

AGENDA FOR 175th MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 30/06/2021 AT 3.30 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the Minutes of the 174th(Adj.) meeting of Town & Country Planning Board held on 28/04/2021.

The Minutes of 174th(Adj.) meeting of TCP Board held on 28/04/2021 are circulated to all the Members. No comments have been received for the same from Members.

The Board may like to confirm the Minutes.

Item No. 2: Proposal for construction of warehouse for storage of EVMs & VVPATs machines in the property bearing Chalta No. 17 of P.T. Sheet No. 92, Chalta No. 2(8) of P.T. Sheet No. 104 of Panaji.

The matter pertains to a Note dated 19/05/2021 of Greater Panaji Planning and Development Authority regarding a proposal received from Chief Election Commissioner, Panaji for construction of Warehouse for storage of EVMs & VVPATs machines in the property bearing Chalta No. 17 of P.T. Sheet No. 92, Chalta No. 2(8) of P.T. Sheet No. 104 of Panaji.

The property under reference is earmarked as Institutional "P" zone, Public (Institutional Government) in the ODP-2011 of Panaji Planning area. As per regulation prescribed under GLDBCR-2010, maximum permissible coverage is 33% and the FAR permissible is 100.

In the present case, the coverage proposed is 53% which is beyond the permissible limit.

Section 6.A (4) of Goa Land Development and Building Construction Regulation 2010 states as under:

"In Public/Semi Public/Institutional Use, Zone P building shall be allowed with FAR of 100 on all plots fronting roads having width less than 8.00 meters, on roads having width of more than 8 meter the FAR shall be 125. The maximum height of building in Zone P shall be 16 meters.

Note: In special cases with the approval of T&CP Board and approval of the Government the maximum FAR of 150 could be permitted on case to case basis".

The Additional Chief Electoral Officer, vide his letter dated 23/04/2021 has requested to make the proposal to the Government only to permit coverage of 53%.

Further the Authority in its 16th meeting held on 18/05/2021 decided to forward the proposal to the Government through Chief Town Planner (Admn.) for seeking relaxation of coverage to 53% and FAR to 150.

The letter dtd. 23/4/2021 of Chief Electoral Officer addressed to GPPDA states that the project is construction of warehouse for storage of EVMs and VVPATs machines which is truly constructed as per the guidelines of election commission of India and therefore this office has submitted the plan as per the requirement of the project.

The proposal is accordingly placed before the Board for necessary consideration.

As per the Goa Land Development and Building Construction Regulations, 2010, Section 6A.4 note states that, in special cases with the concurrence of the Town and Country Planning Board and approval of approval the maximum FAR of 150 could be permitted on case to case basis.

The Additional Chief Electoral Officer, further requested vide letter dated 23/04/2021 stating that the proposal submitted is having coverage proposed as 53% which is beyond permissible limit and the FAR proposed as 150.

The proposal for relaxation of coverage and FAR is received from Greater Panaji Planning and Development Authority regarding construction of Warehouse for storage of EVMs & VVPATs machines is hereby placed before the Board for decision.

Item No. 3: Representation received regarding Agro based Eco Tourism Policy.

Regional Plan for Goa 2021 promotes two eco-tourism policies, one for coastal and hinterland eco-tourism for less developed Talukas for sites which are already marked in Regional Plan for Goa 2021 and other being a general agro based eco-tourism to supplement agricultural income through an alternate revenue source.

Regional Plan for Goa – 2021 recommends agro based eco-tourism to be encouraged in cultivable lands (excluding wet paddy fields and khazan lands) and Orchard/Kulagars by following guidelines for farm houses and eco friendly structures.

The Town and Country Planning Board in its 163rd (Adj.) meeting held on 15/10/2018 had earlier framed detailed guidelines and had recommended a detailed policy for considering agro based eco-tourism proposals which was subsequently approved by the Government and accordingly Order in this regard bearing No. 36/1/TCP/333/2019/390 dtd. 06/02/2019 was issued.

As per the said policy, minimum area of the plot required to consider agro based eco-tourism project is 10,000 m².

