

MINUTES OF 172nd (Adj.) MEETING OF THE TOWN & COUNTRY PLANNING BOARD HELD ON 23/12/2020 AT 11.30 A.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 Filipe Nery Rodrigues,
Hon'ble Minister for WRD & Fisheries | ... | Member |
| 3. Shri Glenn Souza Ticlo,
Chairman, GIDC | ... | Member |
| 4. Shri Keshav Kumar,
CRF, Forest Dept. | ... | Member |
| 5. Shri Dattaprasad Dessai, Asst. Director,
Directorate of Agriculture | ... | Member |
| 6. Dr. Surekha Parulekar,
CMO (NIEO) | ... | Member |
| 7. Smt. Deepa D. Jamble,
Executive Engineer,
WD XIX, PWD (Representative) | ... | Member |
| 8. Shri Ganesh R. Teli,
Asstt. Director, Dept. of Tourism
(Representative) | ... | Member |
| 9. Shri Tolentino Furtado,
Dy. Director, DPSE
Porvorim – Goa. (Representative) | ... | Member |
| 10. Shri. Antonio P. Diniz | ... | Member |
| 11. Arch. Rajeev M. Sukhthanker | ... | Member |
| 12. Shri. Rajesh J. Naik,
Chief Town Planner (Planning) | ... | Member Secretary |

Item No. 1: Confirmation of the minutes of the 172nd meeting of Town & Country Planning Board held on 20/11/2020.

The Member Secretary informed that the minutes of 172nd meeting of TCP Board held on 20/11/2020 were circulated to all the members and since no comments were received from any member, the same were confirmed.

Item No. 2: Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

Member Secretary informed that the proposals as received under Section 16B were placed earlier before the Board in its 172nd meeting held on 20/11/2020, details of which were given in Annexure – A of the agenda item No. 9 of 172nd meeting, for consideration by the Board as required under the provisions of Section 12 of the TCP Act.

Member Secretary further informed that due to paucity of time, the decisions only on cases reflected from Sr.No. 1 to 41 were taken in the said meeting and rest of the cases from Sr.No. 42 to 46 were adjourned and were now placed before the Board for decision as per Annexure – A, in which these remaining cases were mentioned at Sr.No. 1 to 5.

The Board deliberated on the same and the decisions taken are as recorded in Annexure ‘A’, which forms the part of these minutes.

Item No. 3: Proposals received under Section 16B of the TCP Act for consideration under Section 13(2) of TCP Act.

Member Secretary informed that the proposals as received under Section 16B were scrutinized in terms of site conditions and potentialities of the area, under Section 10 of TCP Act and were placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. It was further informed that as decided in earlier meetings, proposals were notified in Official Gazette and local newspapers inviting comments on the same in writing from public.

It was further informed that as decided, comments from Agriculture Department and Forest Department were also obtained. The list containing the cases to be considered under the provisions of Section 13(2) of the TCP Act was then placed before the Board as Annexure 'B' for its consideration. The Board deliberated on the comments received from the public and also considered the report as received from Agriculture Dept. and Forest Dept. on the individual proposals and the decisions taken accordingly on the same are as recorded in Annexure 'B', which forms the part of these minutes.

ADDITIONAL AGENDA

Item No. 1: Appeal under Section 52(2)(B) of the TCP Act, 1974 filed by Mrs. Filomena D'Cruz against Mormugao Planning & Development Authority (File No. TP/B/APL/196/19).

Member Secretary informed that the Appellant had earlier filed an appeal u/s 52(2)(b) against Notice dtd. 18/12/2018 of MPDA for carrying out illegal development in the property bearing Chalta No. 174(P), P.T. Sheet No. 35 of Vasco city and the same was heard in 166th meeting of the Board held on 10/7/2019 under item No. 5 and after considering the arguments placed before it by both the parties, the Board had decided that the Appellant shall apply to MPDA for regularization of development undertaken and thereafter MPDA was to decide on the same on the technical parameters as prescribed under the Goa Land Development & Building Construction Regulations, 2010.

Member Secretary then informed that decision of the Board was accordingly communicated to the parties vide Order dtd. 27/04/2020 and on the basis of the said Order passed by the Board, the MPDA vide its letter dtd. 22/5/2020 further requested the Appellant to submit her application for regularization of development undertaken within 10 days of receipt of their letter. In compliance of the said directions of MPDA, the Appellant vide her letter dtd. 2/6/2020 applied to the MPDA for regularization of the structure.

It was further informed that the Member Secretary Mormugao PDA vide his letter dtd. 17/6/2020 communicated observations to the Appellant, also mentioning therein that the application submitted for regularization of unauthorized

development was not as per GLDBCR-2010 and further gave one weeks time to the Appellant to comply with the requirement. The Appellant then vide her letter dtd. 23/6/2020 further requested MPDA to extend the time till end of July 2020 or keep in abeyance the decision till health issues arising out of COVID – 19 comes under control.

