

AGENDA FOR 177th MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 20/12/2021 AT 11.30 A.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the minutes of the 176th(Adj.) meeting of Town & Country Planning Board held on 22/11/2021.

The Minutes of 176th(Adj.) meeting of TCP Board held on 22/11/2021 are circulated to all the Members and no comments have been received for the same.

The Board may therefore like to confirm the Minutes.

Item No. 2:- Representation received from Shri Shamsundar Audi regarding withdrawal of Technical Clearance Order for construction of retail petroleum filling station in the plot bearing Sy. No. 267/1-E of Benaolim Village, Salcete Taluka.

This has reference to representation dtd. 5/11/2021 of Shri Shamsundar Audi, Benaolim, Salcete-Goa addressed to the Chairman, the Goa Town and Country Planning Board regarding relaxation in distance of 45 mts. from the tangent point of intersection for storage of Petroleum product in plot bearing Sy. No. 267/1-E of Benaolim village, Salcete Taluka (Fuel filling station under the category Kisan Seva Kendra of IOCLL).

By communication dated 24/04/2017, inwards on 27/04/2017, Indian Oil Corporation Limited had applied for grant of NOC for storage of petroleum products in the plot bearing survey No. 267/1-E, of Village Benaolim, Salcete-Goa with necessary plans and documents. The filling station was to be developed under the scheme of Kisan Seva Kendra in rural areas.

By communication dated 16/06/2017, the Chief Town Planner informed District Magistrate that there is no objection from planning point of view for storage of petroleum products in the said survey No. 267/1-A

of Village Benaulim by Indian Oil Corporation Limited and on conditions as mentioned therein, which Shri Audi states that the same have been complied with.

On 17/06/2019, District Magistrate, after receipt of necessary NOCs, sanction and or approvals from all the concerned department, considered the application and granted No objection certificate to Indian Oil Corporation Limited for storage of the petroleum products in survey No. 267/1-E of Village Benaulim, Salcete Goa on 17/06/2019.

On 13/02/2020, the Office of the Collector, South Goa District issued conversion sanad under the provisions of Goa Land Revenue Code, 1968 in respect of 1071 sq. mts. of survey No. 267/1-E of Village Benaulim for commercial purpose (fuel filling station) use.

Pursuant to application dated 24/09/2019 of Shri Audi, the office of the Senior Town Planner Town and Country Planning Department, Margao Goa vide Order dated 04/03/2020 granted Technical Clearance for carrying out the work of construction of the canopy and the sales office of retail Petroleum filling station in survey No. 267/1-E of Village Benaulim, as per the plans approved. The Technical Clearance was issued with the approval of the Govt. of Goa. The Technical Clearance was only in respect of the canopy and the sales office of filling station, therefore Shri Audi states that the Technical Clearance consideration of the filling station otherwise does not apply to it. The Technical Clearance Order clearly mentions that the Technical Clearance was issued based on the NOC issued by h District Magistrate South Goa Margao, for storage of petroleum products as well as NOC issued by the TCP Department, Panaji dated 16/06/2017 for storage of such products as well as approval of the Government.

Petroleum and Explosive safety organization (PESO), Govt. of Indian, Ministry of Commerce and Industry through its Controller of Explosives by their communication dated 11/04/2018 has informed the

IOCL about the approval of the drawings of the site and layout for the proposal of petroleum storage class A installation.

NOC for the construction of fuel station from the Directorate of Health Services, Primary Health Centre Cansaulim have also been obtained and have been submitted before the Panchayat. Pursuant to orders of the Deputy Director of Panchayat, South Goa, Margao dated 11/11/2020, the Village Panchayat of Cana-Benaulim has issued construction license dated 15/12/2020, for the construction of retail petroleum filling station.

By letter dated 15/06/2017, the Directorate of Fire and Emergency Services has also issued provisional fire service clearance for carrying out installation of the retail outlet.

Shri Audi states that the work of installation of retail outlet/petrol filling station on the plot bearing survey No. 267/1-E of Village Benaulim, Salcete Goa was taken up pursuant to all the NOC's/approvals/permissions and that IOCL and he has acted upon the NOC from District Magistrate and TCP Technical Clearance Order dated 04/03/2020 and had completed the construction work as per approved drawing and submitted completion certificate in Appendix A5 alongwith processing fees on 17/02/2021 to the TCP office.