Other guidelines of the policy is as under:

- 1) *Minimum area of property* -- 10,000 m²
- 2) *Minimum width of access road* -- 6.00 mtrs.
*However for built up area not exceeding 1000 m².
3.00mtrs. wide motorable road may also be considered.*
- 3) *Maximum permissible Coverage* -- 5%
- 4) *Maximum permissible FAR* -- 5 up to 10,000 m² of land area and an incremental 200 sq. mtrs. For every additional 10,000 sq. mtrs. Of land area.
- 5) *Setbacks* -- *Front 30 mtrs. or ¾ the depth of property wherever is less.
Side / rear-minimum 10.00 mtrs.*
- 6) *Height of structure* -- 5.50 mtrs. upto ridge and shall only be a ground floor structure.

OTHER RESTRICTIONS

1. *Agro based eco-tourism projects are not permitted in Eco- I zones which are Forest (Protected, reserved , national park, wild life), mangrove forest, Private forest, water bodies/ nallas, Ponds, low lying Paddy fields, Khazan land, salt pan, fish farm/ mud flats.*
2. *Eco-tourism related structure shall have traditional/Goan architecture and shall be constructed with locally available building materials. Structure shall be load bearing structure and no RCC shall be used. Roof style shall be sloping roof with mangalore tiles cladding or thatched roof.*
3. *Amalgamation of additional areas contiguous to the property is permissible. However once the approval is obtained under this scheme, subdivisions of the project land and fragmentation of the project land shall not be permissible.*

4. *The project proponent shall have valid Krishi card issued by Directorate of Agriculture and shall undertake to bring the entire property under cultivation and plantations.*
5. *Project should use scientific collection and disposal of solid waste.*
6. *Project should give emphasis on water conservation measures like rain water harvesting, recycling and use of grey water etc.*
7. *Projects having area more than 2000 sq. mtrs.of built up shall adopt green building initiatives and obtain at least Gold category rating from recognized agencies like IGBC or TERI.*

APPROVAL MECHANISM

Project falling under these guidelines shall be evaluated by the Committee constituted to implement Regional Plan for Goa 2021, and all proposals have to be approved by the Government.

A proposal is now received from Small and Medium Hoteliers Association of Goa, Alto-Pilerne, Porvorim-Goa, for reviewing the policy and to consider minimum plot area of 3000 m² or 5000 m² and above instead of 10,000 m² under the scheme such that more local people could be benefited to setup their own business as thousands have lost their jobs and livelihood in COVID-19 pandemic.

Also, Hon'ble MLA Aleixo Reginaldo Lourenco, M.L.A. Curtorim Constituency has forwarded copy of the same appeal dtd. 18/6/2021 as received from Mr. Serafino Cota, President of Small and Medium Hoteliers Association of Goa with a request to accept the proposal as made in view of the immense hardships faced by Goa's Small and Medium Hoteliers Association of Goa, caused due to the Corona virus pandemic which has hit the State since March 2020.

The proposal of reviewing the Agro based and Eco Tourism Policy as received from Small and Medium Hoteliers Association of Goa, for considering minimum plot area of 3000 or 5000 m² and above under Agro based and Eco Tourism Policy is placed before the Town and Country Planning Board for consideration.

Item No. 4: Submission of Budget of North Goa Planning and Development Authority for the financial year 2021-2022.

The North Goa PDA has submitted budget for the year 2021-2022. The same is placed before the TCP Board under Section 106 of the TCP Act. The Board may take note of the same.

Item No. 5: Submission of Budget of Mormugao Planning and Development Authority for the financial year 2021-2022.

The Mormugao PDA has submitted budget for the year 2021-2022. The same is placed before the TCP Board under Section 106 of the TCP Act. The Board may take note of the same.

Item No. 6: Decision on proposal considered in 33rd 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 24/06/2021.

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 33rd meeting held on 24/06/2021.

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

The proposal of Sports Authority of Goa pertaining to change of zone of the property bearing Sy. No. 43/2, 28/1 to 5, 29/0 & 27/2 at Sawalwada, Pernem Taluka for construction of Indoor Stadium was earlier placed before 29th meeting of the Committee held on 15/01/2020 and the Committee had recommended the change of zone from Cultivable land with Irrigation Command Area to Institutional zone in the Regional Plan for Goa 2021 with observation that NOC from Water Resources Department shall be obtained as the property comes under Irrigation Command Area.

