**MINUTES OF 179th MEETING OF THE TOWN & COUNTRY PLANNING BOARD HELD ON 17/05/2022 AT 3.00 P.M. IN CONFERENCE HALL, VAN BHAVAN, ALTINHO, PANAJI - GOA.**

The following attended the meeting:

1. Shri. Vishwajit Rane,

Hon. Minister for TCP … Chairman

1. Shri C.R. Garg,

Secretary (Industries) … Member

1. Shri Pradeep L. Gaude,

S. W. C. O. II PWD … Member

1. Shri Keshav Kumar,

Chief Conservator of Forest … Member

1. Shri. Satyavan K. Dessai,

Agriculture Officer (Extension) … Member

1. Shri Ganesh R. Teli,

D. Director (Tourism) … Member

1. Dr. Surekha Parulekar

CMO (NVHLP) … Member

1. Shri Ralph Barboso,

Research Assistant,

DPSE, Porvorim … Member

1. Smt. Megha S. Kerkar,

Supdt. of Fisheries … Member

1. Captain V. P. Vinayagam

Indian Navy, HQ GNA … Member

1. Engg. Paresh Gaitonde … Member
2. Arch. Rajeev M. Sukhthanker … Member
3. Shri Ralph De Souza,

President GCCI, … Member

1. Shri. Rajesh J. Naik,

Chief Town Planner (Planning) … Member Secretary

**Item No. 1: Confirmation of the Minutes of the 178th meeting of Town & Country Planning Board held on 18/04/2022.**

Member Secretary informed that 178th meeting of TCP Board was held on 18/04/2022 and placed the Minutes of the same meeting, as prepared, before the Board for confirmation.

The Members took note of the same and since there were no comments, the Board confirmed the Minutes.

During the discussion, Member Shri Ralph De Souza, President GCCI appreciated the initiative taken by Hon’ble Chairman for facilitating the Ease of Doing Business and congratulated the Chairman on behalf of the Chamber for the decisions taken especially as regards to time bound delivery of services and for consideration of incorporating deeming provision for approval under the Goa Land Development & Building Construction Regulations, 2010, for grant of Technical Clearances/Development Permissions, etc.

**Item No. 2: Status report on the work initiated by Committee constituted to review and examine ODPs as per Notification dtd. 27/4/2022.**

Member Secretary informed that the Government vide Notification No. 47/5/TCP/2022-23/1025 dtd. 27/4/2022 has suspended following ODPs for a period of 60 days:

1. Outline Development Plan for Calangute-Candolim Planning Area – 2025
2. Outline Development Plan for Arpora-Nagoa-Parra Planning Area – 2030
3. Outline Development Plan – 2030 for Vasco-da-Gama Planning Area

It was further informed that vide same Notification, the Government also constituted a Committee which comprised of following members:

1. Chief Town Planner (Planning) …. Chairman
2. Senior Town Planner (North) …. Convenor
3. Senior Town Planner (South) …. Member
4. Representative of CREDAI …. Member
5. Representative of IIA …. Member
6. Representative of CII …. Member
7. Representative of IEI …. Member
8. Representative of ITPI …. Member
9. Member Secretary of NGPDA …. Member
10. Member Secretary of MPDA …. Member

Chairman then informed the Board that he has issued a Note dtd. 13/05/2022 under ref.No. Misc/TCP/258/2022, vide which he sought to know the proceedings of the meeting conducted by this Committee and has given directions that the proceedings be presented in every Board meeting.

Member Secretary then informed the Committee that first meeting of the Committee was held on 5/5/2022 in the Conference Hall of Town & Country Planning Dept., during which, several issues were discussed, such as

1. Vision document for preparation of the ODPs.
2. Criteria to allocate the zoning of properties under the ODPs.
3. Infrastructure availability in the Planning Area.

The Board was informed that the Committee felt it essential that the road network in the planning area and infrastructure like water supply, sewerage, electricity, etc. are to be looked at while deciding on zoning of the property and accordingly asked NGPDA and MPDA to place the data before it, which formed the basis for preparation of ODPs under their jurisdiction. The Committee also took note of the several Writ Petitions filed before Hon’ble High Court and other Courts of law and sought to know the details of the same from the Member Secretaries of concerned PDAs.

The Board was then informed that the second meeting of the Committee was held on 13/5/2022, during which the Member Secretaries of NGPDA and MPDA informed about various stages undertaken by their respective PDAs during the preparation of ODPs.

The Board was further informed that the Member Secretary, NGPDA placed before the Committee, the ODP Report as well as the copy of Draft ODP and final ODP of the Calangute – Candolim Planning Area and also of Arpora - Nagoa - Parra Planning Area and explained the proposals as incorporated in the said ODPs. The same was also done by MPDA Member Secretary as regards to ODP of Mormugao Planning Area.

The Board was then informed that the Member Secretaries of concerned PDAs are asked to make a detail presentation in the next meeting of the Committee, as regards to change of zones affected from RPG-2021 till the final ODP undertaken by NGPDA and incase of Mormugao Planning Area, the change of zone undertaken from earlier ODPs to the last notified ODPs.

The Chairman and Members took note of these proceeding of the meeting.

**Item No. 3: Mechanism for surveillance in Planning and Development Authorities.**

The Chairman stated that the Government is committed to improve the functioning of all Government Departments and accordingly it shall be his endeavour to improve the functioning of all Planning & Development Authorities and that he has given several instructions in this regard.

He further informed that officials of the Department shall be held responsible for undue delay, if caused in granting of permissions as the approval mechanism in the PDAs has been streamlined by delegating more powers to the Member Secretaries. The chairman stated that the measures undertaken shall certainly lead to increase in efficiency of the Department.

The Chairman further suggested that it is further required to monitor the movement of general public in the Authority as several complaints from general public on various issues are received by him. He therefore proposed that all the PDAs shall install CCTV cameras in their respective offices such that functioning of the PDAs can be monitored at different level.

The Members appreciated the initiative taken by the Hon’ble Chairman and supported the decision.

Accordingly, it was decided that all the PDAs shall install the CCTV cameras in their offices.

**Item No. 4: Regarding representation of various institutions on the TCP Board as well as Planning & Development Authorities.**

Chairman stated that although the Board has been constituted by the Government, comprising of several members, which are representatives of various institutions etc., it is felt necessary by him that representation to larger section of society need to be given in the Board and in the Planning & Development Authorities so as to have a greater participation by the institutions representing different professional bodies etc., in the planning process.

Member Secretary then informed that as per the provisions of Section 4 of the TCP Act, the Board consist of following members:

1. The Minister Incharge of Town & Country Planning, as the Chairman of the Board.
2. The Secretaries to the Government in the Department dealing with the following subject, namely,
3. Town & Country Planning;
4. Local self Government;
5. Planning; and
6. Industries;
7. Head of the Public Works Department;
8. Head of the Forest Department;
9. Director of Agriculture;
10. Director of Tourism;
11. Director of Transport;
12. Director of Health Services;
13. Director of Bureau of Economics, Statistics and Evaluation;
14. Director of Fisheries
15. Four Member nominated by the Central Government to represent respectively the Minister of that Government dealing with;

i) Railways;

ii) Defence;

iii) Transport; and

iv)Tourism.

1. Two persons having special knowledge of, and practical experience in, matters relating to Town & Country Planning, Architecture, Engineering, Transport, Industries, Commerce, Agriculture or Geology to be nominated by the Government.
2. One person deputed by Chamber of Commerce & Industries, Goa;
3. Two members of the Legislative Assembly to be elected by the Members thereof;
4. The Chief Town Planner, Member Secretary.

Chairman then stated that the Department is approached by various other institutions with a request to give them representation in various committees constituted by the Government, some of which were informed to be the following:

1. Confederation of Real Estate Developers Association of India, CREDAI
2. Indian Institute of Architects (IIA)
3. Institution of Engineers (India) (IEI)
4. Institute of Town Planners, India, Goa Regional Chapter (ITPI)

Chairman then briefed the members that in consideration of this request, vide his Note dtd. 13/05/2022 having ref.No. Misc/TCP/258/2022, he has already instructed that these institutions be given representation in the TCP Board as well as PDAs.

Member Secretary then brought to the notice of the Board that the Department is now also in receipt of a letter dated 11/05/2022 from, Chairperson, Confederation of Indian Industry (CII) which states that there is an apex Industry association in the Country, which is about 125 + years old with a membership of over 9000 organizations from the private as well as public sectors, including small, medium, large and MNCS and is serving as a reference point for Indian Industry and the international business community, which charts change by working closely within National and State Governments on policy issues, interfacing and business opportunities for industry through a range of specialized services and strategic global linkages and also provides a platform for consensus-building and networking on key issues.

Member Secretary then informed that it is therefore the request of CII to allow them to work on the Goa TCP Board such that they can extend all support to the Board for development of the State.

Chairman welcomed the desire expressed by CII to involve themselves in imparting ideas and making of policy decisions etc.

The Members thereafter deliberated on the request made and were of the opinion that the request need to be considered.

The Board therefore decided to consider the request made by CII and accordingly the Member Secretary was directed to invite the representative of CII in next meeting of the Board.

Member Secretary was also directed that the directions be issued to the Member Secretaries of PDA to invite these representatives of various institutions for meetings conducted by PDAs as well.

**Item No. 5: Appointment of consultants for the purpose of preparation of ODPs etc.**

Member Secretary informed that Section 18 of TCP Act provides for declaration of planning area by government and further informed that after declaration of planning areas the Government is required to constitute Planning & Development Authorities as provided under Section 20 of the TCP Act.

It was then informed that such Authorities once constituted are required to prepare map and register showing present landuse of the area under their respective jurisdiction.

The Board was then briefed that all the PDAs are required to prepare Outline Development Plans for the Planning Areas under their respective jurisdiction. Member Secretary then informed that contents of the Outline Development Plan are as under:

(a) indicate broadly the manner in which the land in the planning area is proposed to be used;

(b) allocate areas or zones of land for use —

(i) for residential, commercial, industrial and agricultural purposes;

(ii) for public and semi-public open spaces, parks and playgrounds; and

(iii) for such other purposes as the Planning and Development Authority may think fit;

(c) indicate, define and provide—

(i) for existing and proposed national highways, arterial roads, ring roads and major streets; and

(ii) for existing and proposed lines of communications, including railways, tram-ways, airports and canals;

(d) regulate within such zone, the location, height, number of storeys and size of buildings and other structures, the size of yards, courts and other open spaces, and the use of buildings, structures and land.

(e) indicate and provide for proposal for transferable development right, transferable development right for posterity, accommodation reservation or any other similar technique for promoting planned development.

Discussion was then held on the procedure adopted by the PDAs in preparation of Outline Development Plans. It was observed that although the time limit is prescribed for preparation of such ODPs, it is often seen that the PDAs are unable to complete the procedure within the prescribed time and as such extension is required to be given by the Government from time to time for completion of the process.

The Board also took note that various court matters are pending before the District Court and Hon’ble High Court in the matter of ODPs prepared, which was found to be of great concern.

Considering various issues, it was opined by the Chairman that it is advisable to appoint consultants for the purpose of preparation of such ODPs.

