

MINUTES OF 193rd MEETING OF THE GOA TOWN & COUNTRY PLANNING BOARD HELD ON 14/12/2023 AT 11.00 A.M. IN CONFERENCE HALL, VAN BHAVAN, ALTINHO, PANAJI.

Following attended the meeting:

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|-----|---------------------------------------------------------|------|----------------------------------|
| 1. | Shri. Vishwajit P. Rane,
Hon. Minister for TCP | ... | Chairman |
| 2. | Dr. Deviya Rane,
Hon'ble MLA, Poriem | | Member |
| 3. | Shri Rajesh Faldessai,
Hon'ble MLA Cumbharjua | | Member |
| 3. | Shri Pravin Kumar Raghav,
CCF, Forest Dept. | | Member |
| 4. | Dr. Uttam Dessai | | Member |
| 5. | Shri Shrivallabh Pai,
SE-I, PWD | | Member |
| 6. | Shri Anil A. De Noronha
Asst. Director (EXT.) | | Member |
| 7. | Shri Ralph A. S. Barbosa,
Research Assistant, DPSE | | Member |
| 8. | Shri Shrinivas Dempo,
GCCCI President | | Member |
| 9. | Eng. Paresh Gaitonde | | Member |
| 10. | Arch. Rajeev M. Sukhthanker | | Member |
| 11. | Ms. Vertika Dagur | | Chief Town Planner
(Land Use) |
| 12. | Shri. Rajesh J. Naik,
Chief Town Planner (Planning). | ... | Member Secretary |

Item No. 1: Confirmation of the Minutes of the 192nd meeting of Town & Country Planning Board held on 21/11/2023.

Member Secretary informed that the Minutes of 192nd meeting of TCP Board held on 21/11/2023 were circulated to the Members vide letter No. 36/1/TCP/506/2023/3801 dtd. 07/12/2023 and since no comments on the same were received, the decisions as taken were implemented.

Members took note of the same and accordingly the Minutes of 192nd meeting were treated as confirmed.

Member Secretary brought to the notice of the members that in 192th meeting of TCP Board held on 21/11/2023, while deciding on item No. 91, the Sy. Number of the property was inadvertently mentioned as 25/2-A in place of Sy. No. 15/2-A of village Nerul in Bardez Taluka. The Member Secretary of TCP Board informed the Members that the minutes of the 192nd Board meeting has been corrected accordingly.

Members took note of the corrections in the minutes of the 192nd meeting as above. Member Secretary was accordingly directed to communicate the decision as above to the Senior Town Planner, North Goa District Office, Mapusa.

Item No. 2: Appeal under Section 52 of the TCP Act, 1974 filed by Shri. Narendra Shah against Greater Panaji Planning and Development Authority and North Goa Planning and Development Authority.

The Member Secretary of the Board informed the members that the Appellant has challenged the Revocation Order-cum-Rejection of Revised Plan dated 03/08/2023, bearing ref. No. NGPDA/60/PNJ/1459/2023 passed by the Respondent No. 2, wherein the Respondent No. 2 has rejected the revised Plan submitted by the Appellant and has further directed the Appellant to remove alleged illegal construction carried in alleged violation of the Development Permission granted vide Order No. GPPDA/637/PNJ/650/2021 dated 06/10/2021, within a period of one month from the date of issuance of the Order, failing which the Respondent No. 2 shall proceed to demolish the alleged illegal structure and recover the cost of the demolition from the Appellant.

The case set out by the Appellant in Appeal is as under:-

The Appellant states that the Respondent No. 1 was Planning and Development Authority which was created by the Government of Goa having jurisdiction over the Panaji Planning Area. The Appellant states that as per the Notification dated 24/08/2022, wherein the Government of Goa now brought 'Panaji Planning Area' under the jurisdiction of the North Goa Planning and Development Authority (NGPDA for short) which is having jurisdiction over Mapusa Planning Area, Calangute-Candolim Planning Area as well as Arpora-Nagoa-Parra Planning Area. Therefore, in view of this development, the Appellant has also arrayed NGPDA as party Respondents since it the Respondent No.2 who has issued the impugned Order.

The Appellant states that he and his other family members are the owners of the properties under Chalta Nos. 32, 33, 34 of P. T. Sheet No. 60 of Panaji Goa. The Appellant states that in the said properties, he and his family members have their residential house consisting of ground plus first floor having House No.10/44(E-568) and said house is in existence for more than 82 years.

The Appellant states that since the said house has become old, he and his other family members proposed and decided to reconstruct the same and accordingly, applied for Development Permission under Section 44 of the Goa

Town & Country Planning Act, 1974, to the Respondent No.1 being the Planning Authority which was having jurisdiction over the Panaji Planning Area. The Appellant states that he while submitting the plans clearly mentioned that he proposed to reconstruct the said house on the existing plinth, however, in the Application which came to be submitted to the Authority, he inadvertently mentioned as “Proposed Alteration and Addition to the Existing House and Amalgamation of the Property”.

The Appellant states that the property under reference falls in Commercial zone as per the ODP 2011 and therefore, he otherwise is also entitled to construct the commercial building in the said property.

The Appellant states that after obtaining the Development Permission from the Respondent No. 1, he applied for the Construction License from the Corporation of City of Panaji; and accordingly, the Construction License dated 03/11/2021 came to be issued. He also states that since he in his application mentioned as ‘Proposed alteration and addition to the existing house and amalgamation of the property’ even the Development Permission as well in the Construction License came to be issued wherein it is mentioned construction for ‘Proposed alteration and addition to the existing house and amalgamation of the property’. Further he states that both the authorities actually charged fees for reconstruction of the said structure. He also paid the total amount of Rs.16,12,052/- to the said Respondent No. 1 as well as CCP which includes infrastructure tax.

The Appellant states that accordingly, he commenced the reconstruction of the existing house and when the construction reached the stage of Ground plus First floor, the Respondent No. 3, who is otherwise the next door neighbour of him, has filed the complaint before the authorities including the Respondent No.1.

The Appellant states that thereafter the Respondent No. 3 even filed Writ Petition (f) No. 67/2022 before the Hon’ble High Court of Bombay at Porvorim-Goa seeking direction to the Respondent No. 1 and CCP to hold the site inspection and to take immediate steps to remedial measures upon receiving report and further directed to revoke the approvals granted by the Authority. The Appellant states that in the said Writ Petition, also it is not the case of the Respondent No.3 that entire construction is illegal but the allegations were made that under the garb of repairs the Appellant has undertaken reconstruction without maintaining proper set back.

The Appellant states that in the meantime, as per the direction of the Hon’ble High Court, the joint Site inspection was carried out by the officials of the Respondent No.1 and the CCP wherein certain observation in respect of the said structure were made.

The Appellant states that pursuant to the said Site Inspection Report, CCP issued Work Stoppage Order-cum- Show Cause Notice dated 08/02/2022 to the Appellant wherein the Appellant was directed to Show Cause as to why order under Section 269(2) of the City of Corporation Panaji Act, 2002 should not be passed for the demolition of the illegal activities.

The Appellant states that since the Respondent No. 3 started making grievance about the said construction that he has undertaken reconstruction of the existing structure under the garb of the “Proposed Alteration And Addition To The Existing House and Amalgamation of the Property”, he submitted revised plan

dated 28/03/2022 indicating certain internal deviations during construction without changing the existing plinth dimensions before the Respondent No.1.

The Appellant states that thereafter the Respondent No.1 also issued the Show Cause Notice dated 15/06/2022 to him.

The Appellant states that thereafter the Hon'ble High Court of Bombay at Goa vide Judgement and Order dated 24/06/2022 disposed of the Writ Petition filed by the Respondent No. 3, wherein the direction was issued to the Respondent No.1 to dispose of the Show Cause Notice within 8 weeks from the date of the said Order.

The Appellant states that as far as the show Cause Notice is issued by the Respondent No. 1 is concerned, he submitted reply dated 03/08/2022 wherein he provided explanation.

The Appellant states that thereafter the said the Respondent No.1 called the Appellant as well as the Respondent No. 3 for personal hearing and since the hearing did not take place, the hearing was fixed on 17/08/2022 on the Show Cause Notice and this hearing was then held with complainant present.

The Appellant states that thereafter vide letter dated 17/08/2022, he requested the Respondent No.1 to consider the revised plan submitted on 28/03/2022 before taking any decision on Show Cause Notice.

The Appellant states that on 17/08/2022, the Appellant through his Attorney remained present for hearing before the Member Secretary of the Respondent No.1, who alone heard him without any authorization from the Respondent No.1, wherein the Respondent No. 3 produced copy of the Judgement and Order passed by the CCP.

The Appellants states that subsequently, in the evening on 17/08/2022, he also received copy of the Judgement and Order passed by the CCP wherein it was observed that the Appellant has not replied to the Show Cause Notice so also he has failed to remain present before the Commissioner of the CCP and therefore, he has been directed to demolish the alleged illegal construction and restore the land to its original condition. The Appellant being aggrieved by the said Judgement and Order passed by the CCP has preferred Appeal before the Government of Goa as provided under the City Corporation of Panaji Act, 2002.

The Appellant states that subsequently on 26/08/2022, the Appellant also received copy of the Order dated 19/08/2022, passed by the Respondent No. 1 which was arbitrary, unreasonable, illegal in as much as the Appellant has submitted revised Plan for the consideration of the Respondent No. 1 and the Respondent No. 1 without considering the said revised Plan and despite request made by the Appellant has proceeded to pass Order dated 19/08/2022 when the Respondent No. 1 had clearly observed that the Appellant had undertaken construction on the same plinth however had directed him to demolish the development which is in contravention of the Development Permission. He further states and submits that in the Order the Respondent No. 1 had not given any reasons as to how the development undertaken by him is in violation of the Development Permission when he had undertaken construction in accordance with approved Plan maintaining the same plinth dimension.

The Appellant states that the Respondent No. 1 herein ought to have decided the revised Plan first which were submitted in March 2022, even before the Show Cause Notice came to be issued therefore, the Respondent No. 1 committed error and passed an Order when the application for regularization/ revised Plan submitted by him was pending before the Respondent No. 1.

The Appellant states that the Member Secretary of the Respondent No. 1 without placing the matter before the Authority on pressure exerted by the Respondent No. 3 had proceeded and passed by the Order without considering the revised Plan submitted by the him and without giving any reasons as how the construction undertaken by the him was in violation of the approved Plan.

The Appellant states that the he was constrained to file an appeal challenging the Order dated 19/08/2022 passed by the Respondent No. 1 before the Authority.

The Appellant states that this Authority vide Order dated 09/01/2023 allowed the said Appeal and directed that the application for revised Plan submitted by him be considered and while deciding the said application, the Respondent No. 2 should consider whether the relaxation can be granted as far as setbacks are concerned.

The Appellant states that the Respondent No. 3 challenged the Order dated 09/01/2023 passed by this Authority vide Writ Petition No. 175/2023 before the Hon'ble High Court of Bombay at Goa. That vide its Order dated 20/03/2023 the Hon'ble High Court without expressing any comments on the merits of case and without setting aside the Order passed by this Authority on 09/01/2023 issued directions to the Respondent No. 2 to take decision on revised Plan submitted by him in view of observation made in para 6 of the said Order, after hearing the parties.

The Appellant states that pursuant to the direction issued by the Hon'ble High Court of Bombay at Goa in Writ Petition No. 175/2023, a personal hearing was conducted on 12/04/2023 wherein the written submission of Respondent No. 1 as well as his application dated 28/03/2023 was placed in the Authority meeting held on 02/05/2023.

The Respondent No. 2 contending that the request for consideration of the relaxation as sought by him decided that the matter should be referred to the Government for necessary decision. However, the Government returned the file to the Respondent No. 2 with a remark to place the file before the Town & Country Planning Board.

The Appellant states that the Respondent No. 3 thereafter once again preferred a Writ Petition before viz. Writ Petition No. 1217 (F) before the Hon'ble High Court of Bombay at Goa.

The Respondent No. 2 in view of the time bound direction issued by the Hon'ble High Court of Bombay at Goa placed in the records in relation revised Plan submitted by him before the Respondent No. 2 Authority in its meeting held on 31/07/2023.

The Appellant states that the Respondent No. 2 vide Revocation Order-cum-Rejection of revised plan 'the impugned order' dated 03/08/2023 bearing Ref. No. NGPDA/60/PNJ/1459/2023 refused to approve the Revised Plan dated 28/03/2023 and directed the Appellant to remove the illegal construction within the period of 1 month from the issuance of this order failing which the Respondent No. 2 shall demolish the said illegal structure and recover the cost of demolishing from the Appellant.

The Appellant thus challenge the Impugned Order passed by the Respondent No.2 on following grounds which are reproduced herein:

A. The Appellant submits that the Impugned Order passed by the Respondent No. 2 is illegal, arbitrary, capricious and unreasonable and consequently the same is required to be quashed and set aside.

B. The Appellant submits that the construction undertaken by the Appellant is on the very same plinth without exceeding any FSI in any manner and since the reconstruction is undertaken on the existing structure the Appellant was under bonafide impression that there is no need to keep any future setbacks and since now the building is reconstructed the Hon'ble Board may consider the case of relaxing the setbacks and direct Respondent No.2 to granted approval of Revised plans as submitted by the Appellant . In any case there is ample road available at the site for the users which in any manner not interfered or encroached by the Appellant.

