

MINUTES OF 177th MEETING OF THE TOWN & COUNTRY PLANNING BOARD HELD ON 20/12/2021 AT 11.30 A.M. IN CONFERENCE HALL, SECRETARIAT BLOCK, PORVORIM - GOA.

The following attended the meeting:

1. Shri. Chandrakant Kavlekar,
Hon. Minister for TCP ... Chairman
2. Shri Filipe Nery Rodrigues,
Hon'ble Minister for WRD & Fisheries ... Member
3. Shri Raju B. Dessai,
Dy. Conservator of Forest,
16B Committee,8
(Representative) ... Member
4. Captain V. P. Vinayagam,
Indian Navy HQ GNA ... Member
5. Shri Ralph Barbosa
Research Assistant, DPSE
(Representative) ... Member
6. Shri Ralph D'Souza
President, GCCI, Panaji ... Member
7. Shri. Antonio P. Diniz ... Member
8. Arch. Rajeev M. Sukhthanker ... Member
9. Shri. Rajesh J. Naik,
Chief Town Planner (Planning) ... Member Secretary

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

Member Secretary informed that the minutes of 176th(Adj.) meeting of TCP Board held on 22/11/2021 were circulated to all the Members and it was further informed that no comments on the same were received from any of the Member.

The Board therefore confirmed 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 Benaulim Village, Salcete Taluka.

Member Secretary informed that the matter pertains to representation dtd. 5/11/2021 of Shri Shamsundar Audi, Benaulim, 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 Benaulim village, Salcete Taluka (Fuel filling station under the category Kisan Seva Kendra of IOCLL).

Member Secretary then gave the brief of the matter to the Members wherein the following was informed:

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 Benaulim, 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 Benaullim 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 Benaullim, 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 the 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-Benaullim 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.

As stated by Shri Audi, the work of installation of retail outlet/petrol filling station on the plot bearing survey No. 267/1-E of Village Benaolim, 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 Kisan Seva Kendra at survey No. 267/1-E Village Benaolim, 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-Mobor 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 developer as a Kisan Seva 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. form 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.

Member Secretary informed that during the hearing in 176 (Adj.) meeting held on 22/11/2021 Adv. S. J. Padiyar appeared on behalf of Appellant Mr. Shamsundar Audi and Adv. J. F. Melo appeared for complainant Mr. Reginaldo D'Silva and it was further informed that during this hearing, the Board took note that matter got initiated on the basis of complaint of Shri Reginald which resulted in revocation of Technical Clearance Order by the office of Senior Town Planner (South) and therefore it would be most appropriate to hear these parties too and accordingly notices were issued to all the concerned parties.

During the present hearing, Shri Shamsundar Audi was present in person alongwith his Adv. S. J. Padiyar and whereas complainant Mr. Reginaldo D'Silva was also present alongwith his Adv. J.F. Melo.

At the outset, Adv. J.F. Melo brought to the notice of the board that although he received the notice of the meeting, he was not issued any copy of the representation made by Shri Audi and as such he cannot argue on the matter as he was not aware of any issues raised in the representation. It was therefore requested by Adv. J.F. Melo to issue him copies of the representation made by Shri Audi and copies of any such documents/records in the matter, as available with the Board/Shri Audi.

Considering the request made, a copy of the representation of Shri Audi was made available to Adv. J.F. Melo. Since Adv. J.F. Melo however requested for adjournment of the matter as he would require time to go through the contents of the representation and the same was agreed upon.

The matter was therefore adjourned with direction to Member Secretary to inform the next date of hearing to both the parties, as and when the same was fixed.

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

Member Secretary informed that 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, which were 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.

It was further informed that this decision of the Board was 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.

It was further informed that the matter was placed for discussion in 175th (Adj.) (Second Sitting) held on 24/9/2021 and was again heard in 176th meeting of TCP Board held on 27/10/2021 and was adjourned at the request of Goa University.