The Board was briefed about the decision regarding suspension of Outline Development Plans for Calangute-Candolim Planning Area, Arpora-Parra-Nagoa Planning Area and Vasco-da-Gama Planning Area for a period of 60 days vide Notification dated 27/4/2022. Board was also informed that the following draft ODPs were directed to be kept on hold and prepare fresh ODPs involving experts/consultants as may be decided by the Government and the Goa Town and Country Planning Board.

|  |  |  |
| --- | --- | --- |
| **Sr. No.** | **Name of the Planning and Development Authority** | **Name of the Draft Outline Development Plan** |
| 1. | Greater Panaji Planning and Development Authority | Draft Outline Development Plan of Panaji-2031 |
| 2. | Greater Panaji Planning and Development Authority | Draft Outline Development Plan of Kadamba Planning Area-2031 |
| 3. | North Goa Planning and Development Authority | Draft Outline Development Plan for Mapusa Planning Area |
| 4. | South Goa Planning and Development Authority | Draft Outline Development Plan of Margao Planning Area-2031 |
| 5. | South Goa Planning and Development Authority | Draft Outline Development Plan of Ponda Planning Area-2031 |

The above decision was taken by the Government in light of the large number of complaints, litigations pending against the ODPs. The Board observed that the new trend in preparation of Master Plans are with the use of geo data base and preparation of GIS based Master Plan is need of the hour. It was informed that under AMRUT Mission, Imagine Panaji Smart City Ltd., is preparing GIS based Master Plan for Panjim with the use of GIS data base as obtained from NRSC Hyderabad. It referred based maps showing different layers/features and topography of the land which will help in preparation development plans with accurate data.

It was also been observed by the Board that PDAs have been preparing the ODPs as a mere formality to comply with the obligations of the Act and not using the planning techniques like “accommodation reservation”, “TDR”, “TDR for posterity”. Board was of the opinion that the ODPs should incorporate provisions of TDR suggesting “sending areas” and “receiving areas”. As the existing set up of the PDAs do not have the competence to prepare such development plan, Board was of the opinion that Outline Development Plans need to be prepared by involving consultants and experts. As such it was decided that necessary action to be initiated for empaneling Consultants by way of calling Expression of Interest (EOI).

Member Secretary was accordingly directed to initiate further necessary action in this direction.

**Item No. 6: Fees to be charged by the Planning & Development Authorities for change of land use.**

Member Secretary informed that the ODPs are prepared by the Planning & Development Authorities for the planning areas under their respective jurisdictions, which indicate the manner in which land in the planning area is proposed to be used and accordingly allocate areas or zones for different land uses, such as residential, commercial, industrial and agriculture purposes. Areas or zones are also allocated for public and semi-public open spaces for parks and playgrounds etc.

The Members were informed that during this process of preparation of ODPs, the land uses/zones of several properties is therefore changed by following the prescribed procedure to allocate different zoning for these properties.

It was then brought to the notice of the Board that Section 101A of TCP Act prescribes rates of processing fee/fees for such change of zones, which are notified by the Government and mentioned under TCP Act, 1974, as under:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Type of land use after change | Rate per sq. mt. of land put under use | | | | |
| F.A.R. | | | | |
| upto 1.00 | Above 1.00 but upto 1.20 | Above 1.20 but upto 1.80 | Above 1.80 but upto 1.20 | Above 2.00 but upto 2.50 |
| 1. | Residential | Rs. 4.00 | Rs. 5.00 | Rs. 7.50 | Rs. 8.00 | Rs. 10.00 |
| 2. | Commercial | Rs. 10.00 | Rs. 12.00 | Rs. 14.00 | Rs. 16.00 | Rs. 20.00 |
| 3. | Industrial | Rs. 8.00 | Rs. 10.00 | Rs. 12.00 | Rs. 15.00 | Rs. 18.00 |
| 4. | Institutional | Rs. 4.00 | Rs. 5.00 | Rs. 7.50 | Rs. 8.00 | Rs. 10.00 |
| 5. | Others | Rs. 4.00 | Rs. 5.00 | Rs. 7.50 | Rs. 8.00 | Rs. 10.00 |

The Members took note that the rates notified are as prescribed under the TCP Act, 1974 and the same are not revised since then, neither have PDAs charged any fees as prescribed above, for the changes made in the zones of the properties.

The Board also took note that the PDAs have now designated new zones for residential and commercial uses, having higher FAR of 250 and 300, which are not at all reflected in the schedule notified under the Act as above.

It was therefore felt necessary by the Board that the provisions as prescribed under the Act need to be strictly followed by the Authorities and the prescribed fees to be charged for the changes affected in the zones of the property.

Considering the years passed for the rates prescribed, the Board also felt that revision in the prescribed fees is of absolute necessity. After further deliberation, the Board decided to constitute sub-committee with the following members, to look into this aspect of revision in the fees:

1. Shri James Mathew,

Chief Town Planner (Admn.) …. Member

1. Engineer Paresh Gaitonde …. Member
2. Arch. Rajeev Sukhthanker …. Member

Member Secretary was accordingly directed to place the decision of the above sub-committee before the Board for further necessary deliberation.

**Item No. 7: Matters pertaining to construction proposals attracting provisions under Section 17A of TCP Act for hill cutting and filling of low lying land.**

Chairman brought to the notice of the Boardthat several cases are reported pertaining to unauthorized hill cutting undertaken in various parts of the State and so also several cases pertaining to filling of low lying land are either reported in the media or to different authorities, which often lies unattended due to various reasons, indirectly acts as encouragement for such illegal activities.

Member Secretary informed that that flying squad appointed for the purpose is initiating necessary action whenever such cases are reported to them and further FIRs are filed subsequently by the TCP Dept./PDAs depending upon applicability of Section 17A of TCP Act.

Chairman therefore suggested that whenever such complaints are received, the Authorities should act immediately on the same, as such activities causes a great damage for the environment. He also felt the need that investigation of such cases need to be done with maximum details, such cases can be defended properly in the court of law, once the charge sheet is filed against the offenders of law.

Member Secretary brought to the notice of the Board that many a times, the Development Orders/Technical Clearances for the proposals are granted on slopy land land which eventually results in cutting of such slopy/hilly land and further informed that although necessary guidelines in this regard are issued by the Department, it is observed that many a times the contour plan submitted are incorrect or does not match properly with the site conditions, thus necessitating the permission under Section 17A for cutting of hilly land, etc.

The Chairman was of the strong opinion that it shall be the responsibility of concerned official to see that permissions are granted correctly by obtaining necessary permission under Section 17A of the TCP Act, wherever the development proposed involves slopy or low lying land.

The Chairman also directed that stringent action shall be initiated, if it is found that the permissions have been obtained fraudulently or by mis-representing the facts as regards to the topography of land. Chairman therefore advised that all officers of TCP Dept. should exercise extreme caution while dealing with the applications involving slopy land or low lying land.

**Item No. 8: Appeal under Section 54(2) of the TCP Act, 1974 filed by M/s Dukle Constructions against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/215/2022)**

The Member Secretary informed that the appeal under Section 54(2) of the Town & Country Planning Act, 1974 is in respect of order issued by Greater Panaji Planning and Development Authority bearing No. GPPDA/TECH-GEN/577/2021 dated 20/09/2021.

Petitioner Shri Sachin Dukle was personally present for the appeal along with his Adv. Shri S. Mandrekar and whereas the Respondent PDA was represented by Adv. S. Vaigankar along with Member Secretary GPPDA Shri Shaikh Ali. All the arguments on behalf of the Appellant were made by Adv. S. Mandrekar and the same was done by Adv. S. Vaigankar on behalf of GPPDA.

The Appellant stated that he was in receipt of the order bearing No. GPPDA/TECH-GEN/577/2021 dated 20/09/2021 passed by the GPPDA directing him to relocate /shift the transformer unit which he had installed for his building project.

The Appellant informed that he has constructed a building project for residential and commercial occupation comprising of total 3 building blocks, which is identified as “Dukle Heaven” in properties bearing Sy. No. 116/1, 117/1 and 118/1 of Taleigao Village and Ch. No. 1 & 2, P.T.S. No. 121/1 of Panaji and further informed that before commencing the said construction activity, he has obtained all the required permissions from the concerned Authorities whereby the Development Permission was granted by Greater Panaji PDA vide order dated 16/02/2007 and construction license has been issued from the local authorities.

The Petitioner submitted that construction is carried out by him as per the approved plan however only the location of transformer for Phase I was shifted to other location within his property, instead of western side as shown on the approved plan. It was further stated by the Appellant that the complainant has submitted misrepresentation to the Authority whereas the yard where the transformer is actually situated was in existence since more than 12 years.

Appellant further stated that a communication dated 0504/2021 to that effect was also forwarded to the Office of Sub-Divisional Engineer, Electricity Department at Panaji explaining the fact situation and it is submitted that pursuant to the said communication a joint inspection was carried out by the said Authority alongwith GED officials on 26/04/2021 and vide its communications dtd. 26/4/2021 and 03/11/2021, Electricity Department informed the Appellant and Mr. Elloy Branco, that the present location of the transformer is easily accessible being adjacent to the road and it is technically viable to have a transformer in the centre at the entrance of the building for future maintenance and expansion work.

Appellant also submitted that the relocation or change in installation for the purpose of stationing the transformer unit was carried out in lieu of an assessment of location which was more appropriate and feasible since the current location is easily accessible to the road as is also opined by the Electricity Department.

Appellant stated that he has erected the transformer in the property without any hindrance to any existing shop situated at Dukle Heaven.

Appellant further stated that the project was completed and after leaving the space for road widening area, they are having a narrow strip of land which is used for placing the transformer, the location whereof was approved by the Electricity Department in terms of the communications.

It was stated by the Appellant that prior to installing the transformer on the existing location in the said property, he had duly intimated the office of Electricity Department about the location for placing the said transformer and the same was approved as this location was easily accessible for maintenance and expansion of distribution system based on the clause 5.56 of condition of supply.

Appellant also brought to the notice of the Board that the location where the transformer is presently installed is not obstructing any occupants of the shops which are in Dukle Heaven and in no way obstructs the accessibility of the shop of complainant.

While responding to the argument put forward by Adv. Shri S. Mandrekar, the adv. for the Respondent Shri Vaigankar stated that the Authority has acted on the complaint received as the builder had shown the location of transformer towards the western side of the site plan while approving the plans which has now been shifted to other location thus causing hindrance to the shop owner Shri Chandbasha Nadaf and hence had directed the Appellant to remove the transformer and shift it to the place as shown on the site plan earlier approved.

The Board considered the arguments placed before it and was of the opinion that the PDA is required to check the planning parameters mainly as regards to FAR, coverage, height, setbacks, etc. and the issue of providing services is required to be seen by the Competent Authorities. The Board took note that in the present case, the Electricity Department had recommended the location of the transformer being easily accessible and for being technically viable in the place it is located for the purpose of future maintenance and expansion work.

The Board also took note of the setback available from the shop under reference and to the transformer and was of the opinion that the said location of the transformer does not obstruct any access to the shop.

Considering all these facts placed before it and the favourable report given by the Electricity Department pertaining to the present location of the transformer, the Board allowed the appeal and set aside the Order bearing No. GPPDA/TECH-GEN/577/2021 dated 20/09/2021.

**Item No. 9: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Smt. Rajmi Narvekar against North Goa Planning and Development Authority. (File No. TP/B/APL/222/2022)**

Member Secretary informed that the matter is regarding appeal under Section 52(2)(b) of the Town & Country Planning Act, 1974 filed by Smt. Rajmi Narvekar.

It was informed that the Appellant is a co-owner of building known as “Raj Raunak” situated at Shetye wado constructed in property bearing Ch.No. 23-B, PTS No. 110 of Mapusa and the subject matter pertains to the ground floor bearing H.No. 5/7/B1 of “Raj Raunak” Building. The Appellant states that the concerned structure was constructed and completed by him in the year 2007 and after obtaining completion certificate from the Respondent, occupancy certificate dtd. 23/4/2009 was obtained by him.

Appellant further states that in the year 2020, Mrs. Siddhi Kaushal Naik filed a complaint dtd. 8/7/2020 alleging certain irregularities and filed another complaint dtd. 20/8/2020 and 2/9/2020, to which the Appellant raised preliminary objections as regards to the maintainability of the complaints in the impugned proceedings. However the Respondent did not dismiss the complaints. It is informed that on behalf of the complainant, Mr. J.T. Shetye had preferred a PIL WP No. 16/2020 before Hon’ble High Court, wherein vide Order dtd. 18/1/2021, Hon’ble High Court directed Respondent to decide the complaint of Mr. J.T. Shetye in a timely manner and kept all contentions of all parties open.