Further, it is informed by Shri Audi that the Deputy Town Planner Margao thereafter by his letter dated 15/02/2021 sought certain clarifications which were given by him and thereafter a Show Cause Notice was issued to him stating that his reply as regards to clarification was not satisfactory, further observing that the site plan submitted by him along with applications for issuance of Technical Clearance did not specify the distance available on site to proposed development from tangent point of road intersection as well as the distance from existing development in surrounding areas and therefore ordered keeping of Technical Clearance in abeyance till further orders.

Shri Audi has replied to the Show Cause Notice vide his reply dated 23/02/2021 pointing out that the Show Cause Notice was uncalled for and that the plans for Technical Clearance were prepared on basis of approved plans.

Shri Audi further states that to his surprise without any personal hearing in the matter, he was thereafter served with a revocation/withdrawal Order dated 08/04/2021 of the Technical Clearance Order dated 04/03/2020. Shri Audi states that it is found that the revocation was based on grounds which were not even alleged in the Show Cause Notice itself and the authorities had travelled beyond their jurisdiction.

By application dated 12/04/2021, Shri Audi has applied for review of the decision/order dated 08/04/2021 of revocation of the Technical Clearance Order issued in his favour for the purpose of development of sales office and canopy in respect of the retail outlet KisanSeva Kendra at survey No. 267/1-E Village Benaulim, Salcete-Goa, pointing out violation of principles of natural justice, drastic civil consequence/effects of the order, the revocation/withdrawal order being on grounds and reasons not at all alleged or specified in SCN, withdrawal/revocation being on wrong parameters, the revocation being in violation of rules and regulations when the construction was as per the approved plans and there was no case made out of any such violations, the revocation order being influenced by irrelevant and extraneous considerations.

It is further submitted that in any case, the distance from any tangent point of intersection of roads to the filling station applicable is the distance from such point of intersection to the actual filling point of the station, which is the point of location of Fuel dispensing units, which in his case is far more than 45 mts.

Shri Audi states that the road Colva to Mobor is neither a National Highway or State Highway and is only an MDR and is not a busy road with very high volume of traffic. The intersection if any is of a small

village road with only a MDR, that to not at ninety degrees but at a slanting angle drifting outwards towards Varca-Mobor side and not Colva side where the filling station is located. It is stated that the fuel filling points/dispensing units are located deep inside the plot of land where the filling station is located and at a distance of more than 45 mts. away from such point of intersection. The filling station in question is thus more than 45 mts. away from the tangent point of intersection, if any, of the road leading from Colva to Mobor-Varca with a small village road which intersection at any rate cannot be called as an intersection of major road or intersection as contemplated under the regulations. As such there is sufficient compliance even of the said requirement if any, of distance of 45 mts. from tangent point of intersection of roads. Shri Audi submits that even IRC guidelines apply only to National and State Highways and that too are to be applied based upon traffic.

It is further mentioned that even the Hon'ble District Magistrate, South Goa at Margao, the Competent Authority under the petroleum act pursuant to High Court directions dated 05/04/2021 in WP/250/2021, by its judgment and Order dated 03/06/2021 has decided and ruled that there are no valid grounds to interfere with the NOC dated 17/06/2019 for storage and filling station issued earlier.

It is the say of Shri Audi that in any case, the Competent Authority under the Petroleum Act and rules that is the District Magistrate acting under rule 144 of Petroleum Act and Rules, has considered the matter on two occasions, first at the time of grant of the NOC and thereafter pursuant to the High Court directions and the order of the District Magistrate is an order passed in compliance with the High Court directions after treating the Writ Petition itself as a representation of the Petitioner. In such circumstance also there was no question of the Town Planning Authorities entering into the realm of any distance requirement as regards 50 mts. from residential areas and that such an exercise was completely without jurisdiction.

Shri Audi therefore states that without prejudice to case that the construction for which Technical Clearance was sought are in accord with all applicable regulations/guidelines and submits that considering that the road Colva to Mobor is neither a National Highway or State Highway and not such a busy road with very high volume of Traffic, the intersection if any is of a small village road with only and MDR, that to not at ninety degrees but a slanting angle drifting outwards towards Varca-Mobot side and not Colva side where the filling station is located and considering the fact of the fuel filling points/dispensing units being located deep inside and at a distance of more than 45 mts. away from such point of intersection if any, and further that the petrol filling station is developed as a KisanSeva Kendra by a public body, Indian Oil Corporation Ltd. and for the benefit of farmers that too in a rural area, the esteemed Board be pleased to direct/advise/recommend the relaxation of such distance of 45 mts. from the point of intersection, if any, of the village road with the Colva-Mobor noticed MDR in respect of the construction of canopy and sales office of petrol filling station over survey No. 267/1-E of Village Benaullim. Further Shri Audi seeks direction/advise/recommendations of the Board that the distance from the Tangent Point of intersection, if any be counted from such point of intersection to the filling points of the storage station i.e. fuel dispensing units/dispensers, and not from the closet boundaries of the plot to such point of intersection.