C. The Appellant respectfully submits that this Authority vide order dated 09/01/2023 whilst allowing the appeal preferred by the Appellant herein had directed that the Respondent No. 2 to consider the Application for revised plan submitted by the Appellant and further to consider whether the relaxations prayed for, can be granted as far as setbacks are concerned.

D. The Appellant states that the Respondent No 2 has failed to take into consideration that the new setbacks regulations cannot be applied to the Appellant's case as the construction is on the same plinth which was the original structure and which is without utilising the full FSI /FAR of the plot. Moreover, the building is not a high rise building which could otherwise be built on the said plot.

E. The Appellant states that the new building regulations are not clear on matters of reconstruction inasmuch as it is not clearly specified whether the setbacks have to be maintained as the term reconstruction means constructing an existing house and a reconstruction cannot be equated to a fresh/ new construction and should infact be construed as an old structure with the same parameters on which it was approved and not looked at as if it is a fresh/ new construction.

F. The Appellant respectfully further states that the requirement of giving due consideration to the Application for Revised Plan dated 28/03/2022 and to disclose reasons for its disallowance was necessary and mandatory in law and more particularly in view of the directions issued by the Hon'ble High Court in its Order dated 20/03/2023 wherein the Hon'ble High Court was pleased to observe that the Respondent No. 2 was obliged to

consider the revised plans in terms of Regulation 3.8 of the Building Rules and Regulations 2010.

G. The Appellant respectfully submits that the Respondent No. 2 in terms of the Impugned Order fails to disclose any reason whatsoever as to why the Application of Revised Plan dated 28/03/2022 cannot be approved and the relaxations prayed therein cannot be granted.

H. The Appellant respectfully submits that the Respondent No. 2 has been unmindful of the fact that the Original approved plan still holds and the same has till date not been either revoked or annulled.

I. The Appellant respectfully submits that the Respondent No. 2 has failed to consider that the construction undertaken by the Appellant is on the very same existing plinth and structure which was existing on the said property for last several years as per the plan approved by the Authorities and that the peripheral dimensions confirm this position at loco as revealed even during the site inspection.

J. The Appellant respectfully submits that the Respondent No. 2 has failed to consider that FAR, coverage and setbacks were based on this site inspection and the deviations are only as far as internal modifications in staircase and doors, etc. not affecting FAR and other planning parameters of approvals.

K. The Appellant submits the Respondent No. 2 is vested with powers to grant relaxation without prejudice to the regulations in order to meet the exigencies posed by the location and site conditions. it is further submitted that at the time of either a grant or refusal of relaxations it is imperative for the Authority to allude to such site conditions and consider whether in a given case relaxation was required to be granted. It is respectfully submitted that the Respondent No. 2 has failed to give a mindful consideration to the request for relaxation made by the Appellant.

L. The Appellant respectfully submits that it is not the case of the Respondent No. 1 as well as the Respondent No. 3 that the entire construction carried out by the Appellant is in violation of the law or the permission but that the Appellant under the garb of repair has undertaken reconstruction without maintaining proper set back. The Appellant submits that this fact alone reveals that the Appellant had never intended to deviate but was per force constrained to seek revision on account of the collapse of the old structure which was existing at site. In such circumstances grant of relaxations to the Appellant ought to have been considered by the Respondent No. 2. Therefore, the Respondent No. 2 has committed serious error in arriving at the Order of demolition without understanding the factual backdrop of the case.

M. The Appellant submits that the above factual situation and exigency was duly supported by the Letter of the Engineer of the Appellant, which was duly furnished to the Respondent No. 2. However, the same has been disregarded by the Respondent No. 2 without any valid reason and has thus misguided itself into arriving at the impugned order.

N. The Appellant submits that admittedly there was an old house existing in the said Property and when Appellant commenced construction as per approved drawings, the walls of the said old house collapsed. In such circumstances the Appellant had to demolish the existing walls and reconstruct the same and to for that purpose the Appellant vide letter dated 05/11/2021, had informed the Respondent No.1 about the same which communication is a contemporaneous proof of the happening.

O. The Appellant submits that the grievance of the Complainant is that since the Appellant has reconstructed the structure the Appellant has to maintained setbacks from the road. There is inherent frivolity and fallacy in this contention of the Complainant as there are structures existing abutting the said road and the walls constructed by the Appellant are on very same place where the old house existed. There is no scope to widen the width of the road which can be ascertained at loco and therefore the Hon'ble Board may consider relaxing the setbacks and direct the Respondent No. 2 to consider the proposal as submitted vide revised plan.

P. The Appellant respectfully submits that the Appellant indeed obtained the approval of the Authorities and the plans approved by the Authorities clearly shows that the Appellant had actually submitted the plans for reconstruction of the existing structure and merely because there is some deviation that has taken place while undertaking the said construction cannot be considered that entire construction is illegal.

Q. The Appellant respectfully submits that the Respondent No. 2 has passed the Impugned Order in violation of the provisions of law and therefore, for the reasons and ground taken herein the Impugned Order is required to be set aside.

R. The Appellant submit that they are senior citizens and have embarked on the restoration of their ancestral house by availing huge loans and grave injustice will be occasioned to them if the impugned order is not set aside.

S. Such other and further grounds that may be urged at the time of hearing of Appeal.

The Appellant has therefore prayed for the following reliefs in the Appeal:

- a) That the Hon'ble Authority/Government be pleased to quash and set aside the Impugned Revocation Order-cum-Rejection of Revised Plan dated 03/08/2023 bearing ref No. NGPDA/60/PNJ/1459/2023, passed by the Respondent No. 2.
- b) That the Board be pleased to order and direct the Respondent No. 2 herein which is the Authority having jurisdiction to consider and approve the Revised Plan submitted by the Appellant on 28/03/2022, by relaxing the setbacks requirement if any, and accordingly grant revised Development Permission and approve the Plans submitted by the Appellant.
- c) That pending and hearing of final disposal of this Appeal the Hon'ble Authority/Government be pleased to stay the operation and execution of the Impugned Revocation Order-cum-Rejection of Revised Plan dated

03/08/2023 bearing Ref no. NGPDA/60/PNJ/1459/2023 passed by the Respondent No. 2 and further restrain the Respondent No. 2 from demolishing the construction undertaken by the Appellant.

During the hearing in 190th meeting, Member Secretary Ms. Vertika Dagur, who appeared on behalf of Respondent PDA, requested for adjournment of the matter, citing the reason that the Advocate on record could not remain present for the hearing in view of the Ganesh festival, whereas Shri Nilesh Shah appeared alongwith Adv. Raunak Rao on behalf of Appellant Shri. Narendra Shah.

Considering the request as made by Respondent PDA, the Board adjourned the matter.

The matter was again placed before the TCP Board in its 191st meeting held on 25/10/2023 under item No. 4. During this hearing, Adv. R. Rao appeared for Appellant Shri Narendra Shah, whereas Respondent No. 2 i.e. NGPDA was represented by Adv. Hanumant Naik. Respondent No. 3 i.e. Shri Rasiklal Gangani was represented by Adv. Rohit Bras de Sa.

During the said hearing, Respondent No. 3 filed Reply opposing the Appeal and whereas Ld. Advocate appearing for Appellant Shri. Narendra Shah sought time to deal with the reply of the Respondent No. 3 and accordingly, requested for time.

The Board considered the request of the Advocate for Appellant and considering the fact that the Appeal has to be decided within time granted by the Hon'ble High Court, decided to hear the Appeal in the next meeting and accordingly the matter was adjourned.

Member Secretary was accordingly directed to issue notices to the concerned parties regarding hearing in the matter, once the date of the meeting is finalized.

Notices were accordingly issued to parties to remain present for next meeting of the Board for argument in the matter.

During the hearing, Adv. R. Rao appeared for Appellant Shri Narendra Shah, whereas Respondent No. 2 i.e. North Goa PDA was represented by Adv. Hanumant Naik. Respondent No. 3 i.e. Shri Rasiklal Gangani was represented by Adv. Rohit Bras de Sa.

The Board upon considering the case of the parties deliberated that the Respondent no.3 has filed his reply wherein several contentions have been taken including documents have been produced to show that the Respondent no.3 has filed complaints before the Authorities so also the various orders passed by the Hon'ble High Court have been relied upon so also the Judgements of the Hon'ble Courts to submit that Appeal be dismissed.

The Appellant in his Appeal has stated that the Appellant and his other family members are the Owner of the Chalta No. 32,33,34 of P. T. Sheet No. 60 of Panaji City and in the said property the Appellant and his family members have their residential house which consist of ground plus First floor having house no.10/44-(E-568) and the said house was in existence for more than 82 years and therefore the Appellant and his family member proposed and decided to reconstruct the same and applied for Development Permission under section 44 of the Goa Town & Country Planning Act, 1974 to the Greater Panaji Planning & Development Authority (GPPDA) which was having jurisdiction Over the Panaji Planning area.

It is the case of the Appellant that the Appellant while submitting the plan clearly mentioned that the Appellant proposed to reconstruct the said house on the existing plinth. However, the Appellant inadvertently mentioned as proposed alteration and addition to the existing house of amalgamation of the property.

It is further case of the Appellant that the said property falls under the Commercial Zone as per the Outline Development Plan, 2011 and therefore, the Appellant is otherwise entitled to construct the Commercial Building. Accordingly, the GPPDA granted Development Permission and as per the Application of the Appellant Corporation of City of Panaji also issued Construction License dated 03/11/2011.

It is the case of the Appellant that both the Authorities charged fees for Development Permission and Construction License for reconstruction of structure and based on the approvals the Appellant commence the reconstruction of the said existing house and when the said construction reached the stage of Ground plus first floor the Respondent no.3, who is the next door neighbour of the Appellant filed Complaint before the Authorities including the Respondent no.1. subsequently, the Respondent no.3 also filed the Writ Petition bearing no. (F NO. 67/2022) before the Hon'ble High Court seeking direction to the Greater Panaji Planning & Development Authority and Corporation City of Panaji to hold site inspection and to take immediate steps to remedial measures upon received the report and further to revoke the approvals granted by the Authority that as per the Order dated 19/01/2022 passed by the Hon'ble High Court, inspection was carried out by the Officials of the Authority wherein certain observation in respect of said structure were made pursuant to the site inspection report Corporation City of Panaji issued work stoppage Order-Cum- Show Cause Notice dated 08/02/2022 under section 269(2) of the City of Panaji Corporation Act, 2002.

It is further case of the Appellant that since the Respondent no.3 made certain grievance about the reconstruction of the existing structure, the Appellant submitted revised plan dated 28/03/2022 indicating certain internal deviation during construction without changing the existing plinth dimension. It appears that the Respondent no.1 Greater Panaji Planning & Development Authority also issued show cause notice dated 15/06/2022 to the Appellant and accordingly the Hon'ble High Court vide Order dated 24/06/2022 issued direction to the Greater Panaji Planning & Development Authority to disposed off the show cause notice within 8 weeks from the said Order.

It appears that the Appellant submitted reply to the show cause notice and provided explanation and subsequently the Appellant vide letter dated 17/08/2022 requested the Greater Panaji Planning & Development Authority to consider the revised plan submitted on 28/03/2022 before taking any decision of the show cause notice.

Subsequently the Corporation City of Panaji passed Order wherein the Appellant was directed to demolish the construction and restore the land to its original condition against which the Appellant preferred the Appeal before the Government of Goa.

Thereafter on 26/08/2022, the Appellant received the Order dated 19/08/2022 passed by the GPPDA wherein the Appellant was directed to demolish the development which is in contravention of the Development Permission and against the said Order dated 19/08/2022 passed by the erstwhile GPPDA the Appellant preferred Appeal before this Board which was partly allowed vide Order dated 09/01/2023 wherein the Application for revised plan submitted by the

Appellant was directed to be considered by the NGPDA which is having jurisdiction and in the said Order the NGPDA was also directed to consider whether the relaxation can be granted as far as setbacks are concerned.

The Respondent no.3 thereafter challenged the Order dated 09/01/2023 passed by this Board in Writ Petition No. 175/2023 before the Hon'ble High Court and vide Order dated 20/03/2023, the Hon'ble High Court directed the NGPDA to take decision on the revised plan in view of the observation made in Para 6 of the said Order after hearing the Parties.

Pursuant to the said direction the NGPDA after giving opportunity to both parties passed the Impugned Order wherein the revised plan submitted by the Appellant has been rejected and the Appellant has been directed to remove illegal construction within a period of one month against which Order the Appellant has preferred this Appeal.

In the impugned Order the NGPDA has considered the revised plan dated 28/03/2022 and made certain observation including that the Appellant has carried out the construction by erecting columns, casting beams and slab and that there is no proper setbacks and therefore the NGPDA refused to grant any relaxation in respect of coverage, set-backs and Parking and accordingly rejected the revised plan. The Respondent no.3 in his reply has taken various contentions and stated that the Authority despite the Complaint filed by him allowed the Appellant to undertaken construction. The Respondent no.3 also stated that under the garb of repairs and alteration, the Appellant has actually carried out re-construction of a Commercial building without maintaining any setbacks and without providing parking as required under the regulation and as observed by the Authorities.