It was brought to the notice of the Board that MPDA had issued fresh Notice dtd. 19/10/2020 u/s 52 of the TCP Act directing the Appellant to demolish/remove illegal development and by clearly mentioning therein that the Authority had considered the request of Appellant as made for extension of time and had accordingly granted a grace period of 15 days for the compliance however Appellant failed to comply with the requirement within the extended time and as such the Authority in its meeting held on 16/9/2020 decided to serve the Notice u/s 52 of the TCP Act and hence aggrieved by the said Notice dtd. 19/10/2020, the Appellant has filed the present appeal.

During the hearing, Advocate Shri Sushant Korgaonkar, remained present on behalf of MPDA whereas the Appellant was absent. However during the proceeding of the hearing, the staff of the Minister for TCP/Chairman of TCP Board informed that the Appellant has telephonically informed that they have just received the notice about hearing in the matter and could not remain present for the hearing due to short notice and has requested for adjournment of the case.

Considering the genuineness of the request, the Board adjourned the matter for further final hearing in the next meeting.

Item No. 2: Appeal under Section 45 of the TCP Act, 1974 filed by Shri Pramod Shirodkar against South Goa Planning & Development Authority (File No. TP/B/APL/186/19).

Member Secretary informed that the matter is regarding refusal by the Respondent South Goa Planning & Development Authority to grant NOC for amalgamation of Flat No. G-2 and G-3 in building “Shanterivan”, vide reference No. SGPDA/P/1672/08/19-20 dated 10/04/2019, on the grounds that requisite NOC from Society is not obtained by the Appellant.

The matter was earlier taken up for hearing by the Board in its 169th (Adj.) meeting held on 29/07/2020 and the same was deferred as no one had appeared on behalf of Appellant. For the present hearing, the Appellant Shri Pramod Shirodkar remained present in person whereas the South Goa PDA was represented by Adv. Sushant Korgaonkar.

Appellant informed that he is owner of premises bearing flat No. 1(G-2 and G-3), admeasuring an area of 75.00 sq. mts. located at “Shanterivan Co-operative Housing Society Ltd.”, Varkhande, Ponda and the same was purchased by him and his daughter Dr. Leena Shirodkar from the vendors M/s Mangalkruti Realtors by an agreement dated 12/06/1998.

He further informed that the Occupancy Certificate for the flats under reference was granted on 11/11/1999 by Ponda Municipal Council considering two different flats G-2 and G-3. It was then informed that the “Shanterivan Co-operative Housing Society Ltd.” was registered on 06/09/2001 which however shows said two flats as one single flat and accordingly he was allotted 1 share certificate, corresponding to said single flat. Subsequently, registration of a conveyance deed dated 05/10/2007 was executed which again shows the flats under reference as one single flat.

The Appellant then informed that Society’s Chairman informed him regarding issues of non-payment of dues and illegal transfer of flat to his daughter etc. and these issues were being complied by him, for which purpose on 09/07/2018, he made an application to the Respondent, which however was rejected on the ground that NOC from the Society is required.

It was the argument of the Appellant that he is ever willing to produce such an NOC from the Society, however for the reasons of some personal issues with Chairman of the Society, he is not in a position to get the same as the Chairman is unwilling to issue the NOC. It is for this reason, the Appellant said that he is neither in a position to get the NOC from the Society nor the PDA is giving him the permission and therefore has requested the Board to intervene and direct the respondent to consider his application as he is in peaceful possession of the said flat for about last 20 years. Also, the Appellant informed that he has not

undertaken any physical changes in the flat and they are in the same state as was issued occupancy for.

While arguing on behalf of the respondent, Advocate argued that approved plans shows two different flats G-2 & G-3 and the occupancy certificate too stands issued for two different flats and as such while undertaking any revision/amalgamation of the same, the permission from the Authority is required, for which purpose the application to the Authority is required to be made by the owner of the flat and that in the present case, Society is the owner by virtue of sale deed executed with the Appellant. Alternatively, he said an appropriate NOC for undertaking the revision in approved plan, need to be issued by the Society, which too has not happened in the present case. The respondent had also brought to the notice of the Board that although the agreement for purchase of the flat has been signed by the Appellant, final sale deed has actually been executed by the Chairman of the Society, which makes his NOC mandatory for any subsequent revision in the plans.

The Member Secretary also placed before the Board written submission of Advocate dtd. 18/12/2020 which mainly stated that:

- i. Ownership of the building is vested in the Housing Co-operative Society. Therefore, either NOC should have been obtained from the Society or the application itself for amalgamation ought to have been filed by the Housing Society.
- ii. The competent Government Authority has itself ruled against the Appellant vide the letter of the Registrar of Co-operative Societies dtd. 14/3/2018 stating that the contribution to the co-operative society must be paid for both the units separately as the Appellant has not obtained NOC from the Municipality (it ought to have been from the SGPDAs) for conversion of two flats into a single unit.
- iii. Even otherwise none of the documents produced by the Appellant point out that the two flats were always considered to be one unit. The two house tax bills are for two separate units. Neither the occupancy certificate nor the agreements shows two separate units. Even the share

certificate does not show this fact. Therefore, by law and under Rule and Regulation, 2010 permission cannot be granted to the Appellant for amalgamation. Further the order passed by the Asst. Registrar who is the Government Authority also comes in the way of issuing permission for amalgamation.