During the hearing, Adv. S.J. Padiyar appeared on behalf of Shri Audi. Board however took note that that matter got initiated on the basis of complaint of Shri Reginald which resulted in Revocation of Technical Clearance Order by this office of Senior Town Planner (South) and the therefore it would be most appropriate to hear these parties too and accordingly directed Member Secretary to issue notices to complainant Shri Reginald and Senior Town Planner (South).

Notices are accordingly issued to all the concerned parties.

Board may deliberate.

Item No. 3: The matter of ‘Representation by Dr. Suresh Shetye against Goa University.

The representation of Dr. Suresh Shetye against Goa University was earlier decided by the TCP Board in its 170th meeting held on 28/08/2020 on the basis of findings of the Sub-Committee as under:

- i) The Board directed the Member Secretary to instruct GPPDA to review its Development Permission given to Goa University for construction of compound wall, by considering the provisions of RPG-2021 and any such other statutory plans in force for the area under reference.*
- ii) The GPPDA shall consider the representations as made by Dr. Suresh Shetye pertaining to blockage of his access etc. while reviewing the Development Permission granted to Goa University for the construction of compound wall.*

Representation of Dr. Suresh Shetye was accordingly disposed off.

This decision of the Board was however challenged by the Goa University in Hon’ble High Court of Bombay at Goa and the Hon’ble High Court has passed an Order dated 25/08/2021 in Writ Petition (F) No. 855 of 2021, whereby the impugned Order dated 28/08/2020 was set aside and the matter is remanded back to the TCP Board for fresh consideration and disposal of the representations made by the Petitioner and Respondent No. 3 with the directions that the TCP Board shall grant an opportunity of hearing to both the Petitioner as well as Respondent No. 3 and thereafter dispose of their representations on merits as expeditiously as possible.

Matter accordingly was placed for discussion in 175th (Adj.) (Second Sitting) held on 24/9/2021 and the Board considered the directions issued by the Hon’ble High Court and accordingly Notices were issued to all the parties.

Matter was then heard in 176th TCP Board meeting held on 27/10/2021, during which Adv. A. Sardesai appeared on behalf of Appellant Dr. Suresh Shetye and Adv. Sharmin Dodamani appeared on behalf of Goa University, whereas Adv. Saish Mahambray appeared on behalf of GPPDA. During this hearing, Adv. Sharmin Dodamani for Goa University requested for adjournment of the matter stating that their Senior Advocate appearing on behalf of the University got the notice at a short period and as such could not remain present for the hearing.

Considering the reasons cited, Board had agreed for the adjournment. It was however the request of Adv. A. Sardesai to have an early hearing in the matter. The matter was accordingly adjourned with directions to the Member Secretary to inform the next date of hearing to both the parties, as and when the same was fixed. Accordingly, notices were issued to the parties.

The matter is placed before the Board for deliberation and decision accordingly.

Item No. 4: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Simi Anand Ghogale and others against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021).

The matter is regarding appeal under Section 45 of the Town & Country Planning Act, 1974 in respect of rejection letter bearing No. GPPDA/339/PNJ/851/2020 dated 28/12/2020 issued by Greater Panaji Planning and Development Authority in the matter of regularization of existing house (G+1) in the property bearing Chalta No. 200 & 201 of P.T. Sheet No. 69 at Fountainhas, Panaji-Goa.

GPPDA has rejected the application with following observations:

- a) No setbacks as required as per regulation 2010 are kept for the existing house to be regularised (front, sides & rear).*

b) Ownership documents shows only 19.00 m² belongs to Smt. Simi AnandGhogle and 24.00 m² belongs to SaiduttVelenkar total together is 43.00 m² whereas the plans shows 59.93 m² build up on ground floor which reflects encroachment of structure on adjoining land.

Aggrieved by the communication dated 28/12/2020, the Appellants have filed the present appeal stating that rejection has been done by the Authority on flimsy grounds and without application of mind and the same is against the facts of the case.

Appellant states that they have sought for the regularization of the house which has been renovated and repaired vide letter dtd. 7/12/2018. The Appellant further states that the findings given by the Authority is without considering the documents on records and that the Authority has misunderstood the documents and further states that the renovation/repairs of his house has not crossed the road boundary and is in line with other ancestral houses and that the suit house is also an ancestral house.