The Respondent No.3 in his reply has also further stated that the construction has been carried out on the Dr. Atmaram Borkar Road without maintaining proper setbacks and that there is no provision for reconstruction of house on the same plinth in the Central Commercial Zone as the Plinth area is not the construction. He also stated that the Approvals granted the area to be demolished is mentioned as 6.25 mtrs. However, the entire old residential structure is demolished and therefore even the coverage has been exceeded. The Respondent No.3 therefore submitted that the reconstruction carried out is in violation of the applicable regulation and therefore the deviation carried out is beyond the permissible limit and no relaxation can be granted as there is no Parking provided. The Respondent no.3 in his reply also referred to the judgments of the Hon'ble Supreme Court in the case of M.C Mehta, Sri. K. Ramdas Shenoy, M.I. Builders Pvt. Ltd, Friends Colony Development Committee as also the Order passed by the Hon'ble High Court in the case of Vallabha Krupa CHSL to content that the development carried out in violation of approved plan cannot be regularized.

It is the case of the Appellant that the Appellant has carried out the construction on the very same plinth without exceeding any FAR in any manner and that the Appellant was under bonafide impression that there is no need to keep any further setbacks as the residential house of the Appellant was existing in the said property and therefore, he submitted that NGPDA ought to have considered the revised plan and granted relaxation to that extent. The Appellant also submitted that new setbacks regulation cannot be applied to reconstruction undertaken as the building is not the high rise building and the construction of the existing house cannot be equated to a new construction and it should be constituted as old structure with the same parameters.

During the course of the hearing, the Advocate for the Appellant also relied upon the decisions of the Hon'ble High Court in the case of Bonaficio Fernandes and in Writ Petition filed by the Respondent No.3.

It is the case of the Appellant that during the course of the construction, considering that the structure which was 80 years old and unsafe and structurally unstable and highly infected with termites and showing the structural crack which is detrimental to the structural stability that the Appellant has demolished the old walls. The Appellant has also submitted that the Respondent no.3 has also constructed building opposite to the said house and the Respondent no.3 is not affected by the said construction and that the Respondent no.3 has been residing there using very same passage. The Appellant also further submitted that the NGPDA ought to have exercised the power and granted relaxation as far as setbacks are concerned considering old house of the Appellant was existing as according to the Appellant, the construction undertaken is on very same existing plinth where the house was existing for last several years. The Appellant therefore submitted that the NGPDA ought to have exercised the power and approved the revised plan.

The Board considered the entire case set out by the Appellant so also the Impugned Order so also all the contentions taken by the Respondent No.3 including the Judgments relied upon of the Hon'ble Supreme Court and Hon'ble High Court.

It is not disputed that the Appellant was having his old residential house in the said property and that the Appellant while undertaking construction as per the approvals granted by the concerned authorities for alteration and addition to the existing house, has undertaken reconstruction on the very same plinth. The Appellant has already undertaken construction of structure and therefore, the Appellant has requested for some relaxation in respect of the setbacks. The Respondent no.3 has contended that the Appellant has carried out reconstruction by demolishing entire house therefore the Appellant is required to maintain proper setbacks as per the Regulations, 2010, so also he has submitted that coverage is exceeded and no proper parking is provided being commercial structure.

The Hon'ble High Court in its Order dated 20/03/2023 passed in the Writ Petition No. 175/2023, while not interfering with the Order passed by this Board directed the NGPDA to consider the revised plan in accordance with the Regulation 3.8 of the Regulation, 2010. Although, the said direction was issued, the NGPDA rejected revised plan in view of the observations made in the Impugned Order.

The Board considered the Regulation No. 3.8 of the said Regulations, 2010 so also the Regulation 22 which provides for relaxation and saving Provisions more particularly Regulation 22.2 and Regulation 22.3, which are reproduced herein

“22.2.Relaxation for additions/alterations to existing non-high rise buildings: In case of applications for additions/alterations to non-high rise buildings only, if on considering the merits of the case, it becomes evident that the applicant may face hardships in complying with the Regulations, as the applicant has already completed/ /part completed the development prior to the coming into force of these Regulations, the Competent Authority may, for reasons to be recorded in writing, relax or waive any of the above Regulations except those regarding F.A.R. and projections within setback lines.

22.3. Relaxation in case of existing Coverage 60% and above: Relaxation as regards coverage in case the plot is already built upon or having an existing structure before coming into force of these regulations, and the area covered by such existing building/buildings having 60% or above coverage, the coverage of the proposed building, (or the composite coverage of the proposed and existing building) may be relaxed up to 10%, over and above the coverage permitted....”

In view of the above regulations and considering the fact that the construction undertaken cannot be said to be new construction as a whole and in view of the fact that the Appellant was having his old residential house and the issue in relation to maintaining setbacks cannot be insisted upon as the Appellant has already constructed the building which is structurally complete and the setbacks which were available to the old house have been maintained at the site and in fact towards the northern side the Appellant has not encroached upon the existing footpath.

Considering all these aspects and considering the fact that the Appellant and his family members are senior citizens of advance age merely because the Appellant has demolished the internal walls so also the outer walls, considering the walls were very old, it cannot be insisted that the Appellant should remove construction of structure carried out in alleged setbacks area.

Considering all this aspect the Board is of the view that the NGPDA ought to have considered all these aspects and granted relaxation including that in respect set-backs as both the side the structures are existing at the site and it is not the case of the Respondent No.3 that his proprietary rights are in any manner violated.

Considering above, the Appeal filed by the Appellant is partly allowed and the Impugned Revocation Order-Cum- Rejection of revised plan passed by the NGPDA is set aside; and the NGPDA is hereby directed to consider and approve the revised plan submitted by the Appellant on 20/03/2022 by granting relaxation in respect of setbacks, coverage and parking requirement if any, on such terms and conditions as per Provision of the applicable Regulations, 2010.

Member Secretary was accordingly directed to issue the order in this regard.

Item No. 3: Compounding of offenses under Section 17B of the Town and Country Planning Act for Sy. No. 59/3A of Calangute situated at Candolim village.

Member Secretary informed that the TCP Department has received an application for regularization of filling of low lying area as carried out in property bearing Sy. No. 59/3A of Calangute situated at Candolim village.

It was further informed that as per the ODP of Candolim 2025, property having an area of 7695.00 sq. mts., is earmarked as Settlement Zone. It was brought to the notice of the Board that the applicant vide ref. No. 4/17/CNU/AC/III/2021/252 dated 22/02/2021 has already obtained Conversion Sanad for an area of 2500 sq. mts. for residential use only, and that this area is beyond the CRZ line. As per Form I & XIV, the property is shown as Dry Crop.

Chief Town Planner (Landuse) Ms. Vertika Dagur, who were present for the meeting informed that during the site inspection carried out by the officials of the Department, it was observed that the applicant has already filled and levelled entire area of 7695.00, including the portion for which conversion sanad was not obtained. It was also mentioned that the Department could not verify the original

ground level due to the filling carried out in entire property and as such, the exact depth of filling undertaken, could not be ascertained. Chief Town Planner (Landuse) however mentioned that in the site inspection report of NGPDA, it is stated that the property was at a depth of 1.5 mts. below adjoining ground level.

The Board was further informed that a police complaint has already been filed for the filling carried out in the property and the Criminal Case under Section 17B of the TCP Act has been finalized and Final Summary – A is also submitted before JMFC Mapusa Court, which is yet to be decided.

The Board was further informed by Chief Town Planner (Landuse) that as per the Gazette Notification dated 01/04/2022, compounding of offense is permissible under Section 17-B of TCP Act for which, recommendation of the Board and approval of the Government is required to be obtained, if the area of the land admeasures more than 2000 sq. mts. It was therefore mentioned by Chief Town Planner (Landuse) that in the present case, the land in which filling has been carried out, is exceeding an area of 2000 m² and therefore the matter is placed before the Board for decision.

The Board was further briefed that as per the compounding fees prescribed in the schedule of the Notification dated 01/04/2022, for filing up of low lying land upto 2000 sq. mts., penalty applicable is Rs. 10,00,000/- and whereas for an area exceeding 2000 sq. mts. and upto 10,000 m², a penalty of Rs. 500/- per sq. mtrs. is applicable.

The Board deliberated on the matter and observed that necessary provisions are now made under the law to regularize unauthorised filling carried out, by payment of the compounding fees and therefore recommended that the compounding fees as applicable shall be levied depending upon the extent of area in which filling is carried out.

Member Secretary was accordingly directed to undertake further procedure for obtaining Government approval for this recommendation of the Board.

Item No: 4: Application for regularization of cutting sloppy land under Section 17-B of the TCP Act in property bearing Sy.No. 365/1 (part) of Mandrem Village.

Member Secretary informed that the Town and Country Planning Department has received an application for regularization of cutting done of slopy land, bearing Sy. No. 365/1(part) of Mandrem Village, under Section 17-B of the TCP Act in property

It was further informed that as per the Regional Plan for Goa - 2021, the property under reference is earmarked as Settlement Zone and that the applicant vide ref.No. RB/CNV/PER/COLL/02/2011 dated 14/07/2011 has already obtained Conversion Sanad for the entire property for residential use.

Chief Town Planner (Landuse) Ms. Vertika Dagur, who was present for the meeting informed that Pernem Taluka Office has already issued Technical Clearance Orders for the construction of residential units, swimming pools and compound wall in the property under reference and it was further informed that Pernem Taluka Office had subsequently received a complaint from the Dy. Collector (DRO) vide No. DC/DRO/Flying Squad/North/04/23/313 dated 01/09/2023, against illegal hill cutting in the property under reference, and therefore a Stop Work Order No. DC(DRO)/Flying Squad/North/Pernem-

4/2023/331 dated 03/10/2023 was issued by the Dy. Collector (DRO) North Goa District, Panaji. It was informed that as per the complaint received from the Dy. Collector (DRO) dated 01/09/2023, the cutting was undertaken in an area of 3500m².

It was then informed that based on the said complaint, Pernem Taluka Office vide letter No. DA/2725/PER/MAN/TCP/2023/1750 dated 06/10/2023 had requested P.I. Pernem Police Station to investigate the matter and keep vigil on the site to avoid any further cutting.

Chief Town Planner (Landuse) then informed the Board that in compliance to the Show Cause Notice issued by the Dy. Collector, the applicant Isprava Realty LLP, as provided under Section 17-B of the TCP Act, has submitted an application for regularization of cutting undertaken of slopy land and the site was therefore inspected by the officials of the Pernem Taluka Office and it was observed that vertical and horizontal cutting has been carried out for the construction of retaining walls and for construction of Residential villas.

The Board was further informed by Chief Town Planner (Landuse) that as per the Gazette Notification dated 01/04/2022, compounding of offense is permissible under Section 17-B of TCP Act for which, recommendation of the Board and approval of the Government is required to be obtained, if the area of the land admeasures more than 2000 sq. mts.

The Board was further briefed that as per the compounding fees prescribed in the schedule of the Notification dated 01/04/2022, for filing up of low lying land upto 2000 sq. mts., penalty applicable is Rs. 10,00,000/- and whereas for an area exceeding 2000 sq. mts. and upto 10,000 m², a penalty of Rs. 500/- per sq. mtrs. is applicable.

The Board deliberated on the matter and observed that necessary provisions are now made under the law to regularize unauthorised cutting of slopy land, by payment of the compounding fees. The Board considered that the development has been already permitted by the Department and the construction is in progress as per the approved plan. It was also observed that the construction of retaining wall as undertaken by the applicant and as observed during the site inspection, is now essential to prevent any further ecological damage. The Board also considered that the cutting is undertaken in a terraced manner and also considered the height of cutting. Considering the merit of the case and the work progress at the site, the Board recommended for regularization of cutting of slopy land subject to payment of compounding fees as applicable, to the extent of cutting undertaken.

Member Secretary was accordingly directed to undertake further procedure for obtaining Government approval for this recommendation of the Board.

Item No.5: Other uses to be included under the Goa Land Development and Building Construction Regulations, 2010.

Member Secretary informed that the Government seeks to attract high end tourism by utilizing the natural beauty of the State to its advantage. As Goan landscape consists of orchard areas, hilly areas and other picturesque locations which acts as attraction for recreational sites for Tourism related activities and are therefore having tremendous potential for development of various tourism related activities such as Golf Course.

It was then informed that under GLDBCR-2010, there are no regulations prescribed for setting up of golf courses in the State of Goa, which needs to be looked into. A comparative statement of these activities i.e. Golf Course, as available in other parts of the Country is given below for reference purpose.

Chief Town Planner (Landuse), who were present for the meeting then gave a comparative statement of Golf courses as are available in other States.

The details pertaining to Golf Courses were mentioned as under:

a) Golf Courses

Golf Course does not require large built up areas but vast open spaces, which are available at different locations in Goa.

As per mandatory guidelines and international standards, golf course areas are dependent upon the number of hole as given below:

- 65-75 Acres: An international standard 9 Hole Championship Golf Course and Driving Range
- 125 Acres and above: several formats of 18 Hole Golf Course with Driving Range

Considering the statistics, it was observed that for an area for a 18 hole golf course, the requirement of area would be 4 lakh square meter and shall include provision for club house, driving range, etc.

The subject was deliberated and considering the Goan scenario, it was opined that the Goa should promote Golf Courses to attract high end tourism and which shall promote interland tourism. It was expressed that the chamber of commerce would support such an initiative, if adopted by the Government. It was also suggested that Golf courses shall compulsorily adopt green concepts and shall have focus on reduction in potable water, better handling of waste and energy efficiency, enhanced bio-diversity and protection & enriching of topsoil. It was further suggested that the project proponent shall have to submit special report as regards to water to be procured by him and necessary conditions shall have to be imposed to see that utilization of public water distribution system is discouraged.

