of a showroom, bearing No. 1, under survey No. 82/01, at Taleigao, Panaji-Goa. By a Registered Deed of Sale dated 12/05/2014, the Appellant purchased a Showroom, having an area admeasuring 125 Sq. Mts. along with undivided proportionate share in Land and Building, situated on the Ground Floor of the building known as “FELICITY APARTMENT”, under survey No. 82/01, at Taleigao, Panaji-Goa.

In this appeal the appellant challenged the Order/Final Notice dated 21/06/2019, bearing No. GPPDA/270/TAL/199/2019 passed by the Member Secretary, Greater Panaji Planning & Development Authority, directing the Appellant to demolish/ remove the alleged illegal development and restore the set back area to its original as approved by GPPDA within 30 days from receipt of the Notice. The GPPDA in its order cited following illegal developments.

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 setback area which admeasuring $15.00 \times 5.00 = 75.00$ sq. mts. in Northern set back of building.
3. Erection of glass sheet canopy to front set back of building, abutting the show room facade 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.

Aggrieved by the Impugned Order dated 21/06/2019, the Appellant preferred this Appeal mainly of the following grounds.

- (a) The Impugned Order is illegal and without application of mind as it fastens the liability of the illegal development on the Appellant despite the documents i.e. the 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 said documents clearly establish that the compound wall was constructed even prior to the purchase of the premises by the Appellant.
- (b) The Impugned Order is bad in law in as much as it fails to specify the exact nature and extent of the alleged illegality/ illegal development that the respondent directs the Appellant to demolish.

The site was visited Technical Committee on 22/05/2020 alongwith the appellant and respondent. It was observed that the property is accessible by main road as well as by a road towards Southern side which has proposed right of way of 8.00 mts. The compound wall constructed towards Southern side is as per the approval plan. It was also noticed that there are two existing gates for the compound wall towards Southern side which are presently used for entry and exit

of the vehicles of the residents in the said building. An electric generator has been placed in the setback area by the residents of the building in the south east portion which is no way obstructing any resident in the building. The ground level of the residential block is higher than ground level of commercial block by 0.90 mts. The canopy projection and structural shed are within the setback areas mentioned in GPPDA's notice. The ramp constructed is to provide giving access to the showroom and is necessary as the plinth of the showroom is higher by 0.9 mts. from the actual ground level.

The appellant during the hearing had contended that:

1. Side metal shade can be regularized as it is for protection from rain and sunlight.
2. Canopy of Acrylic sheet from front side can be regularized as it is an aesthetical addition.
3. Steps are required to access show room as it is approximately 09 mts above compared to surrounding ground level.
5. The compound wall between for residential and commercial premises does not affect the ingress and egress of the residents as was existing on site as may be seen from the contents of sale deed.

After considering the documents placed before it and the observations as made during site inspection the Committee decided as under:

1. Appellant shall not be made answerable to the development/construction of compound wall already existing on site, prior to his purchase of the property, which fact cannot be ignored looking at the description of the property on the sale deed, which refers to the compound wall.
2. As per the description as made of the shed on the final notice issued by PDA and as seen from the site, the erection of shed appears to be of temporary nature, as the materials used are M. S. columns with zinc sheet, which may last for a specific period and are for specific purpose and could be for limited time and could be dismantled thereafter.

3. As regards to erection of glass sheet canopy along the frontage, the Committee observed that the same as described by PDA in its final notice, is an architectural feature and does not amount to violation of any planning parameter/perimeters.
4. As regards to construction of platform, the same appear to be landing area having dimension of 1.00 mts. x 2.00 mts. and a ramp on one side and steps on other side are provided to facilitate the movement of persons and two wheelers. The same was found to be reasonable considering the main use of the premises.

The Board may decide accordingly.

**Shri Glenn Souza Ticlo,
Hon'ble MLA**

**Shri Antonio Diniz
Member**

**Shri Rajiv Sunctankar,
Member**

**Shri Ranjit Borkar
Town Planner
(Convenor)**