During the discussion, the Appellant clearly expressed his difficulty in obtaining NOC from the Society and has brought before the Board that neither the Society is applying for the amalgamation of two flats and further stated that he is in peaceful possession of the flats for last about 20 years and cited the provisions of Law of estoppels. He further requested the Board to consider his appeal as the very purpose of filing the application before the South Goa PDA is to amalgamate the two flats, which in any case he is in possession of.

Considering all the arguments placed before it and the documentary evidence produced, the Board felt that the application of the Appellant for revision of the plans need to be sympathetically considered by the PDA, as the same was found to be in conformity with the planning point of view.

The Board therefore allowed the appeal and decided that the South Goa PDA shall consider the application of the Appellant for approval of the revised plan i.e. amalgamation of two flats.

Appeal therefore stands disposed off.

Item No. 3: Proposal of Se-Old Goa Village Panchayat for inclusion of additional properties in Greater Panaji Planning and Development Authority (Kadamba ODP).

Member Secretary informed that the Government vide Notification No. 28/10/TCP/2017-18/1824 Series I No. 23 dated 06/09/2018 had earlier notified Kadamba Planning Area to the extent of 150.00 mts. on either side of right of way of National Highway 4A, upto the point of hotel Fern Kadamba.

It was informed that the proposal of Se-Old Goa Village Panchayat as adopted vide its resolution No. VP/SOG/TIS/2020-2021/451 dated 27/08/2020 for inclusion of additional area in Greater Panaji Planning and Development Authority

was earlier discussed in 170th meeting of the Board held on 28/8/2019, during which it was felt appropriate that the proposal need to be further studied and requires detail discussion, hence the proposal was again taken up for discussion in the Board meeting held on 20/11/2020, during which plan submitted by the Village Pachayat showing the additional area to be included under the Kadamba Planning Area was perused and it was observed that the planning area which as per earlier notification was restricted to 150 mts. on either side of the road is now extended further to 200 mts. from the either side of the same road and is further extended upto the village boundary of Corlim. It was also observed that the Village Panchayat has proposed further extension of planning area beyond 200 mts. line by proposing certain properties to be included fully under planning area. The Board had however noted that this concept of including entire properties effected by 200 mts. line was not uniformly adopted by the Village Panchayat.

Member Secretary then informed that considering the issues observed, it was suggested in the same meeting that it would be more appropriate, that in case required, the planning area shall be extended in line with already notified planning area, thus restricting it to a width of 150 mts. only, upto the village boundary of Corlim Village and accordingly it was decided that the proposal shall be further deliberated in the next meeting with this view.

During the discussion on the proposal in the meeting, Chairman informed that the issue of notifying additional planning area has however evoked sharp reaction from several quarters of society and serious concern has been raised by different organization/individuals regarding the adverse effect it might have on heritage character of village and threat to World Heritage site of Church and Convents at Ella village of Old Goa.

Chairman accordingly suggested that the sentiments expressed by the religious bodies need to be honoured in view of their reasoning and in order to maintain the sanctity of the shrine. Members also echoed the similar view.

After having deliberation on the proposals submitted by Village Panchayat and the issues that emerged and the consequential effect, the proposal might have on the village, it was finally decided not to consider the proposal of the Village Panchayat for inclusion of additional area of Se-Old Goa into Planning Area.

Item No. 4: Decision on proposal considered in 31st meeting of the 16-A Committee, constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules - 2008 held on 15/12/2020.

The Member Secretary submitted that proposals as referred in Annexure 'C' were placed before the Committee constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules – 2008 in its 30th meeting held on 15/12/2020 and are now placed before the Board for its consideration.

It was further informed that the proposals placed before the Committee was received from following applicants:

- i) Two proposals of Goa Housing Board
- ii) Institute of Public Administration & Rural Development (GIPARD),
- iii) Work Division XIV (NH), Public Works Department, Fatorda,
- iv) Ministry of Ayush,
- v) Directorate of Panchayat
- vi) Law Department, Secretariat

Member Secretary further informed the Board that the Committee deferred the decision on two proposals of Goa Housing Board and whereas all other proposals were recommended by the Committee

After having deliberation on the proposals as were placed before the Committee, the Board accepted all the decisions as taken by the Committee on individual proposals and are recorded in Annexure-C, which forms part of these minutes.

Item No. 5:- Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

Member Secretary informed that with notification of Section 16B of TCP Act, the Department has started receiving applications u/s 16B and informed that the proposals as received under Section 16B were scrutinized in terms of site conditions and potentialities of the area under Section 10 of TCP Act and were placed before the Board for consideration as required under the provisions of

Section 12 of the TCP Act and the decision taken on the same are as recorded in Annexure-D, which forms the part of these minutes.

Item No. 6:- Any other item with the permission of chair.

No item was taken up under this item.