The Members were of the opinion that minimum area of 100 acres shall be made compulsory to have such Golf courses. It was accordingly decided that the Goa Land Development and Building Construction Regulations, 2010, shall include the provision for permitting Golf courses and that the regulation shall be framed to address green features under following categories:

1. Site Planning & Management
2. Selection of Species for Landscape
3. Water Conservation
4. Material Selection
5. Energy Efficiency
6. Operation & Maintenance

Chief Town Planner (Landuse) was accordingly directed to undertake further procedure in this regard.

b) Grant of additional FAR and height for Medical Institutions/Hospitals.

Member Secretary informed that the State of Goa has amended the Goa Land Development and Building Construction Regulations, 2010, by which special provisions are made under Section 6A.4.20 to grant additional FAR of 30 for 4 & 5 Star Hotels, for which recommendation of the Committee constituted for the purpose is required.

It was further informed that amendment to the Goa Land Development and Building Construction Regulations, 2010 is also carried out by means of regulations 6A.4.22, by which, an additional FAR upto 20 of the permissible FAR is granted with the approval of the Government for the educational institutions which are recognized by the Education Department/Goa University etc.

Members deliberated and expressed that considering the initiatives undertaken by the Government in improving health facilities and to provide efficient medical facilities to the public, the Government need to further incentivize the medical field by granting additional FAR and the height for the medical institutions and hospitals etc. to enable them to extend the facilities provided by them, such that these institutions can undertake re-development of their buildings, wherever existing or come forward to construct the new hospitals, etc. to further expand medical facilities even in the rural areas.

Member Secretary then briefed the members that the Government vide Notification dtd. 9/8/2023 has already provided for grant of additional FAR and height to the buildings depending on use, locational aspects, infrastructure available etc. and for which a committee has been constituted to scrutinize such proposals, who is required to recommend such proposals to the Board for its consideration and for approval thereafter by the Government.

The Board therefore was of the opinion that if received the Government shall give priority in considering such proposals of medical institutions such that they be granted benefit of additional FAR and height.

Chief Town Planner (Landuse) Ms. Vertika Dagur, who was present for the meeting was accordingly directed to work out further details in this regard and make necessary amendments to GLDBCR-2010 to make provision for the same.

c) Residential School

Member Secretary informed that the Goa Land Development and Building Construction Regulations, 2010 has provisions to regulate proposals for educational institutions, health and medical institutions etc. and further informed that Educational Institutions are allowed in settlement, institutional zones and other developable zones. It was further informed that Agriculture Research Centre/ development centre/ Agricultural Educational Institute/ Educational Institute/ Bio-Technology unit are now also allowed in Agriculture Zone under pre-requisite conditions where maximum ground coverage and maximum FAR is as applicable to the respective zones. The Board was also informed that Yoga and meditation centre are now permitted provided that the plot has minimum area of 50,000m², the maximum Coverage, FAR and height of building permissible shall be 5%, 5% and 7.60m respectively.

The Board deliberated on the subject and noticed that although various colleges within the State of Goa have made available the hostel facilities, State of

Goa still does not have schools with facilities that house the students studying in the school, one of the reason attributed for not having such facilities within the State of Goa was considered to be non provision of any such facilities under the regulations.

The Board therefore decided that the regulations need to be amended to provide separate provisions for Residential Schools which may be defined as educational institutions with special focus on community engagement, where the schools build a relationship with its surroundings.

It was clearly expressed by the members that such residential schools need to be encouraged to set up in non-settlement areas such that large areas could be considered for setting up of such facilities.

Chief Town Planner (Landuse) Ms. Vertika Dagur, who was present for the meeting was accordingly directed to work out further details in this regard and make necessary amendments to GLDBCR-2010 to make provision for the same.

d) Special 350 FAR

Member Secretary informed that the Goa Land Development & Building Construction Regulations, 2010 specifies different land use zones as mentioned under Table - VII, which are assigned for Residential, Commercial, Industrial, Public/Semi-Public/Institutional, Transport, Warehousing & Communication, Parks, Playgrounds, Recreational, Agriculture, Orchard/Natural Reserve & Conservation.

It was further informed that Table - VIII under Regulation 6A.4 specifies different regulations as applicable for different zones, under which additional FAR is assigned to different zones, as per which, FAR applicable varies from 60 to 200 for residential uses and 80 to 300 for Commercial uses. The Board was then informed that many a times, a difficulty is expressed by the housing society owners/private parties that even a FAR of 300 is not sufficient enough to accommodate re-development scheme, which otherwise has already consumed FAR of around 300.

The Members deliberated at length on the subject and were of the opinion that FAR be enhanced to 350 such that re-development of such schemes can be undertaken by them or through builders, such that schemes undertaken are economically viable and can therefore accommodate the growing needs of the public.

It was therefore decided that necessary amendment to the GLDBCR-2010 shall be affected to introduce new zone with special FAR of 350 to encourage and promote re-development schemes to provide better living facilities for the stakeholders.

While deliberating on the issue, it was suggested by the members that the buildings with FAR of 350 need to have a maximum height of 50 mts. to utilize the FAR benefit.

It was suggested by the members that objections/suggestions may be invited through notification to affect such change under regulations.

Chief Town Planner (Landuse) Ms. Vertika Dagur, who was present for the meeting was accordingly directed to work out further details in this regard and make necessary amendments to GLDBCR-2010 to make provision for the same.

The Board also directed Chief Town Planner (Landuse) that while working out on these regulations, a proper thought shall be given to the minimum requirement of plot area for such schemes and also to decide properly on the minimum width of road required as an access to such properties.

Chief Town Planner (Landuse) was directed accordingly to work on these details.

Item No- 6: Proposed development plan of the lower terminal building and proposed ropeway main steel tower situated in the property bearing Chalta No.7 of P.T. Sheet No.97 and Chalta No.1 of P.T. Sheet No.79 respectively of Panaji city.

Member Secretary informed that the North Goa Planning and Development Authority has received an application from Goa Tourism Development Corporation Ltd., for proposed development of Lower Terminal Building and proposed Ropeway Main Steel Tower in property bearing Chalta No.7 of P.T. Sheet No.97 and Chalta No.1 of P.T. Sheet No.79 respectively of Panaji City.

It was further informed that NGPDA has stated that earlier, GTDC had submitted a proposal vide letter dated 22/05/2017 for Construction of Lower Terminal Building and Main Rope Way Tower admeasuring area of 5200 sq. mts. and the same was approved in 72nd (Adj.) Authority meeting held on 12/12/2018, with the decision to submit the proposal to the Government for relaxation in FAR i.e. 100 to 150 and for relaxation of height and setback.

Board was then briefed that relaxations were thereafter sought by GTDC and were approved by the TCP Board in its 165th (Adj.) meeting held on 10/06/2019 and thereafter by the Government and that the same decision of the Government was thereafter conveyed to the North Goa Planning and Development Authority vide Order dated 17/06/2020.

Member Secretary then informed that the GTDC has now submitted revised proposal to NGPDA for development of the Lower Terminal Building and for proposed Ropeway Main Steel Tower situated in the property bearing Chalta No.7 of P.T. Sheet No.97 and Chalta No.1 of P.T. Sheet No.79 respectively of Panaji city.

Chief Town Planner (Landuse) / Member Secretary, North Goa PDAMs. Vertika Dagur, who was present for the meeting informed that as per ODP 2011 of Panaji, property under reference is earmarked as Recreational (R) zone and is accessible by 15 mts. road towards the Southern side and proposed 10 mts. towards the western side. It was also informed that as per ODP 2021 of Panaji, property under reference is earmarked as Institutional (P) zone and is accessible by 15 mts. road towards the Southern side and proposed 10 mts. towards the western side.

Member Secretary, North Goa PDA then informed that their Authority has examined the revised plan from planning point of view in accordance to the zoning provision Institutional (P) zone as per ODP 2021 of Panaji and has observed that as per the plan submitted, the building consist of basement, ground, mezzanine, 1st, 2nd, 3rd, 4th, 5th floor and terrace.

Member Secretary, North Goa PDA further informed that as per the drawing submitted, the height proposed for basement is 6.50 mts. whereas as per Rule 27 VI (a) maximum intermediate height permissible for basement is 4.50 mts.

between undersides of roof slab therefore, the project proponent needs relaxation from existing byelaws for proposed height in basement floor.

The Board was then informed by the Member Secretary, North Goa PDA that the proposal of GTDC was discussed by the Authority in its 92nd meeting held on 09-11-2023 with specific reference to regulation 27 VI (a) regarding maximum permissible intermediate height of basement which is 4.50 mts. and the Authority was of the opinion that said regulation be amended/ relaxed to permit maximum height to 6.50 mts. as proposed by GTDC in the instant case, as the height proposed for the basement is one of the key feature of the project and is therefore specific requirement of GTDC and hence the Authority had decided to forward the proposal to the Government for seeking relaxation in the regulation 27 VI (a) to permit height of the basement to 6.50 mts., as proposed in the proposal submitted.

The Members deliberated at length and were of the opinion that the relaxation sought for the height of the basement is to facilitate better parking facilities for the project, which is bound to attract lots of tourist.

The Board therefore recommended that the relaxation sought by GTDC be considered by the Government.

Member Secretary was accordingly directed to forward the proposal to the Government for necessary approval and grant of relaxation sought.

Item No. 7: Regarding Show Cause Notice issued in the matter of Technical Clearance granted for sub-division of land at property bearing Sy. No. 8/1-D (Plot No. 1 to 104) of Village Azossim, Tiswadi Taluka to M/s Prescon Homes Pvt. Ltd.

Member Secretary informed that Tiswadi Taluka Office of TCP Department had earlier issued final NOC of sub-division of land at property bearing Sy. No. 8/1-D (Plot No. 1 to 104) of Village Azossim, Tiswadi Taluka, by M/s Prescon Homes Pvt. Ltd. vide Technical Clearance Order under ref. No. TIS/08/PART/AZO/TCP/2020/1526 dated 06/11/2020 and thereafter a Show Cause Notice Cum Stop Work Order was issued vide Order dated 14/07/2023.

It was then informed that as per Regional Plan 2021, the property bearing Sy. No. 8 of Village Azossim, Tiswadi Taluka is earmarked partly as Settlement (S4) zone, partly as Private Forest and partly as No Development Slopes and thereby it was observed by the Tiswadi Taluka Office that the Technical Clearance was obtained by misrepresentation of the facts especially as regards to condition No. 3 of the NOC which reads as under:

“The permission granted shall be revoked, if any information, plans, calculations, documents and any other accompaniments of the application are founding correct or wrong at any stage after the grant of the permission and the applicant will not be entitled for any compensation”.

It was then informed by the Member Secretary that the applicant has submitted his reply. When inquired by the members about the contents of the reply, it was informed that the reply mentioned as under:

1. The above notice is completely misconceived and is based on misconstruction and misreading of the applicable facts. The manner in which the

above notice is issued is indicative of the fact that the Complainant has grossly mislead you into issuing the above show cause notice and stop work order.

2. *At the outset, we would like to mention that there is no on going work on Plot Sy. No. 8/1-D by Prescon Homes Pvt. Ltd. The Development on the said Plot has been completed and final NOC from the TCP and the V.P has been obtained.*

3. *All the developed Plots in the said Project on Sy. No. 8/1-D have already been sold and possession has been handed over by the Company to the various buyers.*

4. *Sy. No. 8/1 is originally the bigger property. The Company was the owner in possession bearing Sy. No 8/1-D (the said sub-division Sy. No. 8/1-D is identified in the Regional Plan 2021 as settlement). The Company has obtained the Approvals on the basis that the subject matter, Sy. No. 8/1-D is in the settlement zone, the list of approvals is enclosed herewith as Annexure I. As can be seen from the enclosed chart, huge amounts of monies have been invested by the Company and paid to various Departments.*

5. *In light of the above, ex-facie the above Show Cause Notice cum Stop Work Order is misconceived. As stated, Sy. No. 8 consists of various sub-divisions and it appears that the zoning of the other sub-divisions is made applicable to the subject Project which is a patent error.*

6. *The sub-division development was completed and in furtherance of the same final NOCs have been issued by the TCP Department and the Panchayat. The final NOCs are a confirmation of the fact that the sub-division development was undertaken in accordance with the approvals.*

7. *As referred to earlier, prior to the approval being obtained from TCP Department and Panchayat and prior to undertaking development, Conversion Sanad dated 20/3/2019 was issued by the Collector. As you are aware, obtaining a conversion Sanad under Section 32 of the Goa Land Revenue Code is an elaborate and comprehensive process which also involves obtaining an NOC from various Departments such as the TCP Department, Forest Department, Mamlatdar. The Conversion Report was issued by the TCP Department vide Reference No. TIS/08/PART/AZO/TCP/2018/377 dated 2/4/2018. In pursuance to NOC's issued by the various Departments, the concerned Collector granted conversion Sanad for the subject property bearing Sy. No. 8/1-D. The Departments issued the NOC after due Site inspection and thorough verification of all the permissions granted by various Departments. We would like to highlight here that the Company had planned and executed the Project based upon the Conversion Sanad issued by the Authorities.*

8. *In such circumstances, it is shocking that you have charged the Company with practicing Misrepresentation with regard to zoning and have proceeded to issue Show Cause Notice cum Stop Work Order. It is reiterated that zoning in respect of the said property being settlement is confirmed by you prior to issuance of Conversion Sanad. In such circumstances, the question of misrepresentation on the part of the company does not arise.*

9. *On the aspect of Private Forest, the Company states as under:*

- I. The Conversion Sanad dated 20/3/2019 was granted in pursuance to NOC issued by the Forest Department. As you are aware, every Conversion Sanad application is referred to the Forest Department. The concerned Forest Department thereafter verifies its records as to*

whether the referred property is identified as a forest by any authorities or court orders and thereafter gives its conclusions to the Collector. In the event the property is identified as forest, the same is concluded by the Forest Department and the said conclusion is forwarded to the Collector who then had no option but to reject the Sanad. In the instant case, the Forest Department verified the records and inspected the property and confirmed that the subject property is not identified and does not qualify as a private forest. In Such circumstances, the reference to private forest in the said Show Cause Notice is completely baseless. The Forest Department is the final and only authority that can opine on the issue of private forest. In the instant case, the Forest Department has issued NOC, for the conversion and it is therefore inconceivable that you have proceeded to refer to the Private Forest in the show cause notice. However, the NOC issued by the Forest Department should settle the controversy on that aspect.