The matter was taken up again by the Board in light of Order dated 19/08/2021 passed in the Hon'ble High Court of Bombay at Goa in Writ Petition No. 855 of 2021 (Filing No.). The Board noted that the basic issue to be decided by it is as regards to the representation of Dr. Suresh Shetye, which primarily seeks enforcement of TCP Board Order dated 27/10/2015 and non compliance of the same by the Goa University in the matter of removal of blockages in the form of compound wall, Barbed wire fencing, thereby blocking the traditional access to the neighboring adjoining properties.

During the hearing, the Board was briefed about the report of the Sub-Committee prepared in this regard, which was the basis of earlier decision taken by the Board, which report stated as under:

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 the TCP Board directed Sub-Committee as constituted by it to give its report in these matters as the issues involved legal implications and required detail study.

During the meeting of the Sub-Committee held on 22/05/2020, the members perused the documents and observed that there was no clarity in the representation of Dr. Shetye about the exact location of blockages as made by Goa University to the access of 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, Dr. Suresh Shetye was requested to submit an authentic survey plan showing property boundaries of his property as well as that of the Goa University, and also 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 with the requirement vide letter dated 29/06/2020 only by submitting a survey report prepared by registered surveyor Mr. Prazares A. Gonsalves and also a google image plan.

From the plan enclosed to Survey report, Sub-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. Sub-Committee took note that the GPPDA had earlier 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.

Sub-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 for the compound wall. Sub-Committee took note that Shri Suresh Shetye did not produce any authentic document i.e. cadastral survey plan issued by DSLR indicating traditional path, incase existing any within the properties referred. 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.

Sub-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 Sub-Committee felt that although the google images reflects a traditional path, the same could have been in existence long before the University acquired the land. The Committee therefore was of the opinion that traditional access if any passing through the property, shall be verified by local authority unless such other authentic document related to the existence of traditional access needs is submitted by Dr. Suresh Shetye.

It was noted that the alignment of proposed of 10 mts. road shown in RP 2021 passing through the Goa University property bearing Sy. No. 226 partly tallies 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 was also noted that proposed 10 mts. road also passes partly through property bearing Sy. No. 198 of Shri. Suresh Shetye towards North West corner.

In the above referred circumstances the Sub-Committee is of the opinion that since GPPDA has 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. The Sub-Committee was also of the opinion that the representations as made by Dr. Suresh Shetye shall duly be considered by

GPPDA while reviewing the Development Permission for compound wall”.

The Board noticed the representation of Goa University now seeks modification of the TCP Board Order dated 27/10/2015. The basic issue therefore before the Board is to decide on the representation of Dr. Suresh Shetye and Goa University.

The issue raised by the Goa University during the course of arguments as well as on written synopsis, is that the TCP Board has got no jurisdiction to decide the representation of the Dr. Suresh Shetye and Goa University.

During the hearing, it is submitted by the Advocate A. Agni for the Goa University, that as per the TCP Act, 1974, there is no power with the TCP Board to decide on the present representation of Dr. Suresh Shetye, as well as there is no power under regulation 4.11(d) of Goa Land Development and Building Constructions Regulation, 2010 to decide on the issue of Dr. Suresh Shetye.

It is further submitted by the Adv. A. Agni for the Goa University that the plans are already regularized by permission dated 24/07/2018 of Greater Panaji PDA and therefore any grievances of Dr. Suresh Shetye could be entertained by the Board. It was further stated by Advocate for the Goa University that the issue of access is to be agitated in the Civil Court and cannot be decided by the TCP Board.

On behalf of the Greater Panaji PDA, Panaji, the arguments on the matter were raised by the Adv. Saish Mahambray, who stated that presuming the issue of access could not be decided by the TCP Board, the compliance of the Order dated 27/10/2015 can certainly be forced by the TCP Board. Further he stated that the regularization Order dated 24/07/2018 also makes it mandatory as per condition no. 1, which states that the traditional accesses shall not be blocked. In light of this, Adv. Saish Mahambray of GPPDA submitted that the blockages need to be opened up, more so, as it was mandatory conditions of the PDA while

passing the Order, which required the Goa University to remove all the blockages which are serving as an access to the neighbouring properties.