Based on the complaints, Respondent issued letter calling upon the Appellant for site inspection on 9/4/2021 and thereafter issued a Show Cause Notice dtd. 9/4/2021 followed by corrigendum dtd. 20/4/2021, to which the Appellant submitted preliminary reply dtd. 29/4/2021. Thereafter by letter dtd. 28/7/2021, the Respondent called upon Appellant for personal hearing on 5/8/2021 and further issued the impugned Order dtd. 9/12/2021, which is challenged by Appellant in the present appeal.

Member Secretary informed that in the present appeal, the complainant Siddhi Naik vide letter dtd. 2/5/2022 and Shri Kaushal Naik vide letter dtd. 19/1/2022 have requested to allow them as intervening parties.

In the present appeal, Adv. Samiksha Vaigankar appeared for the Appellant and Adv. Saish Mambre appeared for the Respondent alongwith Member Secretary.

The Appellant informed that he has filed the present appeal under section 52(2)(b) of the Goa Town and Country Planning Act, 1974 (the TCP Act) aggrieved by the order dated 09.12.2021 bearing ref no. NGPDA/M/1434/1113/2021 (impugned order) passed by North Goa Planning and Development Authority (NGPDA). He informed that NGPDA ought to have dismissed the complaints made by Mrs. Siddhi Naik and Mr. Jawaharlal Shetye, as the same are motivated due the enimity between the parties and that they do not have any locus to file such complaints and same are in-fact time barred considering the fact that temporary loft in question has already been assessed for the purpose of House Tax in the year 2014 onwards. The Appellant also contended that NGPDA had not furnished copies of the Transgression Report and the Complaints prior to the Appellants filing their reply and the proceedings were in-violation of principles of natural justice, furthermore, the Appellant also contended that NGPDA cannot direct Mapusa Municipal Council to undertake action under 3.11(c) of the Building Bye-laws and that the NGPDA has failed to consider that the Temporary shed was erected upon taking permissions from Mapusa Municipal Council and the temporary loft has been already assessed for the purpose of House Tax since 2014.

The Respondent opposed the contentions raised by the Appellants and contended that contentions of the Appellants are without merit and that impugned order is proper and in-terms of provisions of law.

The Board heard arguments placed before it by both the parties. The Board did not consider the request of the complainants for allowing them to be an intervening parties as all the fact were clearly brought out in the appeal memo and during the arguments placed before it.

The Board considered the material on record and was of the view that though it is apparent that complaints are made by complainants, it is not essential to go into that issue considering Civil Suit has taken cognizance of same. It was however felt that the NGPDA has erred by not furnishing copies of the Transgression Report prior to filing their reply. It was also observed that though, the NGPDA has held that there are no major deviations and the alterations are temporary in nature, it has erred by directing Mapusa Municipal Council to undertake a post occupancy audit in-terms of 3.11(c) of the Building Bye-laws, since 3.11(c) reads as:- “A Post Occupancy Audit: *The Licencing Authority shall carry out Post Occupancy Audit on a random basis, from time to time for group housing/residential multi dwelling buildings and multistoried buildings but within five years of issue of Occupancy Certificate."*

The Board therefore considered the fact that the occupancy for the ground floor was granted in the 2007 and occupancy for the rest of building was granted in 2009, the 5 years period has already lapsed and NGPDA cannot in-violation of the statutory provisions direct the licensing authority to undertake post occupancy audit and to that effect the impugned order cannot be sustained and NGPDA cannot issue such directions which are beyond powers conferred under provision of law.

Board therefore allowed the appeal and passed the following order:

The impugned order dated 09.12.2021 bearing ref no. NGPDA/M/1434/1113/2021 (impugned order) passed by North Goa Planning and Development Authority is quashed and set-aside.

Member Secretary was accordingly directed to communicate the decision of the Board to the concerned parties.

**Item No. 10: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Smt. Rajmi Narvekar against North Goa Planning and Development Authority. (File No. TP/B/APL/217/2022)**

Member Secretary informed that the matter is regarding appeal under Section 52(2)(b) of the Town & Country Planning Act, 1974 filed by Smt. Rajmi Narvekar.

Member Secretary informed that as per the appeal memo the Appellant is the co-owner of property bearing No. 37, Ch. No. 2(P), P.T. S. No. 82, Mapusa wherein building known as “Raj Bhavan” is existing. The Appellant states that the concerned structure was constructed by him in the year 2017, to which the Respondent Authority vide their letter dated 15/12/2017 has issued completion certificate and he has also obtained the occupancy certificate thereafter.

Appeal memo further states that upon issuing Completion Certificate & Occupancy, there have been no material alteration or changes to the concerned structure and that somewhere in the year 2019, Mr. Kaushal Naik filed a complaint dated 27/11/2019 alleging certain irregularities pertaining to the concerned structure followed by other complaints dated 18/05/2020, 31/08/2020, 07/09/2020, 09/11/2020 & 09/11/2020.

It is also stated that the complainant filed a Civil Suit also before CJSD, Mapusa bearing No. 93/2019/C, for temporary injunction which he subsequently withdrew.

It is further stated that the complainant filed a PIL WP-9/2020 before Hon‟ble High Court which stands disposed by Hon‟ble High Court vide Order dated 05/01/2021 directing Respondent to decide on complaint in a timely matter.

Subsequently, Respondents carried out site inspection on 16/02/2021 and issued Show Cause Notice dated 09/04/2021, which was replied by Appellant vide letter dated 09/06/2021. The Respondents, vide letter dated 28/07/2021, called upon Appellant for personal hearing on 05/08/2021 and the Respondents did not allow Appellant to file detailed reply.

Subsequently, Respondent issued final notice dated 09/12/2021, against which the Appellant has preferred present appeal.

In the present appeal, Adv. Samiksha Vaigankar appeared for the Appellant and Adv. Saish Mambre appeared for the Respondent alongwith Member Secretary.

The Appellant stated that he has filed the present appeal under section 52(2)(b) of the Goa Town and Country Planning Act, 1974 (the TCP Act) aggrieved by the Order dated 09.12.2021 bearing ref no. NGPDA/M/1434/1112/2021 (impugned order) passed by North Goa Planning and Development Authority (NGPDA).

Appellant stated that the NGPDA ought to have dismissed the complaints made by Mr. Kaushal Naik and Mr. Jawaharlal Shetye, as the same are motivated due the enmity between the parties and that they do not have any locus to file such complaints and same are in-fact time barred. The Appellant also contended that NGPDA had not furnished copies of the Transgression Report and the Complaints prior to the Appellants filing their reply and the proceedings were in-violation of principles of natural justice. Furthermore, the Appellant also contended that NGPDA has failed to consider the pending application of the Appellant for change of zone in-terms of section 44(4)(ii) of the TCP Act and that perusal of the impugned order reveals that same is vague and is not specific.

The Appellant also cited the observations of the Hon‟ble Supreme Court in Syed Muzaffar Ali and Ors. vs. Municipal Corporation of Delhi (1995 Supp(4) SCC 426), as being relevant in the present matter.

The Respondent stated that vide their reply dated 13.05.2022 have opposed the Appeal and contended that the impugned order is proper and does not warrant any interference.

The Board heard the arguments placed before it by both the parties. Upon considering the material on record, the Board was of the view that though it is apparent that complaints made by Mr. Kaushal Naik and Mr. Jawaharlal Shetye are made out of their personal difference with the Appellant, it is not essential for it to go into the issue considering that Civil Suit has taken cognizance of same. However, the Board was of the opinion that the NGPDA has erred by not furnishing copies of the Transgression Report prior to filing their reply and by failing to consider that Appellants application for change of zone is pending before it whilst passing impugned order, since the sub-divisions were approved prior to enforcement of building bye-laws. The Board also felt that the decision on the pending application regarding change of zone should also have been taken by the Respondent, as it definitely has the bearing on the appeal.

Board was of the opinion in-terms of section 44(4)(ii) of the TCP Act, the PDA should shall have decided or replied to the Appellant regarding the proposal or provision which it thinks are likely to be made in the development plans under preparation, or to be prepared. The Board therefore felt that the impugned order cannot be sustained.

The Board also considered that NGPDA is of the view that there are certain deviations though impugned order in its directions are vague and unspecific as regards to these deviations.

The Board therefore felt it appropriate that to remand back the matter to NGPDA for fresh examination after hearing the Appellants herein. The Board therefore passed the following order:

1. *The impugned order dated 09.12.2021 bearing ref no. NGPDA/M/1434/1112/2021 (impugned order) passed by North Goa Planning and Development Authority is quashed and set-aside;*
2. *The matter is remanded back for North Goa Planning and Development Authority to reconsider the issue after hearing the Appellants and in-terms of section 44(4)(ii) of TCP Act, and considering the application of the Appellant for change of Zone.*

**Item No. 11: 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 are 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 Benaulim, Salcete-Goa, pointing out violation of principles of natural justice, drastic civil consequence/effects of the order, the revocation/withdrawal order being on grounds and reasons not at all alleged or specified in SCN, withdrawal/revocation being on wrong parameters, the revocation being in violation of rules and regulations when the construction was as per the approved plans and there was no case made out of any such violations, the revocation order being influenced by irrelevant and extraneous considerations.

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

Shri Audi states that the road Colva to Mobor is neither a National Highway or State Highway and is only an MDR and is not a busy road with very high volume of traffic. The intersection if any is of a small village road with only a MDR, that to not at ninety degrees but at a slanting angle drifting outwards towards Varca-Mobor side and not Colva side where the filling station is located. It is stated that the fuel filling points/dispensing units are located deep inside the plot of land where the filling station is located and at a distance of more than 45 mts. away from such point of intersection. The filling station in question is thus more than 45 mts. away from the tangent point of intersection, if any, of the road leading from Colva to Mobor-Varca with a small village road which intersection at any rate cannot be called as an intersection of major road or intersection as contemplated under the regulations. As such there is sufficient compliance even of the said requirement if any, of distance of 45 mts. from tangent point of intersection of roads. Shri Audi submits that even IRC guidelines apply only to National and State Highways and that too are to be applied based upon traffic.

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

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

Shri Audi therefore states that without prejudice to case that the construction for which Technical Clearance was sought are in accord with all applicable regulations/guidelines and submits that considering that the road Colva to Mobor is neither a National Highway or State Highway and not such a busy road with very high volume of Traffic, the intersection if any is of a small village road with only and MDR, that to not at ninety degrees but a slanting angle drifting outwards towards Varca-Mobot side and not Colva side where the filling station is located and considering the fact of the fuel filling points/dispensing units being located deep inside and at a distance of more than 45 mts. away from such point of intersection if any, and further that the petrol filling station is 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 Benaulim. 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 earlier 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).

During the earlier hearing in 177th (Adj.) (2nd sitting) meeting of TCP Board held on 03/01/2022, Shri Reginald personally appeared only to express the inability of his Advocate in attending the meeting and sought for adjournment. The request was considered by the Board and accordingly the matter was adjourned.

During the present hearing, the Appellant was present, however Member Secretary informed that it was telephonically conveyed to him on the day of the meeting by Shri Reginald that neither he nor his advocate shall be able to attend the hearing in view of the short notice given to them by virtue of change in time. Considering the reason cited, the Board decided to adjourn the matter once again.

Member Secretary was however directed to inform both the parties that the matter shall be finally heard in the next meeting of the Board and accordingly to issue notices to the concerned parties.