The Appellant also states that the Authority has failed to refer his proposal to the Conservation Committee as prescribed under the law, as the suit house is situated within the Conservation Zone and on this ground alone, the communication dated 28/12/2020 needs to be quashed and set aside.

The Appellants further states that the Respondent did not foresee that the suit houses are existing over 100 years and the cadastral survey conducted during the year 1972 also reflects the existence of said houses. Appellant says that the additional area other than the one specified in Sale Deed belongs to the land owner who has agreed to sell the said area to the Appellants, who are the purchasers of the suit houses and consequently the owners of the said houses.

The Appellants states that the Authority has failed to pass an order which should have been a speaking order and the same is cryptic, illegal and against the well established norms and rules. The Appellant has therefore prayed for following:

- a) To call the records of the proceedings from the Greater Panaji Planning Development Authority and upon perusing the same to quash and set aside the communication dated 28/12/2020.
- b) To stay the implementation of the communication dated 28/12/2020.

The matter was listed in the Agenda of 175th meeting held on 30/06/2021, however due to inability expressed by the Appellant in attending the said meeting due to COVID-19 pandemic and as consented by the Respondent , the matter was adjourned.

The matter was again listed in 175th (Adj.) (1st Sitting) meeting of TCP Board held on 20/09/2021. During which the Appellant was represented by Adv. ArunTaulikar and whereas Adv. Siddhi Pardolkar appeared on behalf of Respondent PDA. The Respondent PDA however had asked for time to gather more details in the matter and the same considered by the Board and accordingly the matter was adjourned.

Further, during the hearing in 176th TCP Board meeting held on 27/10/2021, the Appellant had requested to defer the matter again, as his Advocate could not remain present, for having received the intimation at a short notice.

Considering the reasons cited, the Board had agreed with the request made and accordingly had deferred the matter once again.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed. Notices are accordingly issued to both the parties to remain present for meeting.

The Board may decide.

Item No. 5: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Manohar AnantKamat and Mrs. Shweta Manohar Kamat against Greater Panaji Planning and Development Authority.

The matter is regarding Appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of final notice bearing No. GPPDA/ill/Vol.V/492/2021 dated 20/08/2021 issued by Greater Panaji Planning and Development Authority for carrying out additional construction on open terrace (7th floor) of the block B-2 of the building complex named Adwalpalkar Shelter Co-operative Housing Society Ltd., in the property bearing Survey No. 69/1 and 68/2 at Taleigao Village.

The Appellant states that the Respondent has issued a notice to demolish illegal additional construction as reported by the site inspection and further observations of the Authority.

Being aggrieved by the said notice, the Appellant has preferred appeal under section 52 (2) (b) of TCP Act against Greater Panaji Planning and Development Authority by stating that the impugned order is unjust, illegal, arbitrary and liable to be quashed and set aside mainly on following grounds;

The Appellant states that the impugned Order is issued on the basis of a Notice of Respondent bearing No. GPPDA/ILL/VOL.V/408/2021 dated 06/08/2021 and further states that the said Notice is bad in law, as the observations/recitals in the said Notice were factually incorrect as it indicates that the Respondent had referred to the alleged illegal construction to be on the 9th floor and submits that the subject matter of the said Notice dated 06/08/2021 did not have 9 floors and therefore states that the Impugned Order is based on an incorrect data as recorded in the said Notice and is therefore liable to be quashed and set aside on this count alone.

Petition further states that it is observed that the Respondent has relied on the Notice dated 06/08/2021 while passing the Impugned Order. A perusal of the Notice dated 06/08/2021 indicates that the construction alleged is on the 9th floor. Reference to the 9th floor is made at two places in the said Notice dated 06/08/2021. A perusal of the Impugned Order indicates that the Respondent has for the first time vide the Impugned Order made a reference to the alleged construction to be on the 7th floor. It is therefore submitted by the Appellant that the Impugned Order is in variance with the Notice dated 06/08/2021, which was the basis on which the Respondent had commenced action in the matter and had called upon the Appellants to file their reply. It is therefore submitted by the Appellant that the Respondent has no jurisdiction to unilaterally correct the description of the floor, which had a material bearing on the subject matter and hence states that the Impugned Order stands vitiated.