Advocate for Dr. Suresh Shetye, Adv. A. Sardessai submitted that his property has become landlocked in light of the compound wall constructed by Goa University, which has been regularized by Order dated 24/07/2018 by Greater Panaji PDA, and hence he has got no access to his property and has therefore made the present representation.

Advocate for Goa University when questioned about the availability of alternate access to the property of Dr. Suresh Shetye, could not place on record availability of any such alternate access, if available, for the property of Dr. Suresh Shetye, which in a way was admittance that there was no other alternate access to the property of Dr. Suresh Shetye. Adv. Agni however insisted that the subject matter is for the Civil Court to decide as it pertains to the issue of the traditional access.

The Board considered the arguments placed before it and after due deliberation was of the opinion that the issue as to whether the traditional access was available for Dr. Shetye to his property and the determination of the same is within the purview of the Civil Court and that the TCP Board does not have much jurisdiction over the same. However, as regards to the ground of compliance of Order dated 27/10/2015, the Board was certainly of the opinion that it has got the jurisdiction to decide on the issue more so, in light of the Order dated 19/08/2021, passed by the Hon'ble High Court of Bombay at Goa in Writ Petition No. No. 855 of 2021 (Filing No.).

The Board took note of paras 27 & 28 of the said Order, which makes these aspects clear and which quotes as under:

***Para 27:-**The TCP Board's Order dated 27/10/2015 makes it clear that the PDA's stop-work notice/demolition Order dated 04/12/2014 was not set aside by the TCP Board but only kept in abeyance. Therefore, it is only appropriate that the TCP Board decided the representation of both the Petition as well as Respondent No. 3 since both these representations are directly concerned with the TCP Board's Order dated 27/10/2015. The*

Petitioners representation seeks clarification/modification of the TCP Board's Order dated 27/10/2015 and Respondent No. 3's representation complaints about non-compliance and seeks enforcement of TCP Board's Order dated 27/10/2015. All these are additional reasons to hold that, in the facts of the present case, it is the TCP Board that is the appropriate authority to consider and dispose of the Petitioners and Respondent No. 3's representation on merits.

Para 28: *For all the aforesaid reasons, we set aside the impugned Order dated 28/08/2020 and remand the matter to the TCP Board for fresh consideration and disposal of the representations made by the Petitioner and Respondent No. 3. 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.*

In light of the above, the Board observed that arguments raised by the Advocate for the Goa University does not have any merit, as there is a clear direction from the Hon'ble High Court to decide the representation of Dr. Suresh Shetye and Goa University.

The Board considered Order dated 27/10/2015 and Dr. Suresh Shetye's basic request of compliance of Order dated 04/12/2014 and further Order of GPPDA dated 24/07/2018, which is relied by the Goa University.

As regards to the representation of Goa University stating that more than 3 years have been passed and that no compliance has been sought by the TCP Board from the origination of the present matter, and that Order dated 27/10/2015 is without any reason and is vitiated in law, the Board found that the same arguments are untenable and submissions made in this regards are without any merit.

It is the opinion of the Board that the Order dated 27/10/2015 has not been challenged by the Goa University in any Court of Law and has therefore attained finality and therefore it is essential on the part of Goa University to comply with the same and that regularization Order dated

24/07/2018 passed by the Greater Panaji PDA, does not come in the way in seeking compliance of the Order.

Considering the all arguments placed before it and in light of the mandate of the Order dated 19/08/2021, passed by the Writ Petition No. 855 of 2021 (Filing No.), the Board directed the Goa University to comply with the direction issued vide Order dated 27/10/2015 passed by it, within 30 days of receipt of the Order, failing which the Greater Panaji PDA shall undertake the further procedure to comply with the directions of the said Order.

The Goa University shall therefore remove the blockages as per the Order dated 27/10/2015 and report compliance to the Greater Panaji PDA who shall inspect the site to verify the compliance and take further necessary action accordingly.

The Board also directed that the PDA shall relook into its permission granted for the compound wall viz-a-viz the provisions of ODP etc.

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.

The Appellant has prayed for calling of 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 and to stay the implementation of the communication dated 28/12/2020.