As per Sub Rule (6) of Rule 3, this proposal was then placed before 168th meeting of Town & Country Planning Board held on 27/01/2020 and it was decided that prior NOC from Water Resources Department shall be obtained as the property under reference comes under Irrigation Command Area and accordingly

vide letter dtd. 13/5/2020, the Sports Authority of Goa was requested to obtain NOC from Water Resources Department at first instance for further consideration of request for change of zone of the property.

Whereas vide their letter dtd. 2/11/2020, Water Resources Department has conveyed the approval of the Government for construction of Indoor Stadium by the Sports Authority of Goa. Accordingly vide letter dtd. 30/11/2020 and letter dtd. 7/4/2021, Sports Authority of Goa has requested the Department to consider their request for grant of Technical Clearance Order.

Since the requirement of the Board of obtaining NOC from WRD stands complied, the proposal is again before the TCP Board for consideration of change of zone.

Item No. 7: 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. 8: 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. 9: Appeal under Section 45 of the TCP Act, 1974 filed by Shri Gurudas T. Tari against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021)

The present Appeal is filed against the Order bearing reference No. GPPDA/ill-Const/34/PNJ/124/2021 dated 25/05/2021 whereby the Respondent has rejected the Application dated 21/04/2021 made by the Appellant for regularization of the construction carried out in the plot of land surveyed under Chalta No. 122 of P.T. Sheet No. 77 of the City of Panaji on the ground that the building plans are not in conformity with the relevant rules and regulations as described in the Goa Land Development and Building Construction Regulations, 2010 in force.

The brief facts of the case as relevant to the present Appeal are as under:-

- i) That Yeshwant N. Karapurkar alias Esvonta Naraina Carapurcar and his wife, Kamal Esvonta Carapurcar own a plot of land surveyed under Chalta No. 122 of P.T. Sheet No. 77 of the City of Panaji, situated behind All India Radio, Altinho, Panaji, (referred to as the “said bigger plot of land”) wherein there existed a residential house which was earlier assessed for the purpose of house tax by the then Panjim Municipal Council under old house No. 102 and is presently assessed for the purpose of house tax by the Corporation of the City of Panaji under house No. 211, C-9 (referred to as the “said bigger residential house”).
- ii) That the said bigger residential house existed in the said bigger Plot of land prior to the liberation of Goa.
- iii) That the Appellant’s wife, Smt. Satyavati Gurudas Tari vide a Deed of Sale dated 23rd August, 1977 purchased the portion of the said bigger Plot of land (surveyed under Chalta No. 122 of P.T. Sheet No. 77 of the City of Panaji) alongwith the portion of the said bigger residential house having a common wall (referred to as the “said residential house”), totally admeasuring an area of 92.75 sq.mts. from Esvonta Naraina Carapurcar and his wife, Esvonta Naraina Carapurcar (referred to as the “said Plot of land”).
- iv) The North Goa Planning and Development Authority issued a show cause notice dated 28th April 2011 bearing ref.No. NGPDA/III/Comp/09/242/2011 to the Appellant alleging that the inspection was carried out on 16th July 2010 and it was found by the North Goa PDA that the Appellant

had carried out illegal construction of first and second floors. Further, the Appellant was called upon to show cause why the structure should not be demolished. The Appellant filed his reply on 4th May 2011 wherein he pointed out all the facts and also pointed out that the present case is a case of repairs/construction and not a new construction.