Appellant submits that the very fact the Respondent found discrepancy in the Notice dated 06/08/2021, i.e. change in the floor number which went to the root of the matter, the Respondent ought to have dropped the proceedings commenced/processed vide Notice dated 06/08/2021. It is submitted that the Appellants were notified of the proceedings vide Notice dated 06/08/2021. In such circumstances, the impugned Order would be a product of violation of principles of natural justice of the Appellants.

Appellant submits that the Respondent had no jurisdiction to alter and/or change any factual data as recorded in the Notice dated 06/08/2021. The change of the 9th floor therefore as recorded in the Notice dated 06/08/2021 to 7th floor in the Impugned Order, is patently illegal and untenable in law.

The Appellant points out that the Respondent which has recorded that the Appellants had not produced any satisfactory answer and/or approved plan to justify the illegalities, then was obliged to pass an order, if any, on the basis of the Notice dated 06/08/2021. Appellant state that he

had appeared before the Respondent on the basis of the Notice dated 06/08/2021, which made a reference to alleged illegal construction on the 9th floor. Thus, in the event the Respondent was of the opinion that there was no satisfactory answer from the Appellants and/or no approved plan were produced, then the Respondent could have passed an order in the context of the 9th floor of the building as referred and recorded in the Notice dated 06/08/2021.

Appellant further submit that there was neither any basis nor any reasons for the Respondent to allege illegal construction being done by the Appellants and therefore states that the observations/conclusions of the Respondent in the Impugned Order are illegal, perverse and unsustainable in law as the Impugned Order disregards the solitary principle of law which recognizes natural justice as the Impugned Order has changed the floor number for the first time while passing the Impugned Order and hence suffers from breach of the principles of natural justice.

Appellant states that for want of proper show-cause notice, they were handicapped in the matter as they were only guided by what was referred to in the Notice dated 06/08/2021 and accordingly acted in the manner. The Appellant also submit that the Respondent has changed its stance for the first time while passing the Impugned Order, which was not permissible and has caused grave prejudice to them.

The Appellant has therefore prayed for the following:

- a) To quash and set aside the Impugned Order (Final Notice bearing Ref. No. GPPDA/III/Vol.V/492/2021 dated 20/08/2021 issued by the Respondent)
- b) For suspension of the Impugned Order issued by the Respondent pending the hearing and final disposal of the Appeal.

The matter was earlier discussed in 176th meeting of the TCP Board held on 27/10/2021, during which Adv. SaishMahambray appeared on behalf of the Respondent, whereas the Appellant remained absent. The matter was therefore deferred with directions to the Member Secretary to inform the next date of hearing to both the parties, as and when the same was fixed.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 6: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. VinitBichu, against Greater Panaji Planning & Development Authority.

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of final notice under section 52 of TCP Act, 1974 bearing No. GPPDA/ill/Vol.V/497/2021 dated 20/08/2021 issued by Greater Panaji Planning and Development Authority in the matter of removal/demolition of the erected structure on open terrace i.e. 9th floor of the building for erecting M.S. fabricated structural roofing situated at Adwalpalkar Shelter Co-operative Housing Society Ltd. in the property bearing Sy. No. 69/1 and 68/2 of Taleigao Village, Tiswadi Taluka.

The Appellant states that by way of Appeal, he seeks to challenge Final Notice dated 20/08/2021 bearing Ref. No. GPPDA/ill/Vol.V/497/2021 with Show Cause Notice dated 21/08/2019 under ref. No. GPPDA/ill/Gen/292/2019 issued by the Respondent directing him to demolish the structure belonging to him which is situated in Building Block-I on the ninth (9th) floor in the Adwalpalkar Shelter Cooperative Housing Society Ltd. in the property bearing Survey No. 69/1 and 68/2 of Village Taleigao-Goa.

The Appellant states that vide Show Cause Notice dated 21/08/2019, the Respondent has directed him to demolish the illegal additional construction on the structure referred.

Appellant states that Respondent has issued the Notice dated 06/08/2021, directing him to remove/demolish the structure erected in violation of the approved plan by the NGPDA vide order dated 06/07/2006 and revised plan dated 28/11/2008.

The Appellant states that he replied to the Show Cause Notice vide his reply dated 27/08/2021, stating that the said structure is of temporary nature which can be regularized without imposing any penalty against him, however, by Impugned Order dated 20/08/2021, the Respondent has directed demolition of the said structure, which is challenged on the following grounds:

- I) The relevant considerations have not been taken into consideration while passing order.
- II) The Order is completely without jurisdiction and de hors the provisions of Town and Country Planning Act, 1974.
- III) The finding of the Respondent that the construction is not legal is de hors the material on record and devoid of substance.
- IV) The Impugned notice is cryptic, unclear and unreasoned.
- V) The Respondent did not even offer a fair and reasonable opportunity to the Appellant to be heard personally and/or did not conduct any personal hearing.
- VI) Notice is bad in law in as much as it does not identify structure and extent of transgression which is liable to be demolition.
- VII) That Respondent has not considered the various averments, documents and material placed on record by the reply dated 27/08/2021.