Member Secretary informed that the matter was earlier listed in following meetings of the Board:

1. 175th meeting held on 30/06/2021
2. 175th (Adj.) (1st Sitting) held on 20/09/2021
3. 176th meeting held on 27/10/2021

It was further informed that the matter was adjourned and deferred in the above meetings for the various reasons cited either by the Appellants or the respondents.

During the present hearing, the Appellant Shri Anand Gogale was personally present and whereas Adv. Saish Mahambray represented the Respondent PDA. Shri Anand Gogale however informed that his Advocate is out of station and is unable to attend the hearing as the notice for the meeting is received at a very short period and therefore requested for adjournment of the matter.

The Board consider the request of the Appellant and adjourned the matter with directions to the Member Secretary to inform the next date of hearing to both the parties, as and when the same was fixed.

Item No. 5: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Manohar Anant Kamat 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/III/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 has prayed 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) and for suspension of the

Impugned Order issued by the Respondent pending the hearing and final disposal of the Appeal.

Member Secretary further informed that the matter was earlier discussed in 176th meeting of the TCP Board held on 27/10/2021, during which Adv. Saish Mahambray appeared on behalf of the Respondent, whereas the Appellant remained absent. The matter was therefore deferred.

During the hearing, Respondent PDA was represented by Adv. Saish Mahambray and whereas Appellant Shri Manohar A. Kamat and Mrs. Shweta M. Kamat again remained absent.

The Board took note of the continuous absence of the Appellants and decided to give last and final opportunity to them to remain present for the next hearing and to give their say in the matter, failing which it was decided that the Board shall hear the matter ex-parte and decide on the same.

The matter was 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.

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

Member Secretary informed that 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.

Member Secretary further informed that the Appellant by way of appeal has sought 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.

It was further informed that the Appellant has stated that vide Show Cause Notice dated 21/08/2019, the Respondent has directed him to demolish the illegal additional construction on the structure referred which is erected in violation of the approved plan by the NGPDA vide Order dated 06/07/2006 and revised plan dated 28/11/2008.

Member Secretary informed that the Appellant has 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. It was brought to the notice of the Board that 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 dehors the provisions of Town and Country Planning Act, 1974.
- III) The finding of the Respondent that the construction is not legal is dehors 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.

During the hearing, the Appellant Shri Vinit Bichu was represented by Adv. A. Salatri and whereas Adv. Saish Mahambray appeared on behalf of Greater Panaji PDA.

Advocated for the appellant Adv. A. Salatri contended that the construction carried out by him is purely of temporary nature and it is only for the purpose of rain protection and the same is not meant for any habitation purpose.

Advocate further stated that similar kind of temporary roof for the rain protection is seen in many other buildings and as such he too be permitted to retain the same and for which purpose is ready to pay any penalty to regularize the same. Shri Saish Mahambray however strongly opposed for the request as put forth by the petitioner stating that in the present case a society has been formed by all the owners of the flats who themselves have complained against the temporary structure erected by the petitioner on the open terrace. It was brought to the notice of the Board that the purpose of erecting the shed is not only for the rain protection, as the appellant has maintained a habitable height between the terrace and the sloping roof which can be put to another use.

It was also brought to the notice of the Board that the Appellant has erected MS fabricated staircase as an access to the covered terrace, which too is illegal as no permission for the same has been obtained by the Appellant. He further contended that by considering the height achieved through this erection of the roof, the building now has got additional 9th floor, and has added additional weight of the structure, thus the building which was approved with eight floor has now become a building with

nine floor. The Advocate also brought to the notice of the Board that action by the PDA is in compliance with the contempt petition filed against the PDA.

Considering the argument placed, the Board of the considered opinion that the structure erected by the petitioner definitely amounts to consumption of additional FAR and the height of the building accordingly gets increased beyond the permitted limit, as was brought to the notice of the Board by the Respondent PDA and therefore was of the considered opinion that the Appellant requires to remove the unauthorised construction erected by him and therefore dismissed the appeal.

The Board however advised the Petitioner to reduce the height of the roof so as to make it non habitable, if the real purpose of the same is only the rain protection by taking necessary permissions for the same, if required from the Competent Authorities.