- v) That North Goa Planning and Development Authority issued a Final Notice dated 17th August 2011 to the Appellant.
- vi) That the North Goa Planning and Development Authority issued a Final Notice dated 17th August, 2011 to the Appellant.
- vii) That thereafter the Corporation of the City of Panaji without considering the Licence bearing No. 20/68-TS-03/CCP/03-04/73 dated 27th October, 2003 issued by the Panjim Municipal Council to the Appellant to carry out repairs to the said residential house, issued final notice dated 28/02/2012 against the repairs/re-construction carried out by the Appellant to the said residential house. The Appellant challenged the said final notice dated 28/02/2012 of the Corporation of the City of Panaji by filing petition bearing No. MIN/UD/APPEAL/5/2012 before the Hon'ble Minister of Urban Development. However, in view of direction issued by the Hon'ble High Court of Bombay at Panaji Goa vide Order dated 19/11/2012 passed in Writ Petition No. 501/2012 to decide the matter expeditiously and in any case, on or before 28th December, 2012, the Hon'ble Minister of Urban Development without going into the merits of the case vide judgement and Order dated 27/12/2012 dismissed the said Appeal. However, the Hon'ble Minister of Urban Development in the said Judgement and Order dated 27/12/2012 directed the Corporation of City of Panaji to take into consideration any regularization NOC given by the North Goa Planning and Development Authority.
- viii) That the Appellant preferred an Appeal before Hon'ble Board against the Order dated 24/10/2013 and Hon'ble Board vide Order dated 02/11/2016 directed the North Goa Planning and Development Authority to consider the proposal under Section 45 of the TCP Act, 1974 and take appropriate decision on merit. However, the North Goa Planning and Development Authority failed to comply with the directives by Hon'ble Board in the said Order dated 02/11/2016.

Appellant further states as under:

- (i) The Respondent ought to have considered and appreciate the fact that the Licence bearing No. 20/68-TS-03/CCP/03-04/73 dated 27th October, 2003 was granted by the Panjim Municipal Council to the Appellant to carry out repairs to the said residential house.
- (ii) The Respondent ought to have considered and appreciate the fact that the Unique Homes Builders and Developers vide Stability Certificate dated 21/06/2011 has duly certified the structural stability of the construction and retention of the same in present condition will not cause any harm or imminent danger of whatsoever nature to the residents of the vicinity.
- (iii) The Respondent ought to have considered and appreciate the certificate of conformity with regulations issued by the Civil Engineer, Yaduvir G. Vast in respect of the construction.
- (iv) The Respondent failed to appreciate the fact that the area being slopy and thickly populated, demolition of the construction will jeopardize the life and property/houses of large number of people residing in the vicinity and hence, the retention of the construction as existing, is in larger public interest.
- (v) The impugned Order shall occasion gross miscarriage of justice if allowed to stand as it will result in demolition of the residential house of the Appellant which has been in existence even prior to the liberation of Goa.

The Appellant has therefore prayed that:

- a) The impugned Order be quashed and set aside.
- b) The repairs/re-construction carried out by the Appellant to the said residential house bearing house No. 212, C-9, consisting of Basement, lower ground and Ground Floor may be regularised on such conditions as deemed fit by this Hon'ble Board.

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

The Board may deliberate.

Item No. 10: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Vijaya Shahapurkar & Mrs. Vidhya Deshmukh against Mormugao Planning and Development Authority. (File No. TP/B/APL/202/2021)

The matter is regarding appeal under Section 45 of the Town & Country Planning Act, 1974 and against the rejection of application for revised Development Permission.

The Appellant states that they had obtained Development Permission 30/4/2018 for construction of multi-family dwelling and compound wall in the property zoned as S2 as per ODP-2026 and had also subsequently obtained construction licence dtd. 29/6/2018 from Village Panchayat of Chicolna-Bogmalo. The Appellant has stated that they have undertaken the construction as per the approved plan and the building is completed and accordingly vide their letter dtd. 19/10/2020 they have applied for Completion Certificate. Whereas the Respondent vide their letter dtd. 31/12/2020 informed the Appellant that they have carried deviations which are not in accordance with the regulations 2010. Vide same letter the Respondent also informed the Appellant to obtain NOC of Navy and to submit revised application plan alongwith NOC of Navy.

The Appellant states that as required, vide their application dtd. 19/10/2020, they submitted revised plans to the Respondent s showing calculation of area of balcony and requested the Respondent for relaxation in the deviation that has taken place. The Appellant submit that Regulation 22.5 of the Goa Land Development and Building Construction Regulations, 2010 provides as under:

22.5 Compounding of deviations: Any minor deviations which have occurred due to site conditions may be regularized by the authority competent to issue approval/NOC; provided the said deviations does not affect the FAZR/Coverage and height of the building beyond 5% of the permissible limits. Such excess area shall be charged at double the cost of construction or value of such excess FAR prevalent at the time of regularization and shall be compounded by the Competent Authority.