**Item No. 12: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Mohammed Asif Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/224/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1871 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 37) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. EHN-165 admeasuring an area of 268 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 29/05/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/ 2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-165 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 28/10/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 2/11/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board has been issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of Hon’ble High Court order issued.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 13: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Shabana Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/225/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1832 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 42) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. 42 admeasuring an area of 150 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 03/10/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/ 2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-22 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f), in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f) however the said application came to be dismissed.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 14: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Chidanand Chalwade against Mormugao Planning and Development Authority. (File No. TP/B/APL/226/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1863 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 41) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. E-109 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 14/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-109 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 20/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 30/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f), in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard today and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 15: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Ameensab B. Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/227/2022)**

The matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1829 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 35) of Dabolim Village Mormugao Taluka.

Aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-128 admeasuring an area of 94.6 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 29/06/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-128 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/01/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 16: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Rajesh Naik against Mormugao Planning and Development Authority. (File No. TP/B/APL/228/2022)**

The matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1868 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 10) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. A-07 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-123 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 25/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.88 AMSL whereas the existing residential house of his had a top elevation of 75.76 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.88 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 17: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Javed Mehaboob Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/229/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1834 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 31) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. 31 admeasuring an area of 268 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 29/05/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-151 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 28/10/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 02/11/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board has been issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 18: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Laxman Sangal against Mormugao Planning and Development Authority. (File No. TP/B/APL/230/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1822 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 21) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. 21 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 11/01/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-196 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he did not received any show cause notice issued by the Respondent.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 19: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Krishna U. Lamani against Mormugao Planning and Development Authority. (File No. TP/B/APL/231/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1830 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 34) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-447, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-447 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 20: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Rakesh K. Yadav against Mormugao Planning and Development Authority. (File No. TP/B/APL/232/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1825 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 24) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-27, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-27 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 23/09/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 21: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Rajendra Puri against Mormugao Planning and Development Authority. (File No. TP/B/APL/233/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1856 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 46) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. 237/3, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. H.No. 237/3 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 28/10/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause Notice dated 28/10/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 22: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Laxman Jothre against Mormugao Planning and Development Authority. (File No. TP/B/APL/234/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1858 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 44) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-227, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-227 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 04/03/2022 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 20/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 23: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Ashok Rathod against Mormugao Planning and Development Authority. (File No. TP/B/APL/235/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1855 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 47) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which the Appellant has purchased alongwith the plot vide sale deed dated 06/03/2014. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2014.

The Appellant states that he did not received any show cause notice from the Respondent but directly the demolition notice alleging that the Appellant herein had carried out illegal construction of house in the property bearing survey No. 60/2 of Dabolim Village without obtaining prior permission of Respondent No. 1 and the Appellant herein was informed to demolition within 31 days.

The Appellant was not given any opportunity with regards to the alleged illegal structure and without following procedure laid down by law.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 24: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Dinesh Chaurasia against Mormugao Planning and Development Authority. (File No. TP/B/APL/236/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1870 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 13) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. A-04 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-130 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 25/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 25: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Bharat Dessai against Mormugao Planning and Development Authority. (File No. TP/B/APL/237/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1853 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 16) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. A-01 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 28/06/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/ 2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-125 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.26 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.10 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.84 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 26: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Gauresh Naik against Mormugao Planning and Development Authority. (File No. TP/B/APL/238/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1867 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 11) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. A-06 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-124 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.78 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.59 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.81 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 27: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Maula M. Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/239/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1852 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 28) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-56, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-56 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 28: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Lalji R. Yadav against Mormugao Planning and Development Authority. (File No. TP/B/APL/240/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1839 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 26) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village. The Appellant states that he has constructed a house on the sad property and has been residing in the said house since 2018.

The Appellant states that the said house has been granted house No. EHN-91 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 23/09/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 29: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Bhagwan Kerkar against Mormugao Planning and Development Authority. (File No. TP/B/APL/241/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1819 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 5) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing No. H.No. EHN-100, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-100 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 22/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 28/10/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 30: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Aisha Usman against Mormugao Planning and Development Authority. (File No. TP/B/APL/242/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1821 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 1) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2-B-39 of the Dabolim Village. The Appellant states that he has constructed a house in the said property and has been residing in the said house since 2018.

The Appellant states that the said house has been granted house No. EHN-412 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 18/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 31: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Vittal Badi against Mormugao Planning and Development Authority. (File No. TP/B/APL/243/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1820 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 4) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-09 admeasuring an area of 30 ssq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-129 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 32: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Ashok Chalwade against Mormugao Planning and Development Authority. (File No. TP/B/APL/244/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1873 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 39) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. E-107 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-107 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 20/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 30/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 33: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Manjunath Chawan against Mormugao Planning and Development Authority. (File No. TP/B/APL/245/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1836 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 39) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-02 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 18/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-105 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.42 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.10 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.68 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 34: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Mohammed Asif Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/246/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1835 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 39) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village. The Appellant states that he has constructed a house on the said house since 2018.

The Appellant states that the said house has been granted house No. EHN-127 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f) however the said application came to be dismissed by the Hon’ble High Court vide order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 35: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Pallavi Kerkar against Mormugao Planning and Development Authority. (File No. TP/B/APL/247/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1864 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 8) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-103, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-103 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 22/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 28/10/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f) however the said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 36: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Sunita Badi against Mormugao Planning and Development Authority. (File No. TP/B/APL/248/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1816 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 3) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-08 admeasuring an area of 30 q. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-104 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.88 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.76 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.88 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 37: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Abdul Razak Kankal against Mormugao Planning and Development Authority. (File No. TP/B/APL/249/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1837 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 29) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. 29 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 14/05/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-433 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f) however the said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 38: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Imtiyaz Mangalwad against Mormugao Planning and Development Authority. (File No. TP/B/APL/250/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1833 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 30) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. 30 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 14/05/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-102 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 39: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Mohsin Abdul Gani Mulla against Mormugao Planning and Development Authority. (File No. TP/B/APL/251/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1859 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 43) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. 43 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 03/10/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-116 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 40: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Shankrappa Bhandari against Mormugao Planning and Development Authority. (File No. TP/B/APL/252/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1854 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 14) of Dabolim Village Mormugao Taluka.

Aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-03 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-111 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f) however the said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 41: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Raju Mulimmanni against Mormugao Planning and Development Authority. (File No. TP/B/APL/253/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1872 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 38) of Dabolim Village Mormugao Taluka.

Aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. 38 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-108 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 20/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 30/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 42: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Birinchi Mahato against Mormugao Planning and Development Authority. (File No. TP/B/APL/254/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1818 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 6) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-11 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 19/06/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-110 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.60 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.40 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.80 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 43: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Arjun Lamani against Mormugao Planning and Development Authority. (File No. TP/B/APL/255/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1865 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 7) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-13 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 18/07/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/ 2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-115 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 44: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Rehana Angadi against Mormugao Planning and Development Authority. (File No. TP/B/APL/256/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1826 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 18) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim, which the Appellant has purchased alongwith the plot vide sale deed dated 26/10/2018. The Appellant states that he has constructed a house on the said property and has been residing in the said house since 2018.

The Appellant states that the said house has been granted house No. EHN-322 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 15/11/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 45: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Ms. Meenakshi Berror against Mormugao Planning and Development Authority. (File No. TP/B/APL/257/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1851 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 17) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-273 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 28/11/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-273 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/11/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 has been passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board has been issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 46: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Raju Das against Mormugao Planning and Development Authority. (File No. TP/B/APL/258/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1866 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 9) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 07/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. A-14 admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 09/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-112 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 02/11/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 12/01/2022, he received a letter from the Naval Authority, informing that the maximum permissible top elevation herein that the maximum permissible top elevation at the site from the reference datum of 56.8 m. is 74.26 AMSL whereas the existing residential house of the Appellant herein had a top elevation of 75.10 m AMSL and therefore would constitute an aeronautical obstruction and was not approved for NOC. The Appellant herein was requested that the top elevation at his building be reduce by 0.84 m including radio/television aerial, mast, lightening arresters, vent pipe, over head tank and attachment of any description.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of Order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 47: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Peter D’Souza against Mormugao Planning and Development Authority. (File No. TP/B/APL/259/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1824 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 23) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-24, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-24 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 48: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Shashikant K. Jadhav against Mormugao Planning and Development Authority. (File No. TP/B/APL/260/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1817 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 20) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-55, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-55 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 28/10/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether this structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 28/10/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 49: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Talari Govind Rajulu against Mormugao Planning and Development Authority. (File No. TP/B/APL/261/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1825 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 22) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-195, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-195 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 50: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Rangappa Chalwadi against Mormugao Planning and Development Authority. (File No. TP/B/APL/262/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1862 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 40) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. E-106, admeasuring an area of 30 sq. mts., which the Appellant has purchased alongwith the plot vide sale deed dated 14/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-106 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 20/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 30/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 51: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Shankar Lal Yadav against Mormugao Planning and Development Authority. (File No. TP/B/APL/263/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1827 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 25) of Dabolim Village Mormugao Taluka.

Aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-90, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-90 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 23/09/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 52: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Rajak Barapeti against Mormugao Planning and Development Authority. (File No. TP/B/APL/264/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1828 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 36) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-126, which the Appellant has purchased alongwith the plot vide sale deed dated 29/06/2018. The Appellant further states that he constructed a house on the said property and has been residing in the sad house since 2018.

The Appellant states that the said house has been granted house No. EHN-126 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

,The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo.

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 05/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 53: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Shabbir A. Shaikh against Mormugao Planning and Development Authority. (File No. TP/B/APL/265/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1831 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 33) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-23, which the Appellant has purchased alongwith the plot vide sale deed dated 21/08/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-23 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 04/03/2022 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 22/10/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whetherhis structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 has been passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board has been issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 54: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Ramesh Bandodkar against Mormugao Planning and Development Authority. (File No. TP/B/APL/266/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1869 dated 07/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 23) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-101, admeasuring an area of 30 sq. mts. which the Appellant has purchased alongwith the plot vide sale deed dated 26/06/2018. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-101 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 23/09/2021 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply dated 23/09/2021 stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that, the Village Panchayat of Chicalim vide its letter dated 01/12/2021 has informed him of its decision adopted in Resolution No. 9(1) in its meeting held on 30/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 01/12/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 08/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 has been passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board has been issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn and whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 55: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Jatharam Bhati against Mormugao Planning and Development Authority. (File No. TP/B/APL/267/2022)**

Member Secretary informed that the matter is regarding appeal filed under Section 52 (2) (b)of the Town & Country Planning Act, 1974 and Rules 1976 in respect of Notice bearing No. MPDA/9-N-88/2021-22/1838 dated 04/03/2022 issued by Mormugao Planning and Development Authority under Section 52 of Town & Country Planning Act, 1974, in the matter of construction of house in the property bearing Sy. No. 60/2 (House Ref. No. 23) of Dabolim Village Mormugao Taluka and aggrieved by the notice of demolition dated 04/03/2022, the Appellant has preferred the present appeal.

As per the appeal memo submitted, the Appellant has a property bearing Survey No. 60/2 of the Dabolim Village which consists of a structure bearing H.No. EHN-182, which the Appellant has purchased alongwith the plot vide sale deed dated 21/01/2019. The Appellant further states that the property on which the house is constructed, has a Sanad bearing No. COL/SG/CONV/65/2012/2536 dated 21/02/2013 as also Development Permission provided by Respondent vide No. MPDA/9-N-78/2013-14/259 dated 18/06/2013.

The Appellant states that the said house has been granted house No. EHN-182 by the Village Panchayat of Chicalim and the same is used for residential purpose by the Appellant and his family.

The Appellant states that he has also been paying the requisite house tax as also the electricity bills for the same ever since 2018.

The Appellant states that he received a show cause notice dated 04/03/2022 from the Respondent alleging that he has carried out illegal construction of house in Sy. No. 60/2 of Dabolim village without obtaining prior permission of the Respondent.

