

**AGENDA FOR 177<sup>th</sup> (Adj.) (2<sup>nd</sup> Sitting) MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 03/01/2022 AT 4.00 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.**

**Item No. 1: 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'.

**ADDITIONAL AGENDA**

**Item No. 1:- 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.**

This has reference 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).

By communication dated 24/04/2017, inwarded 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 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 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.

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).

The matter was accordingly heard in 177<sup>th</sup> meeting held on 20/12/2021, which was attended by Shri Reginaldo D'silva and his Adv. J. F. Melo and Shri Shamsundar Audi and his Advocate Shri S. J. Padiyar requested for the copy of the representation made by Shri Shamsundar Audi and copies of all other documents placed before the Board by Shri Audi. The same was agreed upon and accordingly the copies as requested for were handed over to Shri Reginaldo D'silva, since Shri Reginaldo D'silva then requested for the time to give his say in the matter which were agreed upon.

Member Secretary was accordingly informed to issue notices to all the concerned parties.

Board may deliberate.

**Item No. 2:- Any other item with the permission of chair.**