The Appellants therefore submits that the Authority can regularize such deviation provided the deviation does not affect the FAR/Coverage and height of the building beyond 5% of the permissible limit. The Appellants submits that the 5% limit which prescribed under the said Regulation is overall permissible limit.

The Appellants states that revised plan submitted by them shows the calculation only in respect of balconies which deviation was necessary and that there is no other deviations which has taken place. The Appellant states that the Respondent vide his letter dtd. 1/3/2021 has informed that the construction carried out works out to be more than 5% of the permissible limit under rule 22.5 of the GLDBCR-2010 and therefore the Appellant's request for relaxation of compounding deviation under rules 22.5 of GLDBCR-2010 cannot be considered.

The Appellant states that the Respondent has failed to appreciate that the Appellants have only carried out changes in the Balconies and the said deviation cannot be called major deviation and it falls well within the power the Respondent to compound it and for that purpose they have applied for revised plan.

The Appellants has therefore submitted that the Respondent Authority has failed to appreciate that Regulation 22.5 clearly empowers the Authority to compound deviation upto 5% of the permissible activities and therefore the deviation of calculations from 66.90 as earlier approved and what is constructed 95.14 is well within permissible activities as the changes they have undertaken were necessary on account of site conditions and the same was not deliberate.

The Appellants therefore prayed for calling of records of the revised plan submitted by the Appellants to the Respondent Authority and after examining the legality, reasonability and propriety to quash and set aside the impugned decision of the Respondent communicated vide letter dated 01/03/2021; and further direct the Respondent Authority to grant approval in respect of the revised plan submitted by the Appellant.

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 the TCP Act, 1974 filed by Santosh V. Khorjuekar and others against Mormugao Planning and Development Authority. (File No. TP/B/APL/199/2021)

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of final notice issued by Mormugao Planning and Development Authority bearing No. MPDA/Illegal/205/2020-21/988 dated 02/02/2020 regarding carrying out illegal development in property bearing Ch. No. 236 of P.T. Sheet No. 171 of Baina, Vasco City.

The Appellant states that the Respondent has issued the notice/order directing him to demolish/remove the structure belonging to him claiming that the said structure existing in Chalta No. 236 of P.T. Sheet No. 171 at Baina Vasco da Gama Goa is illegal and that he is not satisfied with the reply to the show cause notice.

Being aggrieved by the said notice/order, the Appellant has preferred the appeal stating that the impugned order is passed without application of mind, and extending the authority of the Respondent .

The Appellant also states that the Respondent authority erred in holding that the mundkarial house is illegal although the same was repaired based on the deeming provision of the MMC and when the same was repaired, one portion of the house collapsed and had to be constructed, however the same was reconstructed within the plinth area.

The Appellant further states that he has not carried out any illegal construction or extension, as alleged and therefore impugned notice is not tenable.

The Appellant states that they are declared as Mundkars and had purchased the same and the mundkarial house was 104 square meters in plinth even before the same was repaired. The father of the Appellant no. 1 and husband of Appellant No. 2 Late Vasudev V. Khorjuekar was Mundkar of the property bearing Chalta No. 236, PTS. No. 171 situated at Baina, Vasco-da-Gama Goa wherein the mundkarial house bearing house No. 57 was constructed much before the Goa Liberation and after the death of Late Vasudev Khorjuekar the Appellants being legal heirs filed appropriate application under the Mundkar Law before the Mamlatdar of Mormugao for declaration and registration u/s 8A and 29(4) of the Goa Mundkar Act and once the competent authority declared them as Mundkars

and the same was purchased by them vide order u/s 16 of the Mundkar Act vide order dated 19/11/2019 in case no Jt./MUND/PUCH/05/2019.

The Appellant states that the his house was in a very bad shape and the said house was repaired by obtaining loan and necessary permission for repairs were obtained from the MMC vide application for repairs dated 25/03/2019, however the same collapsed partly on one side and hence there was no option but to reconstruct the same as the monsoon was fast approaching and hence the same was reconstructed within the plinth area as the area allotted was 184 square meters though the Appellants were entitled for 200 square meters and they has opted for the same in their application and when in fact the property was 2749 square meters. The complainant is the Bhatkar of the Appellants which has filed the complaint with ulterior motive to harass the Appellant who filed the complaint belatedly after the construction came up the plinth area which shows the malafide intensions of the Bhatkar.