The Appellant has therefore prayed that the Final Notice dated 20/08/2021 be quashed and set aside.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 7:-The matter of Representation by Mr. Anant V. Lotlikar against the Member Secretary, South Goa Planning and Development Authority.

The representation of ShriAnant V. Lotlikar against Member Secretary, South Goa Planning and Development Authority, Margao-Goa was earlier decided by the TCP Board in its 164th meeting held on 11/01/2019 and was dismissed on the basis of its findings.

In the said meeting, Adv. Shri Menino Pereira appearing on behalf of SGPDA had submitted that the workshop, compound wall and development proposed falls on the 10.00mts. wide ODP road and that approval, if granted, would be illegal and at the time of developing 10.00 mtrs wide ODP road, it would be an obstruction for implementation of the ODP provisions. The Board therefore was of the opinion that no development can be permitted where implementation of the ODP road would be obstructed.

The Board had also gone through the appeal memo in which the Appellant had submitted that since the 10 mtrs. road had not been acquired, the ODP provision had lapsed. The Board however did not find any substance in such submission and had therefore decided to dismiss the appeal, as no prima facie case was made by the Appellant as he was asking for Development Permission in an area through which the road as shown in the ODP was passing. The Appeal was therefore dismissed on merit.

This decision of the Board was however challenged in Hon'ble High Court of Bombay at Goa Porvorim and the Hon'ble High Court has now passed an Order dated 13/10/2021 in Writ Petition No. 534 of 2019, whereby the Hon'ble High Court has set aside the Order of the Board by stating that the Petitioner deserves to be granted an opportunity to effectively place his case before the Respondent No. 2-Board for a decision on his appeal.

The matter was accordingly placed before the Board in its 176th (Adj.) meeting held on 22/11/2021 and it was decided to issue Notices to the concerned parties and the same are issued.

Board may deliberate.

Item No. 8: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Shantidas G. Khandolkar, against South Goa Planning and Development Authority.

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of demolition notice bearing No. SGPDA/P/4178/663/21-22 dated 11/10/2021 issued under section 52 of TCP Act, 1974 by South Goa Planning and Development Authority in the matter of construction of house in the form of temporary shed within the rear set back area at property bearing Chalta No. 12 of P.T. Sheet No. 32 situated at Fatorda, Margao, Goa.

The Appellant states that he had sought permission for covering the open terrace of first floor and parking sheds on the ground floor of the house and in pursuance, the South Goa Planning and Development Authority, was pleased to grant permission as per the revised plan under Order No, SGPDA/P/4178/763/17-18 dated 01/09/2017 and based on the said permissions, he covered the open terrace on the First floor and parking sheds on ground floor was duly undertaken.

The Appellant states that he has submitted the copy of Order No. SGDPA/P/4178/763/17-18, dated 01/09/2017 and approval given by Margao Municipal Council under No. 3(C)/1/17-18/F-7062432TECH/6999 dated 22/11/2017 alongwith revised approved plan, which he states clearly indicates that the revised plan are approved by the SGPDA.

The Appellant states that he has undertaken the work as per the permissions given by the South Goa Planning and Development Authority and Margao Municipal Council.

The Appellant further states that he got a Show Cause Notice dated 16/08/2018, issued by the Respondent, thereby alleging illegal development of shed. The Appellant states that the said notice was duly responded thereby refuting all the allegations made thereon with detailed explanations with documentation.

The Appellant states that the Respondent has still issued a demolition notice dated 11/10/2021.

Being aggrieved by the Impugned Notice issued by the Respondent, the Appellant has filed the present appeal with prayers that the demolition notice dated 11/10/2021 under Ref. No. SGPDA/P/4178/663/21-22 passed by the Respondent be quashed and set aside.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 9: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Abdul Karim against Mormugao Planning and Development Authority.

The matter is regarding Appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 against order dated 09/07/2021 passed by the Member Secretary, Mormugao Planning and Development Authority regarding an illegal construction.