The Appellant issued the reply stating that he is owner of the plot which is a part of sub-divided property and that the alleged illegal structure has been purchased by him alongwith the plot and that he has not carried out any illegal construction and that the same house is assessed for house tax by the Village Panchayat Chicalim.

Appellant further states that he has applied for the height clearance for the house from the Commanding Officers.

The Appellant further states that the Village Panchayat of Chicalim vide its letter dated 20/11/2021 has informed him of its decision adopted in Resolution No. 9(2) in its meeting held on 16/11/2021, wherein the Village Panchayat of Chicalim has decided to afford opportunity of 3 months to the Appellant to get his structure regularized in accordance with law.

The Appellant also states that on 27/12/2021, he received a letter from the Naval Authority, directing him to apply for NOC from the Naval Authority for his structure in Survey No. 60/2 by submitting the following documents:

1. An application of proforma.
2. Forms of undertaking
3. Construction Plan
4. Site plan with Contours
5. Deed of sale
6. Architectural drawing
7. Site elevation certificate
8. MPDA/VP letter

The above documents were to be submitted before the Respondent and the Village Panchayat of Chicalim, since as per procedure, the local authority forwards such applications to the Naval Authority, which the Appellant states have been submitted by him.

The Appellant states that while his application was pending before the Naval Authority, the Respondent has issued him notice for demolition of the house by citing the contempt proceedings before Hon’ble High Court.

The Appellant submits that there is nothing to indicate as to whether his structure in respect of which regularization application was made pursuant to a communication he received from the Village Panchayat vide its Resolution dated 16/11/2021, was subject matter of any direction issued by the Hon’ble High Court of Bombay at Goa, either in the PIL WP or the Contempt Petition.

Following are the major grounds in the appeal memo:

1. The Impugned Order is bad in law because the Respondent has issued the notice for demolition on the basis of an order made in the Contempt Petition to which the Appellant herein is not even a party to.
2. The Appellant was never given a prior Notice/Show Cause notice intimating him of the proceedings before the Hon’ble High Court of Bombay at Goa. The Appellant has been informed of the same in the Impugned Notice for demolition. The same is unjustified, arbitrary and contrary to the principles of Natural Justice.
3. The Show Cause notice dated 23/09/2021 merely indicated that there is alleged illegal construction which has been carried out by the Appellant without prior permission of the Respondent whereas the Impugned Order is based on a completely different premise. If at all the Respondent wished to rely upon the proceedings taking place before the Hon’ble High Court of Bombay at Goa, they should have informed that Appellant herein of the same in the Show Cause Notice prior to issuing the Impugned Order. Therefore, the Impugned Order is to be set aside as the same proceeds on a wrong premise.

The Appellant states that if need be, the Appellant herein shall take necessary steps to intervene in the contempt proceedings which are pending before the Hon’ble High Court of Bombay at Goa.

It is submitted that the cause of action for filing this present matter arose on 04/03/2022 when the impugned order was passed.

The prayer of the Appellant is as under:

To set aside the impugned order and direct the Respondent to decide the application for regularisation of structure of the Appellant in a time bound manner.

Member Secretary brought to the notice of the Board that an Order dated 20/04/2022 is passed by the Hon’ble High Court in contempt petition bearing No. 1253/2021(f), as per which, the Town and Country Planning Board is issued directions to take up the appeals on priority and dispose them off as expeditiously as possible and in any case within one month from the date of order of the Hon’ble High Court.

During the hearing, the Appellant was represented by Adv. Jayant Karn whereas the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary, MPDA.

At the outset, Advocate for the Petitioner placed before the Board a letter vide which it is stated that pursuant to the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021 (f) in PIL WP 10 of 2018, the Mormugao Planning and Development Authority (MPDA), Vasco has issued show cause notices to petitioners in Diary No. 14397 of 2022 and the said petitioners have filed their replies to the show cause notices received by them and they were subsequently served with orders directing demolition of their structures and therefore said petitioners have preferred statutory appeals under Section 52(2)(b) of the G.D.D. TCP Act, 1974 before the TCP Board.

The Appellant stated that aggrieved by the orders passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, the said Petitioners filed an application for intervention bearing No. MCA 971 of 222 in the Contempt Petition 1253 of 2021(f), however said application came to be dismissed by the Hon’ble High Court vide Order dated 26/04/2022.

Appellant further informed that the said Petitioners then preferred an SLP bearing Diary No. 14397 of 2022 against the Order dated 26/04/2022 and another Order dated 27/01/2022 passed by the Hon’ble High Court of Bombay at Goa in Contempt Petition 1253 of 2021(f) in PIL WP 10 of 2018, before the Hon’ble Supreme Court.

The Appellant then brought to the notice of the Board that the captioned Special Leave Petition was listed before the Hon’ble Supreme Court today i.e. on 17/05/2022 in Court No. 5 at item No. 17 and the same was heard and the Hon’ble Supreme Court was pleased to issue notices to the Respondents, including MPDA and has directed status quo in the matter.

The Appellant therefore requested that the hearing in the present matters be deferred till the disposal of the captioned SLP bearing Diary No. 14397 of 2022 by Hon’ble Supreme Court.

The Petitioner also agreed to place on record a copy of the Order passed by the Hon’ble Supreme Court in SLP bearing Diary No. 14397 of 2022 as and when it becomes available to him.

The Board took note of this development and Order passed by the Hon’ble Supreme Court and accordingly decided to defer the matter as requested for.

**Item No. 56: 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 states that he has not carried out any such illegal construction and states that his dilapidated house had collapsed and that he had no other option then to carry out the construction again after the demolition of the house, which he says was existing in the property for last more than 60 years. The Appellant states that he was in the process of applying for obtaining necessary permissions from the Mormugao Planning and Development Authority and Construction License from Mormugao Municipal Council and further states that his application to carry out repair is still pending before the Mormugao Municipal Council.

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

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

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

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

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

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

Member Secretary informed the Board that during 177th Meeting of the TCP Board held on 20/12/2021, the Appellant Mr. Abdul Karim was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues and during this hearing, the Appellant had informed that due to short notice, his Advocate could not remain present and had therefore requested for adjournment of the matter, which was considered by the Board.

During the present hearing, the Appellant stated that structure under reference was old structure and for which, permission was taken from the Chief Officer for repairing the said house which was in the dilapidated condition. The Appellant therefore denied that any new structure was constructed by him.

While arguing on behalf of MPDA, Advocate Menino Pereira produced photographs of the construction consisting of a ground floor + three floors which was furnished to the MPDA by the complainant.

The Board heard both the parties and observed from the photographic evidence submitted that the construction of building consisting of G + 3 floors, was in progress.

The Board further took note of the photographs annexed to the complaint dtd. 15/1/2021, for which Stop Work Order was issued. The Board also took note of the statement made by the Appellant that the structure referred falls on Government land. This being so, it was quite obvious that that no Development Permission can be obtained by the Appellant.

The Board therefore dismissed the appeal.

**Item No. 57: 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 states that he is the absolute owner of house bearing H.No. 1/232 which was built almost prior to 100 years on the property bearing Chalta No. 29 of P.T. Sheet No. 71 of the CTS MAP of Vasco da Gama, Goa originally belonging to M/s Dempo Properties and Investment Private Limited and says that The said house was built with the consent of Original Landlord on lease basis on payment of rent.

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

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

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

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

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

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

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

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

It is therefore prayed that:

1. 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.

Member Secretary informed that during earlier hearing of 177th meeting of the Board held on 20/12/2021, Appellant Mr. Jayandra B. Naik was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues, during which Appellant had informed that due to short notice, his Advocate could not remain present and had therefore requested for adjournment of the matter, which was considered by the Board.

During the present hearing, Appellant was represented by his relative Shri Dayanand Naik and whereas Respondent PDA was represented by Adv. Menino Pereira alongwith the Member Secretary PDA. The Appellant reteirated the statements made in his appeal memo and contended that there is no illegality carried out by him, whereas Respondent brought to the notice of the Board that the construction carried out is a new one, for which no permission of any kind has been obtained from the Authority.

The Board referred to the records placed before it and heard both the parties. The Board observed that the show cause notice cum stop work order notice has been issued stating that the Appellant has demolished the old house and constructed a new structure admeasuring 144 sq.mts. on the ground floor and 144 sq.mts. on the first floor. The Board also considered the submissions made by the Respondent stating that action was initiated by their office on a complaint received from the land owners Dempo Properties Investments and also from a complaint from one Yeshwant Naik, who claimed that the original house was built by the common grandfather of his family and of the family of the Appellant.

The Board took note that as contended by the Respondent, no Development Permission has been produced by the Appellant to justify that the house consisting of G + 1 storey, admeasures 288 sq.mts. is legally construted. The photographs produced by the Respondent, were also taken note of which showed the construction in progress.

The Board considered the arguments placed before it by the Respondent alleging that purposely the show cause notice was not produced by the Appellant as the Board would have otherwise known that there was also a stop work order and that the construction was not an old construction as alleged.

Board relied on the evidence in terms of photographs and observed that the construction is new and the Appellant has not produced any Development Permission to justify its construction.

The Board considered the facts placed before it by the Respondent stating that no permission has been obtained from the Navy nor consent has been obtained from the land owners, who are Dempo Properties Investments. In fact it was observed that Dempo Properties are also complainants and have produced the photographs of unauthorized construction to the Respondents.

The Board therefore dismissed the appeal.

**Item No. 58: 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 states that in the month of June 2021 he received show cause notice/Stop Work dated 28/06/2021 alleging that on the site inspection carried out on 11/06/2020 at 12.15 p.m. by the official of the Respondent, it is revealed that he has carried out illegal development i.e. “a 52 mts. open terrace has been converted to rooms with AC sheet roofing on the 6th floor of the building without the prior permission of the Respondent as required under section 44 of the Town and Country Planning Act, 1974.

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

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

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

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

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

Member Secretary informed that during earlier hearing in 177th meeting held on 20/12/2021, the Appellant Shri Mansoor Jiwani was present and whereas Respondent PDA was represented by Adv. Vivek Rodrigues, during which, the Appellant had informed that due to short notice, his Advocate could not remain present and therefore had requested for adjournment of the matter, which was considered.

During the present hearing, the Appellant Shri Mansoor Jiwani was present and Respondent PDA was represented by Adv. Menino Pereira alongwith Member Secretary PDA.

The Board took note that show cause notice and notice for demolition was issued against the Appellant for converting an open terrace into rooms with AC sheets roof. The Board also took note that while admitting that no Development Permission was obtained, the Appellant submits that this construction was done by the builder and not by himself.

The Board considered the submission of the Respondent stating that by covering the terrace and constructing rooms, additional FAR is consumed, which otherwise belongs to all the residents of the building. The Board also considered the submission made by the Respondent that in case other residents need to do additional constructions like pump room, guard house, etc. even if there was more FAR available, it will deprive other occupants of availing such additional FAR.

Board therefore observed that the additional rooms constructed on the terrace to an extent of 52 sq.mts. is an illegal construction, as no development permission was found to have been obtained by the Appellant.

The Board therefore dismissed the appeal.

**Item No. 59: Appeal under Section 52 (2) (b) of the TCP Act, 1974 filed by Mr. Dattaraj Chindarkar against Mormugao Planning and Development Authority. (File No. TP/B/APL/211/2021)**

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974.

As per the appeal memo submitted the Appellant is the owner in possession of the Flat No 5A admeasuring an area 86.00 sq. mts. situated on the fifth floor of the Diwan Ganesha Co-op. Hsg. Society Ltd., along with open terrace, located at Patrong, Baina, Vasco-da-Gama, Goa.

The Appellant states that he received a show cause notice dated 28/06/2021 from Respondent alleging that a 14.00 m open terrace has been converted to rooms with AC sheet roofing on the 5th floor, which is replied by him vide his letter dtd. 9/7/2021.

The Appellant states that the Respondent has however issued a demolition notice dated 01/10/2021 directing him to demolish the shed erected in the rear setback.