The Appellants state that impugned order/notice was served on him on 04th February 2021 and 31 days' time was given to demolish/remove the structure/construction and therefore the present appeal is filed within the limitation and ad interim relief be granted to him.

The Appellant has prayed for the following;

- a) Quash and set aside the Notice/Order dated 2nd February 2020 Ref. No. MPDA/Illegal/205/2020-21/988 by the Respondent .
- b) That pending the hearing and final disposal of the present appeal the impugned Notice/Order 2nd February 2020 Ref. No. MPDA/Illegal/205/2020-21/988 be stayed.
- c) Ex-parte as-interim reliefs in terms of the prayer clause (b) above

The matter was listed in the Agenda of 174th (Adj.) meeting held on 28/04/2021, 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.

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

The Board may deliberate.

Item No. 12: Appeal under Section 52 of the TCP Act, 1974 filed by Mrs. Rosa Maria Lopes against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/194/2020)

The matter is regarding appeal filed under Section 52 of the Town & Country Planning Act, 1974 in respect of final notice issued by GPPDA bearing No. GPPDA/ill-constn/05/Tal/228/2020 dated 16/07/2020 regarding illegal development carried out in the property bearing Sy.No. 61/7 of Village Taleigao, Tiswadi Taluka, where the property is earmarked as Settlement zone (S3) in the Outline Development Plan of Taleigao. As per the appeal memo, the Appellant resides in the house bearing No. 19/46/1, situated in survey No. 61/7 of Village Taleigao for the last several years.

It is seen that the GPPDA had received a complaint dated 02/08/2016 regarding the unauthorized development for which purpose, a site inspection was carried out by the officials of the Respondent Authority on 10/08/2016 and it was observed that Appellant has carried out and an illegal development in the property bearing survey No. 61/7 of village Taleigao, which is zoned as “Settlement S-3 Zone” under Outline Development Plan of Taleigao.

A show cause notice was issued to the Appellant by the Respondent under ref. No. NGPDA/illegal/Gen/Vol-V/1336/16 dated 12/09/2016, whereby Appellant was called upon as to why action under Section 52 of Town and County Planning Act, 1974 should not be initiated for demolition of the illegal/un-authorized development. The Respondent also issued a notice vide its ref. No. NGPDA/illegal/Gen/Vol-V/1337/16 dated 12/09/2016 under Section 53 of TCP Act, directing the Appellant to stop the work.

In response, the Appellant filed a detailed reply to the show cause notice denying about any illegal construction carried out by her and stating that she has carried out only the repair work to her existing house bearing No. 19/46/1, which she claimed to be 82 years old and that too with the permission of Village Panchayat Taleigao.

On receipt of application for regularization of house under Section 44 of TCP Act, the Respondent obtained legal opinion pertaining to ownership title/possession of land by the Appellant and subsequently the application was rejected by the Authority after placing the same in 11th meeting of the Authority, for having found the reply unsatisfactory and for the plans for not being in

conformity with the relevant rules and regulations and accordingly the Respondent issued final notice u/s 52 of the TCP Act.

During earlier hearing, the Appellant had remained absent although the notices were issued to remain present for the meeting. Whereas Adv. Shri Saish Mhambre had represented the authority. During the hearing Adv. P. Shetye filed an application to allow him to be the intervening party, for he being the complainant in the matter. The same was agreed upon by the Board. The intervening party Shri Anton Xavier Fernandes stated that he would like to make his written submission during the next hearing of the appeal and the same was also agreed upon.

The matter was thereafter adjourned for further hearing in the next meeting and accordingly the same was placed before 174th (Adj.) meeting, however due to inability expressed by the Respondent in attending the said meeting on health grounds arising out of Covid-19 pandemic and as consented by the Appellant, the matter was adjourned.

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

The Board may decide.

Item No. 13: 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 issued by Greater Panaji Planning and Development Authority bearing No. GPPDA/339/PNJ/851/2020 dated 28/12/2020 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.

While rejecting the application, GPPDA has communicated 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 Anand Ghogle and 24.00 m² belongs to Saidutt Velenkar 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 of repairs of his house has not crossed the road boundary and is in line with the other ancestral houses and that the suit house is also an ancestral house.