II. Further, the State Level Expert Committee had conducted inspection on 4/2/2016 and submitted their Inspection Report vide No. SDFO/PON/PF/2015-16/133 dated 12/2/2016 that the area forming Survey no. 8/1 of Village Azossim does not fulfill the criteria of Private Forest and had decided to delete the Survey no. 8/1 from the provisionally identified Private Forests and had reported accordingly. The said inspection report was signed by Shri. Pradeep Verekar, Member Secretary and Sub-Divisional Forest Officer, Ponda Sub Division Ponda Goa.

III. Even otherwise by way of clarification it is pointed out that the said property i.e. Sy. No. 8/1-D is not identified as a private forest in terms of the Sawant and Karapurkar report read with the Deepshika Sharma Committee report as confirmed by the Hon'ble NGT vide order dated 18/8/2020. The demarcation plan of the Deepshika Sharma Committee clearly excludes the area which is the subject matter of Sy. No. 8/1-D.

10. Despite the overwhelming material, which unequivocally establishes that there is no misrepresentation of any nature on the part of the Company, it is unfortunate that you have proceeded to issue Stop Work Order. The plotting development has been completed.

11. We would like to further add that there are bonafide and innocent purchasers who have put in their hard-earned money into the development and such drastic orders cause serious prejudice to such plot-holders more particularly when the order is passed without hearing the Company and is completely misconceived in facts and law. The Stop Work Order shall cause disruption and disturbance to the development works being undertaken by plot-holders who just like the company are made to suffer for no fault of theirs. Severe losses will be caused to the Company and plot-holders on a daily basis if such stop work order is not revoked.

12. In fact serious action needs to be taken against the Complainant for making an unstudied and ill-researched complaint or possibly a complaint made with deliberate malafide intention of creating sensation and stalling the project for collateral purposes.

13. We therefore request you to immediately revoke the Stop Work Order and discharge the Show Cause Notice. However even if you are inclined to consider the

Show Cause Notice in a later point of time, the stop work order which is ex-facie illegal and misconceived and passed in violation of the principles of natural justice without being given a chance to present our case or being given an opportunity to be heard, be revoked with immediate effect.

14. *Further, as we understand, since the TCP only grants Technical Approval and is not the Authority who issues the Construction License based upon which the work can be carried at site, hence the TCP also does not have the authority to issue Stop Work Order. Based on this surmise, we understand that the Stop Work Order issued by the TCP is ex-facie without jurisdiction and therefore has no legal effect.*

15. *As stated earlier, the Stop Work Order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis. The company cannot be made to suffer these daily losses now that the baseless and malicious nature of the complaint has been brought to your notice.*

Member Secretary then briefed the members that the applicant has issued a detail reply and has stated that the show cause notice and the stop work order issued by Tiswadi Taluka Office is ex-facie and misconceived and is passed in violation of the principle of natural justice as no chance was given to the applicant to present their case and also that no opportunity was given to them to be heard and has therefore requested to revoke the stop work order with immediate effect. The applicant has therefore stated that the stop work order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis and has stated that the company cannot be made to suffer daily losses as the now nature of the complaint is baseless and malicious.

Member Secretary then informed the Board that Tiswadi Taluka Office had referred the matter to the office of CTP and further informed that the same has been placed before the Board to deliberate and decide.

The matter was deliberated at length and considering the contents of the stop work order and well reasoned reply issued by M/s Prescon, the Board was of the opinion that the show cause notice cum stop work order is liable to be set aside. Accordingly, it was decided that the Tiswadi Taluka Office be told that the show cause notice cum stop work order issued by them should be withdrawn.

Member Secretary was accordingly directed to communicate the decision of the Board to Tiswadi Taluka Office.

Item No. 8: Regarding Show Cause Notice issued for final NOC for sub-division of land at property bearing Sy. No. 8/1-A (Plot No. 1 to 38) of Village Azossim, Tiswadi Taluka issued to M/s Prescon Construction LLP.

The Member Secretary informed that Tiswadi Taluka Office of TCP Department had earlier issued final NOC for sub-division of land at property bearing Sy. No. 8/1-A (Plot No. 1 to 38) of Village Azossim, Tiswadi Taluka, by M/s Prescon Construction LLP. Vide Technical Clearance Order under ref. No. TIS/08/PART/AZO/TCP/2020/1526 dated 06/11/2020 and thereafter a Show Cause Notice Cum Stop Work Order issued vide dated 14/07/2023.

It was then informed that as per Regional Plan 2021, the property bearing Sy. No. 8 of Village Azossim, Tiswadi Taluka is earmarked partly as Settlement (S4) zone, partly as Private Forest and partly as No Development Slopes and thereby it is observed by the Tiswadi Taluka Office that the Technical Clearance

was obtained by misrepresentation of the facts especially as regards to condition No. 3 of the NOC which reads as under:

Whereas condition No. 3 of the N.O.C in this regard, reads as under:

“The permission granted shall be revoked, if any information, plans, calculations, documents and any other accompaniments of the application are founding correct or wrong at any stage after the grant of the permission and the applicant will not be entitled for any compensation”.

It was then informed by the Member Secretary that the applicant has submitted his reply. When inquired by the members about the contents of the reply, it was informed that the reply mentioned as under:

- 1. The above notice is completely misconceived and is based on misconstruction and misreading of the applicable facts. The manner in which the above notice is issued is indicative of the fact that the complainant has grossly mislead you into issuing the above Show Cause Notice and Stop Work Order.*
- 2. At the outset, we would like to mention that there is no ongoing work on Plot Sy. No. 8/1-A by Prescon Construction LLP. The Development on the said Plot has been completed and final NOC from the TCP and the Village Panchayat has been obtained.*
- 3. All the developed Plots in the said Project on Sy. No. 8/1-A have already been sold and possession has been handed over by the Company to the various third party plot buyers.*
- 4. Sy. No. 8/1 is originally the bigger property. The Company was the owner in possession bearing Sy. No 8/1-A (the said sub-division Sy. No. 8/1-A is identified in the Regional Plan 2021 as settlement). The Company has obtained the approvals on the basis that the subject matter, Sy. No. 8/1-A is in the settlement zone the list of which is enclosed herewith as Annexure I. As can be seen from the enclosed chart, huge amounts of monies have been invested by the Company and paid to various Departments.*
- 5. In light of the above, ex-facie the above Show Cause Notice cum Stop Work Order is misconceived. As stated Sy. No. 8 consists of various sub-divisions and it appears that the zoning of the other sub-divisions is made applicable to the subject project which is a patent error.*
- 6. The sub-division development was completed and in furtherance of the same final NOCs have been issued by the TCP department and the Panchayat. The final NOCs are a confirmation of the fact that the sub-division development was undertaken in accordance with the approvals.*
- 7. As referred to earlier, prior to the approval being obtained from TCP Department and Panchayat and prior to undertaking development, Conversion Sanad dated 23/10/2018 was issued by the Collector. As you are aware, obtaining a conversion Sanad under Section 32 of the Goa Land Revenue Code is an elaborate and comprehensive process which also involves obtaining an NOC from various Departments such as the TCP department, Forest Department, Mamlatdar. In pursuance to NOC's issued by the various Departments, the concerned Collector granted conversion Sanad for the subject property bearing Sy. No. 8/1-A. The Departments issued the NOC after due Site inspection and thorough*

verification of all the permissions granted by various Departments. We would like to highlight here that the Company had planned and executed the Project based upon the Conversion Sanad issued by the Authorities.

8. In such circumstances, it is shocking that you have charged the Company with practicing Misrepresentation with regard to zoning and have proceeded to issue Show Cause Notice cum Stop Work Order. It is reiterated that zoning in respect of the said property being settlement is confirmed by you prior to issuance of conversion Sanad. In such circumstances, the question of misrepresentation on the part of the company does not arise.

9. On the aspect of private forest, the Company states as under:

I. The Conversion Sanad dated 23/10/2018 was granted in pursuance to NOC issued by the Forest Department. As you are aware, every Conversion Sanad application is referred to the Forest Department. The concerned Forest Department thereafter verifies its records as to whether the referred property is identified as a forest by any authorities or court orders and thereafter gives its conclusions to the Collector. In the event the property is identified as forest, the same is concluded by the Forest Department and the said conclusion is forwarded to the Collector who then had no option but to reject the Sanad. In the instant case, the forest department verified the records and inspected the property and confirmed that the subject property is not identified and does not qualify as a private forest. In Such circumstances, the reference to private forest in the said Show Cause Notice is completely baseless. The Forest Department is the final and only authority that can opine on the issue of private forest. In the instant case, the Forest Department has issued NOC for the conversion and it is therefore inconceivable that you have proceeded to refer to the Private Forest in the show cause notice. However the NOC issued by the Forest Department should settle the controversy on that aspect.

II. Further, the State Level Expert Committee had conducted inspection on 4/2/2016 and submitted their Inspection Report vide No. SDFO/PON/PF/2015-16/133 dated 12/2/2016 that the area forming Survey no. 8/1 of Village Azossim does not fulfill the criteria of Private Forest and had decided to delete the Survey no. 8/1 from the provisionally identified Private Forests and had reported accordingly. The said inspection report was issued by Shri. Pradeep Verekar, Member Secretary and Sub-Divisional Forest Officer, Ponda Sub Division Ponda Goa.

III. Even otherwise by way of clarification it is pointed out that the said property i.e. Sy. No. 8/1-A is not identified as a private forest in terms of the Sawant and Karapurkar report read with the Deepshika Sharma Committee report as confirmed by the Hon'ble NGT vide order dated 18/8/2020. The demarcation plan of the Deepshika Sharma Committee clearly excludes the area which is the subject matter of Sy. No. 8/1-A.

10. Despite the overwhelming material, which unequivocally establishes that there is no misrepresentation of any nature on the part of the Company, it is unfortunate that you have proceeded to issue Stop Work Order. The plotting development has been completed.

11. *We would like to further add that, there are bonafide and innocent purchasers who have put in their hard-earned money into the development and such drastic orders cause serious prejudice to such plot-holders more particularly when the order is passed without hearing the Company and is completely misconceived in facts and law. The Stop Work Order shall cause disruption and disturbance to the development works being undertaken by plot-holders who just like the company are made to suffer for no fault of theirs. Severe losses will be caused to the Company and plot-holders on a daily basis if such stop work order is not revoked.*
12. *In fact, serious action needs to be taken against the complainant for making an unstudied and ill-researched complaint or possibly a complaint made with deliberate malafide intention of creating sensation and stalling the project for collateral purposes.*
13. *We therefore request you to immediately revoke the Stop Work Order and discharge the Show Cause Notice. However even if you are inclined to consider the Show Cause Notice in a later point of time, the stop work order which is ex-facie illegal and misconceived and passed in violation of the principles of natural justice without being given a chance to present our case or being given an opportunity to be heard, be revoked with immediate effect.*
14. *Further, as we understand, since the TCP only grants Technical Approval and is not the authority who issues the Construction License based upon which the work can be carried at site, hence the TCP also does not have the authority to issue Stop Work Order. Based on this surmise, we understand that the Stop Work Order issued by the TCP is ex-facie without jurisdiction and therefore has no legal effect.*
15. *As stated earlier, the Stop Work Order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis. The company cannot be made to suffer these daily losses now that the baseless and malicious nature of the complaint has been brought to your notice.*

Member Secretary then briefed the members that the applicant has issued a detail reply and has stated that the show cause notice and the stop work order issued by Tiswadi Taluka Office is ex-facie and misconceived and is passed in violation of the principle of natural justice as no chance was given to the applicant to present their case and also that no opportunity was given to them to be heard and has therefore requested to revoke the stop work order with immediate effect. The applicant has therefore stated that the stop work order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis and has stated that the company cannot be made to suffer daily losses as the now nature of the complaint is baseless and malicious.

Member Secretary then informed the Board that Tiswadi Taluka Office had referred the matter to the office of CTP and further informed that the same has been placed before the Board to deliberate and decide.

The matter was deliberated at length and considering the contents of the stop work order and well reasoned reply issued by M/s Prescon, the Board was of the opinion that the show cause notice cum stop work order is liable to be set aside. Accordingly, it was decided that the Tiswadi Taluka Office be told that the show cause notice cum stop work order issued by them should be withdrawn.