Appellant states that in his reply dated 09/07/2021, he had explained that the alleged AC sheets were installed long before the purchase of the flat, more specifically 10 years prior to his purchase of the flat and thus the show cause notice and impugned demolition order are beyond limitation.

During the hearing, the Appellant was represented by Adv. Aniket Naik whereas the Respondent was represented by Adv. Menino Pereira.

The Appellant stated that the show cause notice and notice for demolition was issued against him for converting an open terrace into rooms with AC sheets roof. While admitting that no Development Permission was obtained, the Appellant stated that this construction was done by the builder and not by himself. The Appellant also submitted that AC sheets were put on the terrace because of water leakages and that since the terrace is facing west and the sea, they are experiencing salty, saline, corrosive and heavy rain.

The Respondent submitted that by covering the terrace and constructing rooms, additional FAR has been consumed and that this FAR belongs to the residents of the building. The Respondent further contended that in case the other residents need to do additional constructions like pump room, guard house, etc., even if there was more FAR available, it will deprive other occupants of such additional FAR.

The Respondent further submitted that nevertheless, permission ought to have been obtained since rooms consisting of brick and mortar were constructed on the terrace and the height of the AC sheet roof is beyond the permissible limit.

The Board agreed with the submission of the Respondent and observed that additional rooms constructed on the terrace to an extent of 14 sq.mts. is clearly an illegal construction, as no Development Permission has been obtained by the Appellant and that this construction has consumed additional FAR.

The Board therefore dismissed the appeal.

**Item No. 60: Appeal under Section 45 of the TCP Act, 1974 filed by Ms. Angela Afonso against Mormugao Planning and Development Authority. (File No. TP/B/APL/223/2022)**

The matter is regarding alleged illegal construction in the property bearing Ch.No. 9, 17 and 25, PTS No. 105, Vasco-da-Gama, Goa by the Appellant.

As per the appeal memo, the Appellant states that she is a senior citizen is living in her house for last 60 years and further states that alleged illegal construction/extension to existing house admeasuring approximately 27 sq.mts. which is covered partly with AC sheets and partly with RCC slabs. The Appellant states that the bathroom and toilet to the house are in existence since 1975. The Appellant states that earlier there was an open type pigs toilet, which the Municipal Authorities had directed to shut down and for which connection to sewerage system was advised by PWD Authorities. Appellant further states that in the year 1994 her late husband had put up a RCC slab on part of the toilet and constructed a water tank for toilet and bathroom, as water supply was not continuous.

During the hearing, Appellant was represented by her relative and the Respondent was represented by Adv. Menino Pereira alongwith Member Secretary.

Member Secretary informed that he received a notice dated 30/08/2021 from MPDA regarding a site inspection fixed on 07/09/2021, which was a result of a complaint from one Mr. Lawrence Cardozo and further stated that the Respondent vide letter dated 03/11/2021 has issued a Show Cause Notice to him which was replied by him vide letter dated 15/11/2021.

He further stated that the Respondent however issued a final notice dated 04/01/2022 directing demolition of alleged illegal construction within 31 days of receipt of the notice and aggrieved by this impugned order dated 04/01/2022, he has preferred the present appeal.

Appellant further submitted that originally there existed a toilet which over the years became dilapidated and therefore it was repaired and reconstructed and that this structure admeasuring 27 sq.mts is an extension of the original house.

The Respondent however stated that development permission was still required for the development undertaken, although he admitted from the photographs available, the structure does not appear to be a new one. The Advocate for the Respondent could not satisfactorily explain whether the structure was old or new even after looking at the photographs and further admitted that there could have been earlier a dilapidated toilet.

The Board observed that besides portion under reference, rest of the house is also of laterite stones and even the new alleged extension is of laterite stones, as such could not ascertain as to how the alleged construction could be a new construction.

The Board also observed that the Respondent has not given a satisfactory or justifiable reason for demolishing the old toilet.

The Board therefore allowed the appeal and set aside the show cause notice and the notice issued under Section 52 for demolition.

**Item No. 61: 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.

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

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

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

Member Secretary informed that during earlier hearing in 177th meeting held on 20/12/2021, the Appellant Shri Anant V. Lotlikar was represented by Adv. Saish Mahambray and whereas Adv. Sushant Naik appeared on behalf of South Goa PDA, during which Adv. Sushant Naik informed that the Respondent PDA is represented by Senior Advocate Shri Menino Pereira, who was out of station and therefore could not remain present for the hearing and therefore requested for adjournment of the matter, which was considered by the Board.

During the present hearing, Appellant was represented by Adv. Saish Mahambray and Respondent was represented by Adv. Menino Pereira.

The Appellant submitted that show cause and demolition was earlier issued by the Respondent, because it was clear that the three structures were falling within the ODP road. However, since more than two years have lapsed after promulgating the ODP, no award has been passed and as per the latest amendment in the Land Acquisition Act, the provision for said ODP road lapses.

The Appellant further submitted that an appeal was earlier filed before this Board and the above submission were canvassed. However the Board dismissed the appeal. Thereafter a Writ Petition was filed by him in the Bombay High Court and the Bombay High Court remanded the matter stating that the order did not give any reasons for dismissing the appeal.

The Respondent submitted that in the meantime, the Authority after re-studying the matter noticed that the structures styled as work room, the overhead tank were erected in the setback area. Thus the said two structures being erected in the setback area rendered them as illegal. Further, since the structure consisted of a work room and commercial activity was conducted therefrom, as per rule 11.2 of the Goa Land Development & Building Construction Regulations, 2010, there cannot be any compound wall in front of commercial activity.

The Respondent thereafter contended that leaving aside the ODP issue even otherwise the three structures cannot be regularized since they are illegally constructed and action under Section 52 must be taken.

The Respondent further submitted that no regularization can be granted for two structures constructed in the setback area on the road alignment. The Board agreed with the Respondent that no compound wall can be constructed in front of commercial activity.

The Board felt that even considering the other submission that the ODP under which the first show cause notice was issued has lapsed as per the amendment in the Land Acquisition Act, the Board does not have powers to interpret the provisions of the Land Acquisition Act and to rule whether or not the same would apply to provisions contained in the TCP Act specifically with regard to Section 37 (2) and Section 41 of the TCP Act.

The Board was of the opinion that in any event, Section 42 read with section 44(4)(i) makes it clear that after publishing the ODP in terms of section 35(i), any change of land must confirm with the provisions of the Act and the ODP and that in the present case, the development carried out clearly violates the provisions made under ODP.

The Board therefore dismissed the appeal.

**Item No. 62: 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.

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

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

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

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

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

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

Member Secretary informed that during earlier hearing in 177th Meeting of TCP Board held on 20/12/2021, 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, during which, Adv. Sushant Naik had 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, which was considered by the Board.

During the present appeal, Appellant was represented by Adv. Nilkash Marathe and Respondent was represented by Adv. Menino Pereira

The Appellant submitted that the Authority had earlier granted development permission and while doing so, had allowed him to build a car shed. On a complaint made by the neighbor the authority has now issued a show cause notice followed by a notice for demolition of a car shed constructed by the Appellant.

The Respondent pointed out that while granting Development Permission, the Appellant had sought to put a plastic covering roof above the parking area shown on the approved plan. However, the Appellant is now trying to misinterpret by saying that the plastic covering roof permission granted by the authority was for a car parking shed. He further pointed out that from the approved plan, it is very evident that there was no brick and mortar shed shown on the drawing of the proposed plan submitted for approval and therefore what was granted was only a covering in the form of a plastic “roof” covering.

The Board was of the view that after studying the approved plan produced by the Appellant, it is clear that the Development Permission was only for a plastic covered roof and that the Development Permission was not granted for a car parking shed which consisted of brick walls.

The Board therefore dismissed the appeal.

**Item No. 63: Appeal under Section 54(2) (b) of the TCP Act, 1974 filed by Mr. Rohan Jayant Bhandare against South Goa Planning and Development Authority. (File No. TP/B/APL/214/2022)**

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974.

The Appellant is a businessman by profession having business of auto spares in shop No. 2, Dambab building, Bernando Costa Road, Margao. On or about 14/04/2021, the Appellant received a letter from SGPDA for site inspection, in respect of a complaint dated 26/03/2021 filed by one Mr. Felix Fernandes. The Appellant received copy of complaint by another letter dated 11/05/2021 from SGPDA, upon perusal of which it was seen that it was against shade constructed for car parking and for allegedly changing the roofing of the house by casting a RCC slab without permission from SGPDA and also for running a business without permission situated in Dambab Niwas, near Arcanjo Menezes Hospital, Margao-Goa.

The Appellant states that the house referred to in the complaint belongs to one Anand Vishnu Naik and there has been no business activity being carries out from said residential house, where his old parents are residing. In fact there is no house or any business in the name of the Appellant and the Appellant is running the business of his father namely, ‘Kapil Enterprises’ at shop No. 2, Dambab building, Margao which is adjacent to the shop of the complainant.

Upon site inspection by SGDPA, the Appellant received a Show Cause Notice dated 20/04/2021, which was replied by Appellant vide letter dated 18/05/2021.

The Appellant received a fresh notice dated 16/07/2021 which the Appellant replied by letter dated 26/07/2021.

The Appellant again received a letter dated 22/10/2021 from SGPDA, which the Appellant replied vide letter dated 25/11/2021.

Now the Appellant is in receipt of fresh notice dated 07/12/2021 for demolition of suit house, which the Appellant has replied vide letter dated 20/12/2021.

Member Secretary informed that the Appellant visited the office in the morning, stating that he did not receive any intimation regarding change in timing of the Board meeting and as such he shall not be able to attend the hearing in the afternoon session, as scheduled at 3.00 p.m., as he got other engagements and hence requested for adjournment of the matter.

Considering the genuine request as conveyed through Member Secretary, the Board agreed for adjournment of the matter.

Member Secretary was accordingly directed to communicate the next date of hearing to both the parties.

**Item No. 64: Appeal under Section 54(2)(b) of the TCP Act, 1974 filed by Shri Agnelo Da Costa against South Goa Planning and Development Authority. (File No. TP/B/APL/221/2022)**

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974.

The Appellant is a businessman by profession running his business as cloth merchant in shop No. 30,31 & 24, New market, Margao, Goa.

The Appellant applied to SGPDA for reconstruction of his shop No. 24. The SGPDA vide order dated 27/01/2017, issued development permission and Margao Municipal Council issued construction licence dated 09/08/2017. The Appellant commenced the said reconstruction and also completed the same except fixing of glass and some minor work.

The Appellant received a notice on 22/09/2020 from SGPDA stating that on 26/08/2020, at 3.30 pm, the officials of SGPDA carried out site inspection and verified that the Appellant is carrying out illegal development. The Respondent also directed the Appellant to show cause within 15 days why demolition should not be initiated, for said illegal development as per section 52 of the Act. The Appellant states that neither the Respondent gave any site inspection notice nor carried out any site inspection.

The Appellant replied to the Show Cause Notice with reply dated 10/03/2021 and mentioned that whatever construction that is carried out is as per the plans approved by the Respondents and there is no illegal development. In the said reply, the Appellant also requested the Respondent to identify the illegal construction, however the Respondent failed to identify the same.

The Appellant states that after 9 months from the date of filing reply, suddenly on 16/12/2021, the Respondents issued notice to the Appellant directing the Appellant to demolish the illegal construction within 31 days from the date of receipt of notice.

Aggrieved by this impugned order dated 16/12/2021, the Appellant preferred present appeal.

Member Secretary informed that the Appellant visited the office in the morning, stating that he did not receive any intimation regarding change in timing of the Board meeting and as such he shall not be able to attend the hearing in the afternoon session, as scheduled at 3.00 p.m., as he got other engagements and hence requested for adjournment of the matter.