The Appellant however states that he has not carried out any such illegal construction and states that his dilapidated house had collapsed and that he had no other option then to carry out the construction again after the demolition of the house, which he says was existing in the property for last more than 60 years. The Appellant states that he was in the process of applying for obtaining necessary permissions from the Mormugao Planning and Development Authority and Construction License from Mormugao Municipal Council and further states that his application to carry out repair is still pending before the Mormugao Municipal Council.

Appellant submits that the Respondent No. 1 without going into the facts of the matter and without even inspecting the site has chosen to send a demolition Notice dated 09/07/2021 under section 52 of the Town and Country Planning Act, 1974, which however is very vague and ambiguous as no detail of the illegality is mentioned therein and hence requested that the same Notice be quashed and set aside as it is in violation of any act, law and the rules applicable.

The Applicant further submits that he has not carried out any illegal construction in violation of rules and regulations and that the construction has been carried out by keeping proper set backs. It is also stated in the Appeal that Notice is against the principle of natural justice and has not followed proper procedure and hence is illegal.

The Appeal against Order dated 09/07/2021 is mainly on the following grounds:

- a) That the impugned notice is bad in law as the Respondent did not give any hearing to the Appellant before issuing the impugned notice.
- b) That the impugned notice issued by the Respondent to the Appellant is without carrying out any site inspection and as such the same is defective and arbitrary without looking the actual position on the site.
- c) The Appellant has not carried out any illegal construction as alleged in the impugned notice. The Appellant house was existing in the said property or last more than 60 years. The impugned notice is therefore fictitious.
- d) The Notice is not supported by any documentary evidence and is absolutely vague without even showing any illegal development extension and is bad in law and hence liable to be rejected.
- e) The impugned notice is issued without giving any valid reasons, and without any site inspection.
- f) Despite the reply filed by the Appellant to the earlier notices of the Respondent, the impugned notice was issued. The Respondent has failed to give any inspection report to the Appellant as to on what basis the Respondent has come to the conclusion regarding the illegal construction.
- g) The impugned notice dated 09/07/2021 was issued by the Respondent and the same was received by the Appellant on 11/07/2021 directing the Appellant to carry out the demolition of the structure, illegal development within 31 days from the receipt of the same. There is delay in filling appeal as such as application for condonation of delay has been filed.

The Appellant has therefore prayed that the Order/Notice dated 09/07/2021 bearing No. MPDA/ILL/Vasco/242/2021-22/640 be quashed and set aside.

The matter was earlier taken up in 176th meeting of the TCP Board held on 27/10/2021 during which Adv. LaxmikantSalkar appeared on behalf of the Appellant and whereasRespondent PDA was represented by Adv. Vivek Rodrigues.Adv. LaxmikantSalkar appearing for the Appellant however requested for adjournment of the matter and the same was agreed upon by the Respondent PDA and the Appeal was therefore adjourned with directions to the Member Secretary to inform the next date of hearing to both the parties, as and when the same was fixed.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 10: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Jayandra B. Naik, against Mormugao Planning and Development Authority.

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974 in respect of Notice bearing No. MPDA/ill/244/2021-22/113 dated 07/11/2021issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of structure (house) at property bearing Chalta No. 29 of P.T. Sheet No. 71of Vasco City, Mormugao Taluka.

The Appellant states that he is the absolute owner of house bearing H.No. 1/232 which was built almost prior to 100 years on the property bearing Chalta No. 29 of P.T. Sheet No. 71 of the CTS MAP of Vasco da Gama, Goa originally belonging to M/s Dempo Properties and Investment Private Limited and says that The said house was built with the consent of Original Landlord on lease basis on payment of rent.

The Appellant submits that since 1977 he is in uninterrupted and continuous possession of the schedule property and has become the absolute owner of the said property under adverse possession.

The Appellant states that the existence of the “Subject House or Structure” is as old as more than 100 years which is evident from the documents and records of the Inspector of Survey and Land Records, City Survey, Vasco da Gama, Goa, and the “Subject House or Structure” was built well before the Goa Municipalities Act, 1968 was enacted. It is further submitted that the “Subjects House of Structure” was assessed for house tax in the name of his late father with the municipality on 06/11/73 as per the Form of Assessment of MMC from the period when Government initially started assessing house tax in Vasco town.

The Appellant further submits that the “Subject House or Structure” is also appearing in the survey records which is evident from the survey plan he attached.

The Appellant submits that the electricity and water connection is also sanctioned to the “subject House or Structure” and further states that sometime in the year 2006, as the “Subject House or Structure” was in dilapidated conditions and also because of cracks to the certain parts of the House, the Mormugao Municipal Council vide its letter No. MMC/Tech/AM/06-07/866 dated 26/09/2006 granted the permission for repair of said house.