Member Secretary was accordingly directed to communicate the decision of the Board to Tiswadi Taluka Office.

Item No. 9: Construction of Residential Building Block A1, A2, A3 A4, B1, Club House, Swimming Pool and Compound Wall at property bearing Sy. No. 8/1-D-1 of Village Azossim, Tiswadi Taluka by M/s Prescon Homes Pvt. Ltd.

Member Secretary informed that Tiswadi Taluka Office of TCP Department had earlier issued Show Cause Notice cum Stop Work Order dated 14/07/2023, for construction of Residential Building Block A1, A2, A3 A4, B1, Club House, Swimming Pool and Compound Wall at property bearing Sy. No. 8/1-D-1 of Village Azossim, Tiswadi Taluka by M/s Prescon Homes Pvt. Ltd. vide Technical Clearance Order under ref. No. TIS/9712/AZO/TCP/2021/2061 dated 2/12/2021.

It was then informed that as per Regional Plan 2021, the property bearing Sy. No. 8 of Village Azossim, Tiswadi Taluka is earmarked partly as Settlement (S4) zone, partly as Private Forest and partly as No Development Slope and thereby it was observed by the Tiswadi Taluka Office that the Technical Clearance was obtained by misrepresentation of the facts especially as regards to condition No. 3 of the NOC which reads as under:

“The permission granted shall be revoked, if any information, plans, calculations, documents and any other accompaniments of the application are founding correct or wrong at any stage after the grant of the permission and the applicant will not be entitled for any compensation”.

It was then informed by the Member Secretary that the applicant has submitted his reply. When inquired by the members about the contents of the reply, it was informed that the reply mentioned as under:

- 1. The above notice is completely misconceived and is based on misconstruction and misreading of the applicable facts. The manner in which the above notice is issued is indicative of the fact that the Complainant has grossly mislead you into issuing the above Show Cause Notice and Stop Work Order.*
- 2. Sy. No. 8/1 is originally the bigger property. The Company is the owner in possession bearing Sy. No 8/1-D-1 (the said sub-division Sy. No. 8/1-D-1 is identified in the Regional Plan 2021 as settlement). The Company has obtained the approvals on the basis that the subject matter, Sy. No. 8/1-D-1 is in the settlement zone the list of approvals is enclosed herewith as Annexure I. As can be seen from the enclosed chart, huge amounts of monies have been invested by the Company and paid to various Departments.*
- 3. In light of the above, ex-facie the above Show Cause Notice cum Stop Work Order is misconceived. As stated Sy. No. 8 consists of various sub-divisions and it appears that the zoning of the other sub-divisions is made applicable to the subject project which is a patent error.*
- 4. As referred to earlier, prior to the approval being obtained from TCP Department and Panchayat and prior to undertaking development, Conversion Sanad dated 20/3/2019 was issued by the Collector. As you are aware, obtaining a Conversion Sanad under Section 32 of the Goa Land Revenue Code is an elaborate and comprehensive process which also involves obtaining an NOC from various Departments such as the TCP Department, Forest Department, Mamlatdar. The Conversion Report was issued by the TCP Department vide Reference No.*

TIS/08/PART/AZO/TCP/2018/377 dated 2/4/2018. (The said Report is enclosed herewith). In pursuance to NOC's issued by the various Departments, the concerned Collector granted Conversion Sanad for the subject property bearing Sy. No. 8/1-D-1. The Departments issued the NOC after due Site inspection and thorough verification of all the permissions of the granted by various Departments. We would like to highlight here that the Company had planned and executed the Project based upon the Conversion Sanad issued by the Authorities.

5. The TCP Department was pleased to issue the Technical Clearance Order dated 21/2/2021 after complying with all the required conditions.

6. Subsequently the Village Panchayat Azossim-Mandur granted the Construction License dated 15/1/2022.

7. In such circumstances, it is shocking that you have charged the Company with practicing Misrepresentation with regard to zoning and have proceeded to issue Show Cause Notice cum Stop Work Order. It is reiterated that zoning in respect of the said property being settlement is confirmed by you prior to issuance of Conversion Sanad. In such circumstances, the question of misrepresentation on the part of the company does not arise.

8. On the aspect of private forest, the Company states as under:

I. The Conversion Sanad dated 20/3/2019 was granted in pursuance to NOC issued by the Forest Department. As you are aware, every Conversion Sanad application is referred to the Forest Department. The concerned Forest Department thereafter verifies its records as to whether the referred property is identified as a forest by any authorities or court orders and thereafter gives its conclusions to the Collector. In the event the property is identified as forest, the same is concluded by the Forest Department and the said conclusion is forwarded to the Collector who then had no option but to reject the Sanad. In the instant case, the Forest Department verified the records and inspected the property and confirmed that the subject property is not identified and does not qualify as a private forest. In Such circumstances, the reference to private forest in the said Show Cause Notice is completely baseless. The Forest Department is the final and only authority that can opine on the issue of private forest. In the instant case, the Forest Department has issued NOC for the conversion and it is therefore inconceivable that you have proceeded to refer to the Private Forest in the show cause notice. However, the NOC issued by the Forest Department should settle the controversy on that aspect.

II. Further, the State Level Expert Committee had conducted inspection on 4/2/2016 and submitted their Inspection Report vide No. SDFO/PON/PF/2015-16/133 dated 12/2/2016 that the area forming Survey no. 8/1 of Village Azossim does not fulfil the criteria of Private Forest and had decided to delete the Survey No. 8/1 from the provisionally identified Private Forests and had reported accordingly. The said inspection report was issued by Shri. Pradeep Verekar, Member Secretary and Sub-Divisional Forest Officer, Ponda Sub Division Ponda Goa.

III. Even otherwise by way of clarification it is pointed out that the said property i.e. Sy. No. 8/1-D-1 is not identified as a private forest in terms of the Sawant and Karapurkar report read with the Deepshika Sharma Committee report as confirmed by the Hon'ble NGT vide order dated 18/8/2020. The demarcation plan of the Deepshika Sharma Committee clearly excludes the area which is the subject matter of Sy. No. 8/1-D-1.

9. *Despite the overwhelming material, which unequivocally establishes that there is no misrepresentation of any nature on the part of the Company, it is unfortunate that you have proceeded to issue Stop Work Order.*

10. *We would like to further add that, there are bonafide and innocent purchasers who have put in their hard-earned money into the development and such drastic orders cause serious prejudice to such Flat-holders more particularly when the order is passed without hearing the Company and is completely misconceived in facts and law. The Stop Work Order shall cause disruption and disturbance to the development works. Severe losses will be caused to the Company on a daily basis if such stop work order is not revoked. More than 200 daily wage earners will lose their livelihood.*

11. *In fact, serious action needs to be taken against the complainant for making an unstudied and ill-researched complaint or possibly a complaint made with deliberate malafide intention of creating sensation and stalling the project for collateral purposes.*

12. *We therefore request you to immediately revoke the Stop Work Order and discharge the Show Cause Notice. However even if you are inclined to consider the show cause notice in a later point of time, the stop work order which is ex-facie illegal and misconceived and passed in violation of the principles of natural justice without being given a chance to represent or an opportunity to be heard, be revoked with immediate effect.*

13. *Further, as we understand, since the TCP only grants Technical Approval and is not the Authority who issues the Construction License based upon which the work can be carried at site, hence the TCP also does not have the authority to issue Stop Work Order. Based on this surmise, we understand that the Stop Work Order issued by the TCP is ex-facie without jurisdiction and therefore has no legal effect.*

14. *At the time of issuance of Stop Work Order there were 200 workers on site. The construction is at an advanced stage and with this sudden stop work order the company is compelled to stall all activities on location. Apart from RERA commitments, there is a daily financial loss cause to the company to the tune of Rs.5 lacs per day.*

15. *As stated earlier, the stop work order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis. The Company cannot be made to suffer these daily losses now that the baseless and malicious nature of the complaint has been brought to your notice.*

16. *In light of above, the Company requests you to discharge the show cause notice and revoke the stop work order.*

17. *As stated earlier, the stop work order is completely misconceived and is issued on the basis of a complaint filed with malafide intent and without any basis. The company cannot be made to suffer these daily losses now that the baseless and malicious nature of the complaint has been brought to your notice.*

Member Secretary then briefed the members that the applicant has issued a detail reply and has stated that the show cause notice and the stop work order issued by Tiswadi Taluka Office is ex-facie and misconceived and is passed in violation of the principle of natural justice as no chance was given to the applicant to present their case and also that no opportunity was given to them to be heard and has therefore requested to revoke the stop work order with immediate effect. The applicant has therefore stated that the stop work order is completely misconceived

and is issued on the basis of a complaint filed with malafide intent and without any basis and has stated that the company cannot be made to suffer daily losses as the now nature of the complaint is baseless and malicious.

Member Secretary then informed the Board that Tiswadi Taluka Office had referred the matter to the office of CTP and further informed that the same has been placed before the Board to deliberate and decide.

The matter was deliberated at length and considering the contents of the stop work order and well reasoned reply issued by M/s Prescon, the Board was of the opinion that the show cause notice cum stop work order is liable to be set aside. Accordingly, it was decided that the Tiswadi Taluka Office be told that the show cause notice cum stop work order issued by them should be withdrawn.

Member Secretary was accordingly directed to communicate the decision of the Board to Tiswadi Taluka Office.

Item No. 10:- Cases considered by the Committee constituted as per Notification under No. 36/1/TCP/503/2023/3349 dated 31/10/2023.

Member Secretary informed that the Government vide Notification No. 21/1/TCP/2021-23/Steering Committee/107 dtd. 9/8/2023 and published in Official Gazette, Series I, No. 18 dtd. 09/08/2023 has notified the amendment to GLDBCR-2010, which provides for following:

“(2) The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required. Such relaxation shall however not be relaxed for more than 20% permitted in the prevailing Regulations.”

It was then informed that subsequently, a Corrigendum vide Notification No. 21/1/TCP/2021-23/Steering Committee/119 dtd. 21/8/2023 was issued in Official Gazette, Series I, No. 21 dtd. 24/08/2023 stating that the regulation as referred above shall be read as under:

“The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required.”

The Board was then informed that 2nd meeting of the Committee, as constituted vide Notification No. 36/1/TCP/503/2023/3349 dated 31/10/2023 was held on 07/12/2023 in the office of the Chief Town Planner(Planning), TCP Dept., Panaji, during which, the proposals as forwarded by Taluka Offices/PDAs were considered and the decisions as taken under the amended regulation were then placed before the Board as under:

“a) Proposal of Nancy Suzane represented by PoA holder Mr. Savio Monteiro in the property bearing Sy. No. 76/1(Part), Plot A of Nerul Village, Bardez Taluka.

The Committee noted that the project proponent has sought for additional FAR and height of their revised plan towards proposed residential building, swimming pool and compound wall comprising of 14 residential unit in the

property bearing Sy. No.76/1(Part), Plot A of Nerul Village, Bardez Taluka. The Department has earlier approved the project as per the prevailing regulations vide reference No. TPB/8502/NER/TCP-2023/6985 dated 21/08/2023. The total area of the property is 3950.00 m² and plot accessible by 6.00 mts. wide existing road. As per Regional Plan for Goa the Village Nerul is having VP-I category having permissible FAR of 80 and permissible height of building as 11.5 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 and additional height of 3.00 mts. The applicant has proposed total 40 nos. of dwelling unit. The Committee noted that the total FAR will be 100 and total height of building will be 14.5 mts. The Committee noted that as per regulation, based on the 6.00 mts. road and total height of the building, the proposed addition of FAR and height can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 16.93 and additional building height of 3.00 mts. in addition to the permissible FAR of 80 and building height of 11.5 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Nancy Suzane represented by PoA holder Mr. Savio Monteiro stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Nancy Suzane represented by PoA holder Mr. Savio Monteiro for the approval of the Government, as required under the procedure prescribed.

“b) Proposal of M/s. Chari Constructions, Real Estate Developer and Builder in the property bearing Sy. No. 23/4 & 5, Plot No. 6 & 7 of Socorro Village, Bardez Taluka.

The Committee noted that the project proponent has sought for additional FAR and height of their for proposed addition to the existing building constructed in the property bearing Sy. No. 23/4 & 5, Plot No. 6 & 7 of Socorro Village. Additional FAR is sought to accommodate 2 flats at ground floor. The Department has earlier approved the project as per the prevailing regulations vide reference No. DB/11733/2000/2324 dated 25/01/2000. The total plot area of the property is 830.00 m² and accessible by 15.00 mts. wide road. As per Regional Plan for Goa the Village Socorro is having VP-II category with permissible FAR of 60 and permissible height of building as 9.00 mts. Earlier the project was initially approved with 80 FAR & 11.50 mts. height.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above the approved FAR. The Committee noted that the total FAR will be 100. The Committee also noted that project proponent has not sought any additional height. The Committee noted that as per regulations based on the 15.00 mts. existing road. The proposed addition of FAR can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 16.63 in addition to the approved FAR of 80.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by M/s. Chari Constructions, Real Estate Developer and Builder stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by M/s. Chari Constructions, Real Estate Developer and Builder for the approval of the Government, as required under the procedure prescribed.

“c) Proposal of the Green Land Co-operative Housing Society Ltd. in the property bearing Chalta No. 93 & 98 of PTS No. 78 of Panaji, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height for re-development of the existing society building which was constructed in the year 1977. The proposed re-development consists of 109 flats, 10 penthouse with basement and 2 stilt parking floors. The total plot area is 5208.25 m² and accessible by two existing 8.00 and 6.00 mts. wide road.