Considering the genuine request as conveyed through Member Secretary, the Board agreed for adjournment of the matter.

Member Secretary was accordingly directed to communicate the next date of hearing to both the parties.

**Item No. 65: Appeal under Section 52 of the TCP Act, 1974 filed by Iqra Hospitality Service against North Goa Planning and Development Authority. (File No. TP/B/APL/210/2021)**

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974.

The Appellant is owner of property bearing Sy. No. 198/13, Calangute Village, Bardez Taluka. In this property, the NGPDA had approved plan vide ref. No. NGPDA/Cal/44/147/203/2016, dated 31/05/2016. Now the Appellant is running hotel in this property.

The Respondent issued a Show Cause Notice dated 12/04/2021 u/s 50 and 52 of the TCP Act with following observations:

1. Existing required setbacks are not available on the site.
2. Existing building FAR/coverage exceeds the permissible limit.
3. Stilt parking covered into the commercial purpose and hence required parking is not available at site.
4. The development permission issued dated 31/05/2016 building and completion certificate vide dated 29/06/2016 for residential purpose whereas the existing use of the building has been converted from residential to commercial hotel purpose.
5. Additional third floor carried out over the second floor of the existing building.

The Appellant replied to the Show Cause Notice on 15/04/2021, relying on construction license dated 07/07/2014 and order dated 31/05/2016 issued by Respondent as well as Completion Certification dated 29/06/2016 and denied the allegations. The Appellant has also mentioned in the reply that he has filed a regularization application is disposed off now the Appellant is in receipt of final notice dated 22/10/2021 against which the Appellant has preferred his appeal.

During the present hearing, none appeared for the Appellant and whereas Respondent PDA was represented by Adv. Hanumant Naik alongwith the Member Secretary.

Since no one appeared on behalf of the Appellant, the Board felt it appropriate to defer the matter and to give one more chance to the Appellant to defend his case. The same was consented by the Respondent.

The Board therefore adjourned the matter with direction to the member Secretary to issue the notices to both the parties informing about the next date of hearing.

**Item No. 66: Appeal under Section 52 of the TCP Act, 1974 filed by Smt. Sandhya Korgaonkar against North Goa Planning and Development Authority. (File No. TP/B/APL/218/2022)**

The matter is regarding appeal under Section 52 (2) (b)of the Town & Country Planning Act, 1974.

As per the appeal memo, the Appellant is the co-owner of property bearing S.No. 6/1, PTS No. 170, Mapusa. It was originally owned by Mr. Ramkrishna Pednekar, father of Appellant and upon his death on 30/09/2007, it is developed upon by his wife Radhabai Pednekar and children including Appellant.

Shri. Ramkrishna Pednekar had put up a small gaddo in the suit property in the early eighties. Thereafter out of will and love for Appellant, he gave her the gaddo alongwith surrounding area admeasuring 150m2 which is now in exclusive possession of Appellant.

The Appellant, with consent of all other legal representatives, installed a proper kiosk in the said area by replacing the gaddo, known as Durvesh General Stores with kiosk No. 13 with license No. T/O/4682. Directorate of Fire and Emergency Services have also given NOC dated 01/09/2013. The Appellant has been paying requisite fees for occupation of the premises. The Appellant has obtained license from Mapusa Municipal Council and NOC from her mother.

The Appellant in her appeal memo states that with passage of time, the Respondent No. 2 started interfering with the Appellant. The Appellant was constrained to file a Regular Civil Suit No. 274/2019/C before Court of Civil Judge Senior Division, Mapusa. The matter went to High Court also as Writ Petition with Stamp No. 63/2020 and High Court has granted interim relief to the Appellant. It is the contention of the Petitioner that the Respondents have been filing all sorts of frivolous complaints before various authorities and the objections filed by them cannot be considered as they are restricted from changing status quo and possession of Appellant is protected by Court.

The Appellant further states in her appeal memo that the GPPDA issued notice to her for appearance for which she remained present and produced few documents relied upon by her in support of her case, however the Appellant states that the matter was not heard on merits and in fact she was intimated that she would be notified about the next date on which the matter would be heard and decided on merits. However, the Appellant states that without giving any hearing to her, the impugned order dated 28/12/2021 was passed by the Greater Panaji PDA.

The Appellant, being aggrieved by the said order, has preferred this present appeal.

In the present appeal, the Appellant was represented by Adv. Afreen Khan Harihar and whereas Member Secretary remained present on behalf of PDA.

During the hearing, the Appellant requested that she is intending to move for an amendment for the appeal and as such requested for more time. Considering that Appellant herself has sought for the amendment to the appeal memo, the Board considered the request.

The matter therefore stands adjourned.

**Item No. 67: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Simi Anand Ghogale and others against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021).**

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

GPPDA has rejected the application with following observations:

1. *No setbacks as required as per regulation 2010 are kept for the existing house to be regularised (front, sides & rear).*
2. *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 in the appeal memo states that they have sought for the regularization of the house which has been renovated and repaired vide letter dtd. 7/12/2018. The Appellant further states that the findings given by the Authority is without considering the documents on records and that the Authority has misunderstood the documents and further states that the renovation/ repairs of his house has not crossed the road boundary and is in line with other ancestral houses and that the suit house is also an ancestral house.

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

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

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

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

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

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

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

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

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

In the present hearing, the Appellant remained present alongwith Adv. Arun Talaulikar and Respondent remained present with Adv. Saish Mahambray.

It was the main contention of the Appellant that the Respondent ought to have referred his application to the Conservation Committee, as the area under which his plot is located, falls under the conservation area. It was his argument that the Conservation Committee could have considered his proposal in view of the special powers exercised by it in terms of grant of relaxation etc.

The Respondent however stated that the Authority has rejected the proposal on planning parameters.

Considering the arguments placed before it, Board was of the opinion that PDA can consider the suggestion as made by the Appellant and seek the opinion/approval of the Conservation Committee, as the area is earmarked as conservation area.

The Board therefore dismissed the appeal with direction to the PDA that the matter be referred to the Conservation Committee for its decision.

**Item No. 68: 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/ill/Vol.V/492/2021 dated 20/08/2021 issued by Greater Panaji Planning and Development Authority for carrying out additional construction on open terrace (7th floor) of the block B-2 of the building complex named Adwalpalkar Shelter Co-operative Housing Society Ltd., in the property bearing Survey No. 69/1 and 68/2 at Taleigao Village.

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

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

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

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

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

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

The Appellant in the appeal memo points out that the Respondent which has recorded that the Appellants had not produced any satisfactory answer and/or approved plan to justify the illegalities, then was obliged to pass an order, if any, on the basis of the Notice dated 06/08/2021. Appellant state that he had appeared before the Respondent on the basis of the Notice dated 06/08/2021, which made a reference to alleged illegal construction on the 9th floor. Thus, in the event the Respondent was of the opinion that there was no satisfactory answer from the Appellants and/or no approved plan were produced, then the Respondent could have passed an order in the context of the 9th floor of the building as referred and recorded in the Notice dated 06/08/2021.

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

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

The Appellant has therefore prayed for the following:

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

The matter was earlier discussed in 176th meeting of the TCP Board held on 27/10/2021, during which Adv. Saish Mahambray appeared on behalf of the Respondent, whereas the Appellant had remained absent. The matter was therefore deferred. The Board however 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 accordingly adjourned.

During the present hearing, Adv. Sagar Sarmalkar represented the Appellant and Adv. Saish Mahambray represented the Respondent.

The matter was deliberated in detail, wherein the Appellant highlighted that the entire proceedings of issue of demolition notice is based on wrong presumption and that the Authority should have corrected themselves by referring to the correct floor number in the show cause notice. Since this has not been done by the Authority, it has deprived him of his right to defend his matter.

After deliberation, the Board decided to remand the matter back to the PDA and issue correct show cause notice as per violation noticed by the PDA and the complaint filed before it. Accordingly, the Board disposed off the appeal in above terms.

**Item No. 69: 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, as per the appeal memo, are as under:-

1. 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”).
2. That the said bigger residential house existed in the said bigger Plot of land prior to the liberation of Goa.
3. 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”).
4. 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.
5. That North Goa Planning and Development Authority issued a Final Notice dated 17th August 2011 to the Appellant.
6. That the North Goa Planning and Development Authority issued a Final Notice dated 17th August, 2011 to the Appellant.
7. 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.
8. 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 in his appeal memo further states as under:

1. The Respondent ought to have considered and appreciated 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.
2. The Respondent ought to have considered and appreciated 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.
3. 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.
4. 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.
5. 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:

1. The impugned Order be quashed and set aside.
2. 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.

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

The matter came for discussion in the 175th (Adj.) (2nd sitting) meeting of the Board held on 20/09/2021. Adv. Siddhi Pardolkar appeared on behalf of the Respondent, whereas the Appellant submitted application for adjournment of matter citing the reason that his Advocate was unable to attend the meeting and requested for hearing in the next Board meeting. The Board considered the reason and accordingly adjourned the matter.

In the present hearing, Appellant was represented by his relative and Respondent was represented by Adv. Saish Mahambray.

The Appellant requested for adjournment of the matter stating that his Advocate could not remain present for hearing due to short notice issued regarding change of time. The Board considered the request and accordingly adjourned the matter.

**Item No. 70: Appeal under Section 45(1) (b) of the TCP Act, 1974 filed by Mr. Rajkumar M. Naik against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/212/2021)**

The matter is regarding Appeal under Section 45(1) (b) of the Town & Country Planning Act, 1974.

As per the appeal memo, the Appellant is owner of property bearing Sy. No. 82/2-A, Taleigao, admeasuring an area of 328.00 m2, purchased by him vide Sale Deed dated 19/10/2011.

The Appellants has obtained repair license dated 28/04/2020 and commenced the construction in respect of existing house. The Appellant submitted plans for approval in GPPDA on 17/06/2020.

Subsequently, a complaint was filed by the residents of Manvins Mansion on 28/05/2020 before Village Panchayat of Taleigao and Greater Panaji PDA against the construction carried out by the Appellant.

The Appellant received a letter dated 12/06/2020 from the Village Panchayat, which he replied vide letter dated 19/06/2020.

Subsequently, the Appellant received a letter dated 12/06/2020 from the Greater Panaji PDA, which the Appellant replied vide letter dated 22/06/2020.

Subsequently, a Writ Petition No. LD-VC-CW-49-2020 came to be filed in the Hon’ble High Court of Bombay at Goa, which was disposed by Hon’ble High Court by Order dated 07/07/2020 with direction to the Authorities to dispose of the application for regularization/addition/ extension made by the Appellants, in accordance to law.

The Respondent Authority conducted site inspection on 14/07/2029 and vide letter dated 28/09/2020, raised certain observations. The Appellant has thereafter vide his letter dated 25/11/2020 submitted revised plans to the Authority.

The Appellants state that since the submission of revised plans, the GPPDA has not processed the application. Faced with the situation of a deemed refusal, the Appellants has preferred the present appeal.

In the present hearing Appellant was represented by Adv. Kajol Nagvekar and Respondent was represented by Adv. Saish Mahambray

During the present hearing, the Advocate for GPPDA informed that the matter is already decided by the Authority and handed over the Order dtd. 16/5/2022, whereby the application for regularization has been rejected by the GPPDA. The basic grievance in the appeal was a direction sought from the Authority to decide the regularization application. The Board took note that the PDA has already decided the regularization application and hence nothing more survives in the appeal and therefore disposed off the appeal.

**Item No. 71: Appeal under Section 52(2) (b) of the TCP Act, 1974 filed by Mr. Ajit Mittal against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/213/2021)**

The matter is regarding Appeal under Section 52(2) (b) of the Town & Country Planning Act, 1974.