The Appellant submits that on 09/02/2021, he received a show cause for demolition of the Structure from the Respondent and was further directed to stop the alleged ongoing unauthorized construction on the site, when in reality no actual construction was going on at the site, because of simple reason that entire construction of the “subject House or Structure” was already completed in the year 2007 itself.

Appellant submits that he gave his detailed reply dated 25/02/2021 to the show cause notice dated 09/02/2021, however the same was found not satisfactory by the Respondent, although not even a single valid and legal reason was cited by the respondent in its Notice under section 52 of the Goa Town and Country Planning Act, 1974, as to why the reply filed by him was not satisfactory.

The Appellant submits that the notice under section 52 of the Goa Town and Country Planning Act, 1974 was issued on 07/02/2021.

The Appellant states that the Respondent has exercised its jurisdiction illegally, as the construction of the “subject House or Structure” was already completed in the year 2007 and the notice is given in the year 2021 at belated stage.

It is therefore prayed that:

- a) Impugned notice under section 52 of the Goa Town & Country Planning Act, 1974 dated 07/10/2021 issued by the Respondent be quashed and set aside.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 11: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. MansoorJiwani, against Mormugao Planning and Development Authority.

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of Show Cause Notice/Stop Work bearing No. MPDA/1-S-287/2021-22/405 dated 28/06/2021 issued by Mormugao Planning and Development Authority in the matter of open terrace converted to rooms, covered with AC sheet roofing on the 6th floor of the building named ‘Diwan Ganesh’ at property bearing Chalta No. 58 of P.T. Sheet No. 136 of Baina, Vasco-da-Gama, Mormugao Taluka.

The Appellant states that in the month of June 2021 he received show cause notice/Stop Work dated 28/06/2021 alleging that on the site inspection carried out on 11/06/2020 at 12.15 p.m. by the official of the Respondent, it is revealed that he has carried out illegal development i.e. “a 52 mts. open terrace has been converted to rooms with AC sheet

roofing on the 6th floor of the building without the prior permission of the Respondent as required under section 44 of the Town and Country Planning Act, 1974.

The Appellant states by that vide letter dated 09/07/2021, he had placed all relevant facts before the Respondent to the said show cause/Stop Work.

The Appellant states that vide in their reply to the said show cause/Stop Work they brought to the notice of the Respondent that mischief is played by the complainant and they are propped person who file false complaint to disturb the peace and tranquility in the locality and that the he has not carried out any illegal construction as stated in the said show cause Notice/Stop Work.

The Appellants further states that on 09/10/2021 he received the notice dated 01/10/2021 from the Appellant, under Section 52 of Town & Country Planning Act, 1974 for demolition and being aggrieved by the said notice he has filed appeal on inter alia the following grounds:

- I. The impugned order is a non-reasoned, non-speaking order and has failed to address the issues raised in the reply.
- II. The MPDA having taken no action to the reply dated 09/07/2021 on the show-cause notice/Stop work dated 28/06/2021, clearly implies that the reply was sufficient.
- III. The MPDA failed to appreciate that the temporary covering of the open terrace with the AC sheet was only to protect the terrace from the rain which almost all the building do and for which no permission of the Respondent is required so also the height of the alleged illegal conversion is within the permissible limits.
- IV. The MPDA has no authority to decide the legality or otherwise of the structure. The MPDA can only act where development is contrary to the land use or without permission u/section 43 of the Act.

The Appellant has therefore prayed that the impugned notice Ref. No. MPDA/1-S-287/2021-22/1079 dated 01/10/2021 be quashed and set aside.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

Item No. 12: Decision on proposals considered in 35th 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 02/12/2021.

The proposals as given in Table placed at Annexure 'A' have been considered by 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 35th meeting held on 02/12/2021.

The same proposals are placed before the Town & Country Planning Board for consideration as per Annexure 'A'.

Item No. 13: Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

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 scrutinized in terms of site conditions and potentialities of the area under Section 10 of TCP Act and are placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. Refer Annexure 'B'.

Item No. 14: Proposals received under Section 16B of the TCP Act for consideration under Section 13(2) of TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The Board had earlier considered applications under the provision of Section 12 of the TCP Act. The proposals are now placed before the Board for consideration under the provisions of Section 13(2) of the TCP Act. Refer Annexure 'C'.

Item No. 15:- Any other item with the permission of chair.