The appeal therefore stands dismissed.

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 Shri Anant 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.

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 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, for a decision on his appeal.

It was informed that the matter was placed before the Board in its 176th (Adj.) meeting held on 22/11/2021 and was decided to issue Notices to the concerned parties.

During the hearing, the Appellant Shri Anant V. Lotlikar was represented by Adv. Saish Mahambray and whereas Adv. Sushant Naik appeared on behalf of South Goa PDA. Adv. Sushant Naik however informed that the Respondent PDA is represented by Senior Advocate Shri Menino Pereira, who is out of station and therefore could not remain present for the hearing and therefore requested for adjournment of the matter.

The Board agreed with the request of the Respondent and adjourned the matter.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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.

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.

During the hearing, the Appellant Mr. Shantidas G. Khandolkar alongwith his Adv. Nilaksh Marathe were present and whereas Adv. Sushant Naik appeared on behalf of South Goa PDA. Adv. Sushant Naik however informed that the Respondent PDA is representated by Senior Advocate Shri Menino Pereira, who is out of station and therefore could not remain present for the hearing and therefore requested for adjournment of the matter.

The Board agreed with the request of the Respondent and adjourned the matter.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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

The Member Secretary informed that the matter was earlier taken up in 176th meeting of the TCP Board held on 27/10/2021 during which Adv. LaxmikantSalkar had appeared on behalf of the Appellant and whereasRespondent PDA was represented by Adv. Vivek Rodrigues. Adv. LaxmikantSalkar appearing for the Appellant however had requested for adjournment of the matter and the same was agreed upon by the Respondent PDA and the Appeal was therefore adjourned.

During the present hearing, the Appellant Mr. Abdul Karim was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues. During the hearing, the Appellant informed that due to short notice, his Advocate could not remain present and therefore requested for adjournment of the matter.

The Board acknowledged that the short notice was the result of rescheduling of the meeting and therefore agreed with the request of the Appellant for the reasons cited and the matter was therefore adjourned.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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 07/11/2021 issued 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. 71 of Vasco City, Mormugao Taluka.

The appellant has prayed that 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.

For the hearing, the Appellant Mr. Jayandra B. Naik was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues. During the hearing, the Appellant informed that due to short notice, his Advocate could not remain present and therefore requested for adjournment of the matter.

The Board acknowledged that the short notice was the result of rescheduling of the meeting and therefore agreed with the request of the Appellant for the reasons cited and the matter was therefore adjourned.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

Item No. 11: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Mansoor Jiwani, 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 has prayed that the impugned notice Ref. No. MPDA/1-S-287/2021-22/1079 dated 01/10/2021 be quashed and set aside.

For the hearing, the Appellant Shri Mansoor Jiwani was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues. During the hearing, the Appellant informed that due to short notice, his Advocate could not remain present and therefore requested for adjournment of the matter.

The Board acknowledged that the short notice was the result of rescheduling of the meeting and therefore agreed with the request of the Appellant for the reasons cited and the matter was therefore adjourned.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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 Member Secretary submitted that proposals as referred in Annexure 'A' 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 35th meeting held on 02/12/2021 and the same were placed before the Board for its consideration.

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

1. Goa Energy Development Agency (GEDA)
2. Goa State Council of Science & Technology (GSCST),
3. Department of Science and Technology and Waste Management
4. Goa State Biodiversity Board, Department of Science and Technology and Environment
5. District Rural Development Agency (DRDA)
6. Directorate of Agriculture
7. Office of the Commandant, Central Industrial Security Force, Ministry of Home Affairs
8. Directorate of Museum

It was further informed that the proposal reflected at Sr.No. 9 of Goa Housing Board, pertains to correction in decision/minutes of the Committee held on 7/7/2021 whereby zone of the property under Sy.No. 35/1 is changed from partly Orchard and partly Cultivable Land under Irrigation Command Area to Institutional zone.

Member Secretary further informed that all the proposals were recommended by the Committee.

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

Due to paucity of time, no further items were taken for discussion and the meeting was adjourned.

Meeting ended with thanks to the Chair.