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

The Appellants also states that they 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 the said houses. Appellants 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 as the same 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 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 174th (Adj.) meeting held on 28/04/2021, however due to inability expressed by the Respondent in attending the said meeting on health grounds arising out of Covid-19 pandemic and as consented by the Appellant, the matter was adjourned.

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

The Board may deliberate.

Item No. 14: Appeal under section 52(2)(B) of the TCP Act, 1974 filed by Shri Lyndon D'Silva and Maria Colaco D'Silva against South Goa Planning & Development Authority (File No. TP/B/APL/187/19).

The matter is pertaining to final notice dated 06/12/2019 bearing No. SGPDA/P/Illegal/1289/19-20, vide which the Respondent PDA has directed the Appellant to demolish toilet on open terrace and covering of the roof by zinc sheets consuming additional FAR.

The Appellants Shri Lyndon D'Silva and Maria Colaco D'Silva owns a duplex flat on 4th floor of building bearing H.No. FF9 which was purchased by them about 5 years back. Appellant states that there was a need to make the entire flat in a livable condition as it was closed for 20 years. The Appellant therefore sought permission from Respondent and Margao Municipal Council for the said work. It is the say of the Appellant that their duplex flat had a covered terrace which had broken finolex sheets and hence it was replaced by new sheets and the RCC stair case which served as an access to upper floor was replaced by fabricated stair case. Upon complaint dated 09/03/2019, the Margao Municipal Council issued a Stop Work Order on 02/04/2019 for the work undertaken which was however withdrawn on 06/05/2019 and so also, as per the directives of Margao Municipal Council, exposed roof that was removed earlier was put again and other minor works were carried out by the Appellant.

During earlier hearing, Respondent PDA had informed that they had not received any copy of appeal memo and hence were not aware as to what were the grounds for appeal and therefore the Appellant had issued a copy of appeal memo to the Respondent PDA.

It was further informed that the matter was again taken up in earlier Board meetings which however was not attended by Appellant on health grounds.

The matter was earlier placed before the 168th meeting of the TCP Board held on 27/01/2020. During the hearing, Member Secretary informed that an application dtd. 17/3/2020 was received from Sarika E. D'Souza, Margao Goa for intervention in the matter stating that she apprehends that the Respondent No. 1 & 2 representing the State will not put up an effective case on merits and further will not raise vital points of defense or will under perform in order to give the Appellant an upper hand to succeed in getting reliefs in the appeal. It was therefore decided to call the intervener for the next hearing.

In the earlier meeting Adv. Menino Pereira represented South Goa PDA and Adv. Laxmi Sawant represented Intervener. The Appellant informed the Board that upon directions of Margao Municipal Council, they made an application to the Respondent PDA to obtain the permission for the development referred. He further stated that on 01/08/2019, the Respondent issued Show Cause Notice to them for not having obtained permission for the work undertaken, which he replied on 12/11/2019.

Appellant further stated that a second Show Cause Notice was therefore again issued to them by the Respondent on 22/11/2019, which again was replied by them on 02/12/2019. The Appellant however stated that the reply given was not found satisfactory by the Respondent and therefore a final notice was issued.

During earlier hearing, the Appellant had informed that the issue is only regarding renovation done of a small toilet on their private covered terrace, which already existed during the time of their purchase of flat. As regards to covering of terrace, he stated that the roofing only of the covered terrace was changed as the earlier frame with finolex sheets was totally rusted and the same he said was very clear from the letter of municipality dtd. 6/5/2020 by which they were instructed to once again cover the expose roof. He further stated that letters from the neighbours and also jointly signed letters by other residents is issued to him stating that they have only renovated the place and the roof which is replaced only to prevent leakage and is beneficial to others. He also cited that there are two more sheds which have been put on the terrace of the same building which did not exist earlier. It was further stated by him that the intervener and other members of the neighbouring society have made similar sheds and that he has made complaints

regarding the same before the Respondent authority, which however has not been acted upon and hence requested for setting aside notice of SGPDA dtd. 6/12/2019.