As per Outline Development Plan of Panaji-2011 the property under reference is earmarked as S1 zone having permissible FAR of 100 and permissible height of building as 15 mts.

The Committee noted that the project proponent has requested for additional FAR of 149 and additional height of 17.00 mts. The plans submitted by the applicant shows the utilization of 249 FAR.

The Committee noted that for the re-development of project the road requirement of 10.00 mts. right of way may be relaxed upto 8.00 mts. if there is no scope of expansion of existing road. In the present case the Committee members noted that as per the report of PDA the expansion to existing 8.00 mts. & 6.00 mts. wide road is not possible as there are many building around same line.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 150 and additional height of 15.00 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Green Land Co-operative Housing Society Ltd. stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Green Land Co-operative Housing Society Ltd. for the approval of the Government, as required under the procedure prescribed.

“d) Proposal of M/s. Worldwide Resorts and Entertainment Pvt. Ltd. in the property bearing Sy. No. 14/1 & 2, 15/1, 16/1, 17/1, 2 & 3, 18/1, 19/1, 2 & 3, 20/1, 2 & 3, 21/1 to 8, 31/1 & 35/1, Plot No. 358 of Bambolim Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height for construction of commercial building consisting of 281 rooms hotel and swimming pool in the sub-divided plot No. 358. The Department has earlier approved the project as per the prevailing rules and regulations vide reference No. TIS/10275/BAM/TCP/2022/1135 dated 04/07/2022. The total plot area is 6678.00 m², accessible by existing 8.00 mts. wide road towards Eastern side and 20.00 mts. road towards Southern side.

As per Regional Plan for Goa the Village Bambolim is having VP-I category with permissible FAR of 80 and permissible height as 11.5 mts. Earlier the project was approved with 80 FAR & 11.50 mts. height consisting of two basement, stilt floor, first, second, third & fourth floor for hotel rooms.

The Committee noted that the project proponent has requested for additional FAR of 120, over and above the existing 80 FAR and additional height of 14.00 mts. over and above the existing height of 11.50 mts. Therefore a total FAR proposed building is 200 and the total height of the building proposed is 25.5 mts.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 119 and additional height of 14.00 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by M/s. Worldwide Resorts and Entertainment Pvt. Ltd. stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by M/s. Worldwide Resorts and Entertainment Pvt. Ltd. for the approval of the Government, as required under the procedure prescribed.

“e) Proposal of Mr. Nitin Kenkre in the property bearing Sy. No. 119/1, Plot No. 36 of Calapur Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height of their proposed project of residential cum commercial building comprising of 12 nos. of residential units and 1 shop in the property bearing Sy. No. 119/1, Plot No. 36 of Calapur Village. The total area of plot is 525.00 m² and accessible by 30.00 mts. wide existing road toward Southern side and 6.00 mts.

wide road toward Eastern side. The Committee noted that earlier a project was approved with 80 FAR with building height of 11.5 mts. vide reference No. TIS/10162/CAL/TCP/2022/428 dated 17/03/2022.

As per Regional Plan for Goa the Village Calapor is having VP-II category with permissible FAR of 60 and permissible height as 9.00 mts.

The Committee noted that the project proponent has requested for additional FAR of 50 over and above earlier FAR of 80 permitted and additional height of 3.1 mts. over and above earlier permitted height of 11.5 mts.

At present project proponent has submitted the building plan with total FAR of 127 and total building height of 14.6 mts. The Committee noted that as per regulations based on the 6.00 mts. and 30.00 mts. wide existing road. The proposal for additional FAR can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case, the Committee recommended for grant of additional FAR of 47 and additional height of 3.1 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Mr. Nitin Kenkre stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Nitin Kenkre for the approval of the Government, as required under the procedure prescribed.

“f) Proposal of Mr. Nitin Kenkre in the property bearing Sy. No. 119/1 Plot No. 1 & 2 of Calapor Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought additional FAR and height for their proposed project (revised plan) of commercial building comprising of 1 automobile showroom and 7 offices in the property bearing Sy. No. 119/1 Plot No. 1 & 2 of Calapor Village, Tiswadi Taluka. The total area is 1212.50 m², accessible by existing 30.00mts. wide road. The Committee noted that earlier a project was approved with 80 FAR an 11.5 mts. height vide reference No. TIS/8199/CAL/TCP/19/651 dated 27/03/2019.

As per Regional Plan for Goa the Village Calapor is having VP-II category with permissible FAR of 60 and permissible height as 9.00 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above earlier permitted 80 FAR. The project proponent has not sought any additional height for their proposed building. Applicant has submitted the plan for proposed building with 95.29 FAR. The Committee noted that as per regulations based on 30.00mts. wide existing road. The proposal for additional FAR can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee

recommended for grant of additional FAR of 15.29 over and above earlier approved 80 FAR.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Mr. Nitin Kenkre stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Nitin Kenkre for the approval of the Government, as required under the procedure prescribed.

“g) Proposal of Mr. Nitin Kenkre in the property bearing Sy. No. 119/1 Plot No. 32, 33, 34 & 35 of Calapor Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height of their proposed project of hotel building comprising of 100 rooms, Restaurant, Kitchen, Reception, Café, Administrative Office and Health Club in the property bearing Sy. No. 119/1 Plot No. 32, 33, 34 & 35 of Calapor Village, Tiswadi Taluka. The total area of plot is 2360.00 m², accessible by 30.00 mts. wide existing road towards Eastern side and 6.00 mts. wide road toward Southern and Western side.

The Committee noted that earlier a project was approved with 80 FAR and with 11.5 mts. height of the building vide reference No. TIS/10162/CAL/TCP/2022/428 dated 17/03/2022.

As per Regional Plan for Goa the Village Calapor is having VP-II category with permissible FAR of 60 and permissible height of 9.00 mts.

The Committee noted that the project proponent has requested for additional FAR of 70 over and above earlier permitted 80 FAR and additional height of 8.5 mts. over and above earlier permitted height of 11.5 mts. Project proponent has submitted the plan proposal building with total FAR of 150 and building height of 20.00 mts. The Committee noted that as per regulations based on 30.00 mts. and 6.00 mts. wide existing road, the proposal for additional FAR and building height can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 69 and additional height of 8.5 mts. over and above earlier permitted FAR of 80 and building height of 11.5 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Mr. Nitin Kenkre stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Nitin Kenkre for the approval of the Government, as required under the procedure prescribed.

“h) Proposal of M/s. Evergreen Villament LLP in the property bearing Sy. No. 185/4-B of Anjuna Village, Bardez Taluka.

The Committee noted that the project proponent has sought for additional FAR and height for their proposed project comprising of 110 apartments and 20 shops in the property bearing Sy. No. 185/4-B of Anjuna Village, Bardez Taluka. The total area of the property is 6015.00 m², accessible by 6.00 mts. wide existing road towards Northern side (proposed 15.00 mts. wide road) and 6.00 mts. wide road towards Western side.

As per Regional Plan for Goa the Village Anjuna is having VP-II category with permissible FAR of 60 and permissible height of 9.00 mts.

The Committee noted that the project proponent has requested for additional FAR of 40 and additional height of 6.00 mts. over and above permissible FAR of 60 and 9.00 mts. height. The Committee noted that the project proponent has submitted the plan of proposed building with 100 FAR and building height of 15.00 mts. The Committee noted that as per regulations based on the 6.00 mts. existing road only residential FAR can be granted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 40 and additional height of 6.00 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for further consideration.

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by M/s. Evergreen Villament LLP stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by M/s. Evergreen Villament LLP for the approval of the Government, as required under the procedure prescribed.

i) Proposal of Mr. Ryan Bosco De Souza in the property bearing Sy. No. 9/2, Plot No. A of Morambi-O-Pequeno Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR for their proposed project consisting of 2 nos. of residential villas and 14 nos. of residential units in the property bearing Sy. No. 9/2, Plot No. A of Morambi-O-Pequeno Village, Tiswadi Taluka. The total plot area is 908.00 m², accessible by 6.00 mts. wide road towards Western side and 6.00 mts. wide road towards Eastern side.

As per Regional Plan for Goa the Village Morambi-O-Pequeno is having VP-I category with permissible FAR of 80 and permissible height as 11.5 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above the permissible FAR. The Committee noted that as per regulations based on the 6.00 mts. wide road, the proposed addition of FAR can be permitted. Committee also noted that project proponent has not sought and additional height of building.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended the grant of additional FAR of 19.78 over and above permissible FAR of 80.

The Committee recommended the above for purpose of placing the same before TCP Board for further consideration.

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Mr. Ryan Bosco De Souza stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Ryan Bosco De Souza for the approval of the Government, as required under the procedure prescribed.

“j) Proposal of Mr. Ryan Bosco De Souza in the property bearing Sy. No. 9/2, Plot No. B of Morambi-O-Pequeno Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR for their proposed project consisting of 2 nos. of studio apartments and 14 nos. of residential units in the property bearing Sy. No. 9/2, Plot No. B of Morambi-O-Pequeno Village, Tiswadi Taluka. The total plot area is 981.00 m² and accessible by 6.00 mts. wide road towards Eastern side.

As per Regional Plan for Goa the Village Morambi-O-Pequeno is having VP-I category with permissible FAR of 80 and permissible height as 11.5 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above the permissible FAR of 80. The Committee noted that as per regulations based on the 6.00 mts. wide road, the proposed addition of FAR can be permitted. Project proponent has not sought any additional height of building.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 19.68.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took

note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Mr. Ryan Bosco De Souza stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Ryan Bosco De Souza for the approval of the Government, as required under the procedure prescribed.

“k) Proposal of M/s. Keshava Kiyaan Realty LLP in the property bearing Sy. No. 370/1 Plot No. 22 of Socorro Village, Bardez Taluka.

The Committee noted that the project proponent has sought for additional FAR of their proposed project consisting of 8 nos. of residential unit in the property bearing Sy. No. 370/1 Plot No. 22 of Socorro Village, Bardez Taluka. The total plot area is 577.00 m² and accessible by 15.00 mts. wide road towards southern side and 8.00 mts. wide road towards Western side.

As per Regional Plan for Goa the Village Socorro is having VP-II category with permissible FAR of 60 and permissible height as 9.00 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above the permissible FAR of 60. The Committee noted that the total FAR will be 80. The project proponent has not sought any additional height of the building. The Committee noted that as per regulations based on 8.00 mts. & 15.00 mts. vide existing road, the proposed addition of FAR can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 19.28 over and above permissible Far of 60.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by M/s. Keshava Kiyaan Realty LLP stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by M/s. Keshava Kiyaan Realty LLP for the approval of the Government, as required under the procedure prescribed.

“l) Proposal of Sky Developers in the property bearing Sy. No. 20/6 & 6A of Corlim Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR for their proposed project consisting of 6 shops and 15 nos. of residential units in the property bearing Sy. No. 20/6 & 6A of Corlim Village, Tiswadi Taluka. The total plot area is 1400.00 m² and accessible by 13.00 mts. wide road.

As per Regional Plan for Goa the Village Corlim is having VP-I category with permissible FAR of 80 and permissible height as 11.5 mts.

The Committee noted that the project proponent has requested for additional FAR of 20 over and above the permissible FAR of 80. The Committee noted that the total FAR will be 100. The project proponent has not proposed for any additional height. The Committee observed that additional FAR of only 20 is sought by the applicant and the proposal meets the general requirement of availability of wide access and the locational aspect and therefore recommended the proposal. For additional FAR of 16.74.

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Sky Developer stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Sky Developers for the approval of the Government, as required under the procedure prescribed.

“m) Proposal of M/s Naiknavare Construction Pvt. Ltd. in the property bearing Sy. No. 13/1-Cof Panelim Village, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height for extension to the existing building and earlier approved building in the property bearing Sy. No. 13/1-C of Panelim Village, Tiswadi Taluka. The total area of plot is 36,297.00 m², accessible by 45.00 mts. wide National Highway road.

The Committee noted that earlier a project was approved with 80 FAR and with 11.5 mts. height of the building vide reference No. TIS/6697/Panelim/TCP/18/164 dated 07/02/2018. Subsequently the project proponent also obtained revised development permission by Greater Panaji PDA vide Order No. GPPDA/410/PAN/1053/2020 dated 20/03/2023. As per the inspection carried out it is brought to the notice that there are existing project building and residential villas in the plot as shown in the site plan.

As per Regional Plan for Goa the Village Panelim is having VP-I category with permissible FAR of 80 and permissible height of 11.5 mts.

The Committee noted that the project proponent has requested for additional FAR of 70 over and above earlier permitted 80 FAR and additional height of 9.5 mts. over and above earlier permitted height of 11.5 mts. The Project proponent has not submitted the detail building plan. However, an indicative site plan has submitted showing additional floor requirement to the existing and already approved building. The project proponent has proposed one additional floor (3rd floor) on existing building block A1 and A2 and additional 3 floors (5th, 6th & 7th floor) on approved building block B1 B2, B3, B4 and Block C1, C2 and C3. The total FAR proposed is 129 and the total height of the building proposed is 21.00 mts. The total additional area proposed as per plans submitted is 18,007.58 m². The total built up area of the project is 1,00,839.47 m².