The Appellant is resident of flat No. 801 admeasuring 109 sq. mts. and open terrace admeasuring 100 sq. mts. on the 8th floor of building complex in “Block D” of “Adwalpalkar Shelter”, now known as “Adwalpalkars Shelter Co-op Society Ltd.” situated at Taleigao-Ilhas Goa, and said flats were purchased by registered Deed of Sale dated 22/02/2014.

The Appellant received a Show Cause Notice with regard to alleged illegal construction on open terrace of 9th floor of the building for erecting M.S. fabricated structural roofing, which was replied vide reply dated 17/11/2017 wherein the Appellant had submitted that the said structure with respect to which the notice is issued are wooden temporary structures and they were in existence even before he purchased the said flats no. 801 and 802. Further, before refurnishing the said structure, the Appellant had informed the then President of Adwalpalkars shelter Co-op. Hsg. Society Ltd., Mr. Stanley and also submitted written letter at that time.

The Appellant was issued another notice dated 06/08/2021, which was replied by the Appellant by letter dated 18/08/2021.

Now, the Appellant has received final demolition notice dated 20/08/2021.

Aggrieved by the impugned order, the Appellant has preferred the present appeal.

In the present hearing, Appellant was represented by Adv. Salomi Pinto and whereas the Respondent was represented by Adv. Saish Mahambray.

After having heard the arguments and on perusal of the appeal memo, the Board was of the opinion that the following violations are noticed:

Additional construction on the open terrace of 9th floor of the building by erecting MS fabricated structural roofing, without any permission from PDA.

Board further observed that the conveyance deed in respect of the said flat clearly speaks about the open terrace and the above mentioned construction of MS fabricated structural roofing is existing on the terrace of 9th floor of the building, which is not regularized by the Respondent due to violation of the regulation.

Having considered the above illegality, the Board dismissed the appeal.

**Item No. 72: Appeal under Section 54(2) of the TCP Act, 1974 filed by Mr. Gajanan R. Behare against Ponda Taluka office, TCP Dept. (File No. TP/B/APL/216/2022)**

The matter is regarding Appeal filed by the Appellant under Section 45 of the Town & Country Planning Act, 1974 regarding disposal of application for revocation of Completion Order by Dy. Town Planner, Ponda in Survey No. 13/2, Quela village, Ponda Taluka.

It may be noted that the present appeal before the TCP Board is made under Section 45 of TCP Act, 1974 whereas Quela village is outside notified Ponda planning area, hence there is no provision under TCP Act to file appeal before TCP Board under this Section of TCP Act.

The Appellant has also not paid the required appeal fees. The Appellant in appeal memo states that Respondent No. 2 applied to Respondent No. 1 for proposed repair and re-construction of Agrashala in the property bearing Survey No. 13/2, Queula village, Ponda Taluka, vide application dated 16/05/2019. Appellant states that the Respondent No 2 has undertaken re-construction of House No. 43 which is shown in the name of Shri. Ram Gangadhar Behare, who is the father of the Appellant in the other rights column of the Form I & XIV.

The Respondent No. 1, vide letter dated 19/6/2019 sought certain compliances. The Respondent No. 1 has then issued Technical Clearance Order vide Ref. No. TPP/504/Quela/1312/2019/1910 dated 03/07/2019. Immediately upon gaining knowledge of the said re-construction activity, the Appellant filed his objection dated 02/08/2019 before Senior Town Planner, Panaji, however no reliefs came to be granted. The Appellant then filed complaint dated 18/11/2020 before TCP Dept. Thereafter, the Respondent No. 2 filed Writ Petition No. LD-VC-CW-351-2020 before Hon’ble High Court of Bombay at Goa, which was disposed by Hon’ble High Court vide Order dated 25/11/2020 giving consideration to the statement made by Ld. Advocate General that the appropriate Authority will issue necessary Show Cause Notice and dispose the Show Cause Notice in accordance with law.

Accordingly, a Show Cause Notice was issued by Respondent No. 1, in pursuance to which the parties appeared before the Respondent No. 1 and filed their pleadings, pursuant to which the Respondent No. 1 passed the impugned Order dated 09/04/2021 by which the Show Cause Notice dated 21/12/2020 was withdrawn.

Aggrieved by Order dated 09/04/2021, the Appellant has preferred the present appeal.

In the present appeal, the Appellant remained absent whereas the Respondent was represented by Shri Jayant Navelkar, Planning Assistant, TCP Dept., Ponda. Since the Appellant remained absent, the Board deferred the matter.

**Item No. 73: Appeal under Section 45 of the TCP Act, 1974 filed by Goa University through Registrar against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/219/2022)**

The matter is regarding Appeal under Section 45 of the Town & Country Planning Act, 1974.

The Appellant filed an application dated 18/11/2021 to the Respondent regarding development permission u/s 44 of TCP Act, 1974 for proposed construction of School of Physical and Applied Sciences in S.No. 222, Taleigao village, Tiswadi Taluka.

More than 3 months have elapsed, however nothing has been communicated so far by the Respondent to the Appellant.

Aggrieved by his inordinate delay, present appeal has been preferred by the Appellant.

The Appellant was represented by Adv. Afreen Khan Harihar and Respondent was represented by Adv. Saish Mahambray.

The Respondent sought for time to place more documents before the Board. The Board agreed for the same and deferred the matter.

**Item No. 74: Appeal under Section 45 of the TCP Act, 1974 filed by Goa University through Registrar against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/220/2022)**

The matter is regarding Appeal under Section 45 of the Town & Country Planning Act, 1974.

Member Secretary informed that the Appellant has filed an application dated 04/10/2021 for development permission u/s 44 of TCP Act, 1974 in the properties bearing S. No 201 to 233, Taleigao, S. No 194 C and other S. Nos - Calapur and S.No-30 & other S. Nos - Bambolim village for the following purposes:

i) Building for Manohar Parrikar School of Law, Governance and Public Policy,

ii) Building for classroom and faculty block F (Goa Business School),

iii) Building for Dept., of Computer Science,

iv) Building for Computer Centre.

Appeal memo states that more than 3 months have elapsed from the date of receipt of application by the Respondent however nothing has been communicated to the Appellant by the Authority.

Aggrieved by the inordinate delay by the Respondent in deciding his application, the Appellant has preferred the present appeal.

The Appellant was represented by Adv. Afreen Khan Harihar and Respondent was represented by Adv. Saish Mahambray

The Respondent sought for time to place more documents before the Board in this regard. The Board agreed for the same and deferred the matter.

**Item No. 75: Request letter dtd. 31/01/2022 received from Department of Urban development (Municipal Administration), to notify the area located under Survey Nos. 64/1, 64/2, 64/3, 58/2-A, 58/1 and 68 of Harvalem village of Bicholim Taluka as Flood prone area and therefore to be declared as “No Development Area” on the Regional Plan – 2021 of Sankhalim Municipal Council reg...**

The Member Secretary informed that the TCP Dept., (HQ) is in receipt of letter dated 31/01/2022 from Department of Urban Development regarding request to notify area under Sy. No. 64/1,2,3, 58/2A & 1 and 68 of Arvalem Village, Bicholim Taluka as ‘No Development Areas”. The Urban Development Department has received a request from the Councilor of Ward No. 1, Sankhali Municipal Council Smt. Kunda L. Madkar.

The Board sought for more details on the matter to study the proposal and deferred the matter.

**Item No. 76: Proposal from Director, Civil Aviation, Secretariat, Porvorim-Goa regarding Aerodrome Safeguarding-Control of obstacles within 20 km of Aerodrome.**

The Member Secretary informed that the TCP Dept.(HQ) is in receipt of letter dated 19/04/2022 from Director, Directorate of Civil Aviation, wherein a copy of letter dated 13/04/2022 from GMR, Goa International Airport Limited (GGIAL) is forwarded for consideration of Aerodrome Safeguarding-control of obstacles within 20 km of Aerodrome.

It is stated in the said letter dated 13/04/2022 that GGIAL is constructing a new greenfield international airport at Mopa, North Goa and it is intended to be inaugurated on 15th August 2022. Vide same letter, it is stated that as per the provisions of Aircraft Act, 1934, MOCA G.S.R. 751 (E), G.S.R. 770 (E) and Aircraft (Demolition of obstructions caused by Building & Trees etc.) Rules, 1994, it is mandated to ensure that the Aerodrome is safeguard from all obstacles within 20 km of its radius. The provisions also prohibit slaughtering and flaying of animals and of depositing rubbish, filth & other polluted and obnoxious matter within a radius of 10 km from the Aerodrome.

It is further informed that the GGIAL is coordinating with AAI to speed up the preparation of Colour Coded Zoning Map (CCZM).

For the reasons cited, GGIAL has requested to issue necessary directions to the local planning Authorities, in and around New Goa Airport at Mopa, not to issue NOC/Construction permits to ay buildings/masts/elevated structures within 20 km of airport without obtaining NOC through the NOC application system (NOCAS)-the online portal managed by AAI for the purpose of ensuring the structures/buildings/mats etc. constructed are within the permissible limits for safe aircraft operations.

Further, it is requested by GGIAL to advise local authorities to take necessary actions to prohibit butcheries within 10 km of the Airport.

The Board deliberated on the matter and was of the view that the request made by GGIAL regarding issue of necessary directions to the local planning authorities, in and around New Goa Airport at Mopa, not to issue NOC/Construction permits to ay buildings/masts/elevated structures within 20 km of airport cannot be considered at this stage, as no details are worked out and no statutory plan in this regard are in place. Accordingly, the Board rejected the request.

**Item No. 77: Any other item with the permission of chair.**

**1. Higher FAR for new CBDs**

Discussion was held on the need for optimum utilization of land in the backdrop when the land being scarce and sky rocketing land values. Discussions were held on the pros and cons of vertical development of cities by way of higher density vis-a-vis horizontal expansion involving low density development leading to urban sprawl.

Chairman briefed the members about the development of Patto complex by the EDC Ltd. way back in 1970’s and briefed the members that had there not been a visionary thinking of developing Patto Plaza like a CBD with 250 FAR, the situation in Panaji city would have been worse. He opined that such out of the box thinking is the need of the hour for preventing the cities from sprawl.

Board after deliberation decided that FAR limit of more than 200 should be invariably on payment of premium to the Government/PDAs and specific area for developing CBD like Patto Plaza could be identified which may be permitted with a maximum FAR of 400 as per infrastructure availability. The Board was of the opinion that any FAR more than 300, if at all considered, should be applicable for the plot sizes having minimum area of 2,000m2 and right of way serving these plots should not be less than 15.00 mts. Kadamba plateau area, specially the area declared as planning area was considered to be ideal one for implementation of such higher FAR of 400, as sufficient infrastructure is already developed there.

Member secretary was accordingly directed to cosnider the above while considering amendment to e Goa Land Development & Building Cosntruction Regulations, 2010.

**2. Additional FAR for hotels/resorts**

The Board was briefed that the maximum FAR being permitted in the towns are in Special Commercial Zone (SPC) with 300 FAR. It was also informed that there is a scheme for grant of 20% additional FAR for 4 star and 5 star hotels and educational institutions. It was informed that additional floor area for 4 star and 5 star hotels are granted on payment of Rs. 20,000/- per sq. mt. of additional floor area.

Board was of the view that tourism is the main driving force of the economy of the State and as such tourism projects need to be encouraged and incentivized. Board felt that 4 and 5 star hotels mostly come up in larger plots and as such it can sustain additional density, whereas lower star hotels may not have larger plot area and therefore may be difficult to accommodate higher density with the constraints of height/setbacks/parking requirement, etc.

After deliberation, Board decided that the facility of additional FAR applicable to 4 star and 5 star hotels shall also be extended to 3 star hotels/resorts. It was further decided that the additional FAR applicable for these hotels be increased from 20% to 30%.

Member Secretary was accordingly directed to propose the amendment to the Goa Land Development & Building Cosntruction Regulations, 2010 as per the above.

Meeting ended with thanks to the Chair.