Adv. Menino while arguing on behalf of Respondent PDA stated that during the site inspection carried out by the Authority it was found that the Appellant had constructed an additional toilet on the open toilet and that the open terrace was covered with zinc sheets and that these both illegalities consumed additional FAR. Shri Menino further argued that there is an admission by the Appellant of guilt by virtue of the fact that plans for regularization was submitted by the Appellant to the authority. He also stated that the Respondent has failed to give any proof that the toilet and the zinc sheets pre-existed. It was also brought to the notice of the Board that the additional FAR, even if available, cannot be exclusively used by the Appellants since such FAR belongs to all the occupants of the building.

Petitioner while arguing brought to the notice of the Board that the erection of shed and the toilet have been unauthorisedly undertaken by the Appellants and there is no consent for the same from most of the flat owners, even otherwise the intervener insisted that the appeal ought to be dismissed by the Board as it is clearly brought out by the Respondent PDA that the development referred has consumed the additional FAR, and the same is not considered by the Respondent PDA for regularization.

The Appellant however stated that he would like to further argue on his case only after going through the contents of the written arguments placed before the Board by the Respondent, which he said he received only after the last hearing on 5/2/2021 and expressed his desire to file the rejoinder accordingly to the appeal.

Considering all the arguments placed before it and the request made by the Appellant, the Board had decided that the matter shall be finally heard during the next meeting and accordingly the same was placed before 174th (Adj.) meeting, 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.

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

The Board may decide.

Item No. 15: Appeal under Section 37(b)(5) of the Goa Industrial Development Corporation Act, 1965 and Section 45 of TCP Act, 1974 filed by Mahalsa Foods through its Proprietor Shri Pradeep Shet against Goa Industrial Development Corporation (GIDC).

The matter is regarding issue of NOC for proposed revision in extension on lower ground floor to the existing building for Mahalsa Foods in Plot No. 1 of survey No. 157/1 (Part) at Verna Industrial Estate for Mahalsa Foods.

The Appellant states that the Appellant runs a business of Restaurant and such other commercial activities in the property bearing Survey No. 157/1, Cortalim Village, Mormugao Taluka, Verna Industrial Estate, Verna-Goa.

The Appellant states that, pursuant to allotment of plot to him, there was partial modification in the Allotment Order dated 5/12/2001 and the Order bearing No. IDC/ED/VECP/S-157/1-Part/286 dated 14/10/2005, came to be allotted admeasuring an area of 2605 square meters in Survey No. 157/1 (Part) in Village Cortalim, Mormugao Taluka, Verna-Goa.

The Appellant states that, pursuant to the aforesaid two Allotment Orders, it was clearly mentioned that this plot of land was allotted to him for setting up of Utility Services like Canteen, Communication etc.

The Appellant states that, although, initially the allotment of the present Plot was issued to the Appellant for the purpose of Utility Services and Canteen, subsequently, the Town and Country Planning Department was pleased to give permission for changes of zone to Commercial/Industrial vide No. DH/1977/TCP/3385 dated 03/10/2001.

The Appellant states that, based on the oral instructions by the Officer of the Goa IDC, the Appellant applied for revision of the approved plan, as there were minor internal changes in the form of entry and exit and further partition which was carried out in the shed which forms part of interior works. The Appellant states that said minor interior changes do not affect the FAR in any way, not it exceeded the plinth area which was approved in terms of Permission dated 03/09/2018.

The Appellant states that the Respondent has rejected the revision as sought by him vide impugned Order dated 14/05/2020 stating that, “the Goa IDC has allotted to set up Utility Services like Canteen, communication, etc. and submitted proposal consist of Kitchen, Store etc.

The Appellant submits that the Impugned Order dated 14/05/2020 and 09/03/2021 are mutually inconsistent and has requested for quashing of orders dated 14/05/2020 and 09/03/2021.

The Appellant therefore has prayed for following.

- a) To quash and set aside the Impugned Order dated 14/05/2020 and 09/03/2021, as the same issued by violating the provisions of the Goa Town and Country Planning Act, 1974;
- b) To direct the Respondent to issued NOC for the revised Plan;
- c) To condone the delay in filling the present Appeal in view of the facts and circumstances stated herein above;

The matter was listed in the Agenda of 174th (Adj.) meeting held on 28/04/2021, 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.

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

The Board may decide.

Item No. 16:- Any other item with the permission of chair.