The Committee noted that as per regulations based on National Highway road access, the proposal for additional FAR and building height can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 49 and additional height of 9.5 mts. over and above earlier permitted FAR of 80 and building height of 11.5 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by M/s Naiknavare Construction Pvt. Ltd. stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by M/s Naiknavare Construction Pvt. Ltd. for the approval of the Government, as required under the procedure prescribed.

“n) Proposal of Shiroda Investment Pvt. Ltd. in the property bearing Chalta No. 70 of P.T. Sheet No. 84, Plot No. 18 & 19 of Miramar, Panaji.

The Committee noted that the project proponent has sought for additional FAR and height for their proposed construction of residential building consisting of basement and G + 8 floor and the atrium in the property bearing Chalta No. 70 of P.T. Sheet No. 84, Plot No. 18 & 19 of Miramar, Panaji. The total area of plot is 1403.00 m², accessible by 10.00 mts. wide road on eastern side and 15.00 mts. on southern side.

The Committee noted that as per ODP 2011 of Panaji property is earmarked as S2 Settlement zone with 80 FAR with permissible height of 11.5 mts. There exists a small structure within the property.

The Committee noted that the project proponent has submitted the plans with proposed FAR of 199.39 and building height proposed is 24.00 mts. Therefore, the proposed additional FAR is 120 and proposed additional height of the building 12.5 mts.

The Committee noted that as per regulations based on 10 mts. and 15 mts. wide road, the proposal for additional FAR and building height can be permitted.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 119.39 and additional height of 12.5 mts. over and above earlier permitted FAR of 80 and building height of 11.5 mts.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board deliberated in detail on the proposal submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note that the proposal stands recommended by the Committee constituted for the purpose and therefore considered the proposal for approval at its end.

The proposal as submitted by Shiroda Investment Pvt. Ltd. stands recommended by the Board.

Member Secretary was accordingly directed to forward the proposal as submitted by Shiroda Investment Pvt. Ltd. for the approval of the Government, as required under the procedure prescribed.

“o) Proposal of Mr. Joaquim S. Colaco, Represented by Chairman of Agnelo Co-operative Housing Society Ltd. in the property bearing Chalta No. 66/1 and 66/2 of P.T. Sheet No. 149 of Caranzalem, Panaji, Tiswadi Taluka.

The Committee noted that the project proponent has sought for additional FAR and height for their proposed re-construction of their society building consisting of 5 building blocks of G + 2 floor in the property bearing Chalta No. 66/1 and 66/2 of P.T. Sheet No. 149 of Caranzalem, Panaji, Tiswadi Taluka. The total area of property is 4116.00 m², accessible by 2 existing roads of 8.00 mts. towards southern side and 6 mts. wide towards northern side.

The Committee noted that as per ODP 2011 of Panaji property is earmarked as S1 Settlement zone with 100 FAR with permissible height of 15.00 mts.

The Committee noted that the project proponent has submitted the proposal with the request to grant proposed FAR of 300 and building height proposed is 40.00 mts. Therefore, the proposed additional FAR is 200 and proposed additional height of the building will be 28.5 mts.

The Committee noted that as per regulations the minimum required road incase of 300 FAR is 10.00 mts.

Considering enabling provision and having studied locational aspect, nature of development, used proposed and the merit of the case the Committee recommended for grant of additional FAR of 100 and additional height of 9.00 mts. over and above permitted FAR of 100 and building height of 15.00 mts., thus making total permissible FAR as 200 and maximum permissible height as 24.00 mts.

The Committee also noted that as per the SPR zone regulations the minimum provisions of access of 10.00 mts. Right of Way may be relaxed for proposal of re-development where there is no scope of expansion of existing road provided minimum 8.00 mts. access is available. However, Committee was of the opinion that this needs to be deliberated further by the Board.

The Committee recommended the above for purpose of placing the same before TCP Board for the further consideration.”

The Board discussed at length on the proposal received and took note of the findings and recommendation of the Committee. After deliberation, the Board decided that the proposal for grant of higher FAR is for the purpose of re-development to accommodate units. Considering the justification given, the Board decided to grant additional FAR of 200 and relaxation of height as applied for, thus making total permissible FAR as 300 and total permissible height as 40 mts.

As regards to relaxation of road width, the Board was of the opinion that the project being for re-development, the request as made need to be considered.

The Board therefore took note of the proposal as submitted for grant of additional FAR, height and relaxation of road width and recommended the same.

The proposal as submitted by Mr. Joaquim S. Colaco, Represented by Chairman of Agnelo Co-operative Housing Society Ltd. therefore stands recommended by the Board for grant of additional FAR, height and relaxation of road width, as applied for.

Member Secretary was accordingly directed to forward the proposal as submitted by Mr. Joaquim S. Colaco, Represented by Chairman of Agnelo Co-operative Housing Society Ltd. for the approval of the Government, as required under the procedure prescribed.

Item No. 11: Regarding issuing NOCs under Section 49(6) of the TCP Act.

Member Secretary informed that under Section 49(6) of the TCP Act, NOCs for sale, transfer, etc. of the properties is issued by office of the TCP Department and Planning & Development Authorities. The contents of Section 49(6) of the TCP Act, were read out to the members as under:

“Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of sub-section (1) of section 29 of the Registration Act, 1908, purports to transfer, assign, limit or extinguish the right, title or interest of any person, in respect of plots which are not as per Survey Plan issued by Survey Department or plots which have no development permissions for such sub-division from Planning and Development Authority 59[within a planning area or from the Town and Country Planning Department within an area other than planning area,] no registering officer appointed under the Act, shall register any document, unless the owner of such plot produces a certificate of sanction or a certificate of “no objection” from the Planning and Development Authority exercising jurisdiction 60[in respect of the planning area or from Chief Town Planner (Planning) or such officer as may be authorized]”.

Provided that no such certificate of sanction or “no objection” shall be required to be produced if the sub-division of land or the making or layout of any property results from the right of inheritance within a family:

Provided further that no such certificate of sanction or no objection shall be required to be produced for the purpose of mortgaging immovable property in favour of any financial institution notified by the Government by a notification in the Official Gazette, for the purpose of this Act.

Member Secretary then informed that amendment to said Section was subsequently been carried out vide Notification dtd. 18/5/2023 which provides for following:

“Provided that no such certificate of sanction or “no objection” shall be required to be produced to transfer, assign, limit or extinguish the right, title or interest in respect of plot to be acquired through inheritance in an ancestral property or in family property by the legal heirs pursuant to Succession Deed, Inventory proceeding, Will, family partition/settlement, gift, governed by the provisions of the Goa Succession, Special Notaries and Inventory Proceedings Act, 2012 (Goa Act 23 of 2016) and the law in force: Provided further that such

development permission shall be required where sub-division results in plots in excess of number of legal heirs”. It is now observed that some of the offices of Sub- Registrar are insisting for NOC under 49(6) to register ‘Agreement’ for sale of the properties, although Section 49(6) does not specifically mandates for the same.”

Member Secretary then informed the Board that some offices of sub-registrar are insisting on the perspective buyer/seller of plots to produce NOC from the Department even to enter into an agreement for the plots, which are part of provisionally approved sub-division.

Member Secretary then informed that one such instance has been brought to his notice by the Mormugao PDA wherein the said PDA has granted provisional approval for sub-division of the property at Sancoale and the applicant at the instance of sub-registrar of Vasco-da-Gama is requesting to MPDA to issue an NOC to him for the execution and registration of agreement for sale in respect of provisionally approved sub-divided plots.

The matter was discussed at length vis-a-vis the provisions under Section 49(6) of TCP Act and it was decided that for the purpose of convenience of sellers of provisionally approved sub-division plots, the TCP offices or PDA shall grant Certificate of No Objection, if requested, for Registration of Agreement for Sale of plots, provided that such plot/plots are part of provisionally approved sub-division layout and the same shall be subject to following conditions:

1. Sale Deed for the plots shall be executed only after final approval for sub-division of plot/ plots is issued by the offices of TCP Department/Planning & Development Authorities.
2. Any further / secondary development in the plot shall be governed as per rules in force.

Member Secretary was accordingly directed to issue such directions to the concerned offices.

Item No. 12: Any other item with permission of the Chair.

a) 17(2) cases of Pernem Taluka to be taken simultaneously without awaiting for finalisation of Zoning Plan of Pernem.

Member Secretary informed that the Department had started receiving applications under Section 17(2) for rectification/correction of inconsistent/incoherent errors, with regards to the properties under Pernem Taluka. Member secretary then informed that since the Department had undertaken the preparation of draft Zoning Plan of Pernem Taluka, no applications of Pernem Taluka under Section 17(2) of the TCP Act were taken up for scrutiny and decision. It was then informed that the process of preparation of draft Zoning Plan for Pernem Taluka is presently kept on hold and therefore it is required to decide whether to restart considering the applications received for Pernem Taluka under Section 17(2) of the TCP Act.

The matter was deliberated and the Board was of the view that the Department can certainly process the applications under Section 17(2) of the TCP Act for Pernem Taluka and subsequently incorporate the changes/corrections in Zoning Plan of Pernem as and when the same is prepared.

Member Secretary was accordingly directed to consider the same and process the applications under Section 17(2) as received for Pernem Taluka.

b) Regarding permissibility of Farmhouses in Settlement zones

Member Secretary informed that under the Goa Land Development and Building Construction Regulations, 2010, under clause 6A.2.1, uses prohibited in different zones are mentioned and uses which are prohibited in zones S2, S2, S3 & S4 are mentioned as under:

(a) Zones S1, S2, S3 & S4:

Wholesale trade, warehousing, all kind of industries, gas works, fabrication and assembly workshops, scrap yards, transport agencies, go-downs, automobile workshops. [Fabrication unit, glass cutting unit, cement godown, tyres vulcanization units, flour/masala mills, light engineering activities involving noise making machinery, offset printing press, only those chicken/mutton stalls, which involves slaughtering, only those restaurants with bar, conducting business beyond 11 p.m., carpentry workshop engaging heavy machinery and shops undertaking reconditioning of batteries.]

Further as regards to uses prohibited in zone A1 & A2 was mentioned as under:

Zone A1 & A2:

All uses other than agriculture, horticulture, farming and allied operations.

The Board was then informed that regulation 6A.3 under the Goa Land Development and Building Construction Regulations, 2010, also specifies the uses permitted with certain restrictions, and as per the same, uses permitted with certain restrictions in settlement zones are mentioned as under:

6A.3.1. Uses permitted with certain restrictions.— (a) Zone S1, S2, S3, & S4:

(i) Uses such as retail trade, banks, post offices, administrative offices, tailoring shops, laundry, hair cutting saloons, beauty saloons, IT/ITES establishments, kindergarten/crèche, abutting on main street and professional offices including IT/ITES shall be permitted as auxiliary to the main use:

Provided, that the total covered area occupied for such uses, shall not exceed 50 % of the proposed covered area, if the property derives access from a road having 8.00 meters right of way or more:

Provided further that if more than one building is proposed, then all the proposed area for commercial use as above, may be located either in one building or more than one building, as desired by the owner.

(ii) In addition to the above, use of personal residence to the extent of 10% of the carpet area of the residence could be allowed to be used as professional office including IT/ITES shall be allowed on all plots/premises fronting on roads having width more than 10 meter.

(iii) Rice and flour mill shall be permitted on ground floor only, with no floor above, not occupying an area in excess of 25 m² and not employing more than 5 persons, is driven electrically and the motor capacity does not exceed 15 H.P.

(iv) Bakeries on ground floor, not occupying an area in excess of 75 M² and not employing more than 9 persons, if the power requirement does not exceed 4KW,

where only electrical equipment issued and additional heating load upto 12KW is permitted.

(v) In case of group housing, the commercial use may be allowed in one or more buildings on upper floors restricted to 50% of the proposed coverage, provided building is abutting the public road.

(b) Zone S1, S2, S3, S4 & C1, C2, C3, C4:

Nursing Homes/Hospitals or Doctor's Clinic with in patient wards, cultural, educational and religious institutions as main use and their administrative offices in the entire building:

Provided that the plots have an area of more than 300 m² with a frontage of 15.00 m.: and.

Provided further that the plots should be accessible by a road having a minimum width of 8.00 m. and minimum front setback of 5.00 m. is maintained.

(c) Zone S1, S2, S3, S4 & C1, C2, C3, C4:

Bus terminals, parking yards, cinemas, burial grounds, helipads, hotel/boarding houses, hospitals, swimming pools, gymnasiums, sports complexes:

Provided that the plots have an area of more than 500 m² with frontage of 20.00 m.:

Provided further that the plots shall be accessible by a road having a minimum width of 8.00 m. and a minimum front setback of 5.00 m. is maintained.

The Board was then informed that the uses permitted under zone A1 & A2 are mentioned as under:

(i) Zone A1 & A2:

Roads and sub-division of lands for agricultural purposes only subject to specific restrictions in the regulations for sub-division of land.

Uses ancillary to agriculture such as irrigation, land reclamation, pump and other electrical installations, bio-gas plants, farm houses, poultry, dairy.

Member Secretary then informed that the Department has been receiving applications asking for grant of Technical Clearances for farmhouses, which otherwise are proposed in Settlement zones and not necessarily under A1 & A2 zone, however the Department is not considering grant of permissions for such proposals.

The Members deliberated on the issue and observed that under the Goa Land Development and Building Construction Regulations, 2010, it is not expressly mentioned that the farmhouses shall not be permitted under Settlement zones as such use as 'Farmhouses' is not reflected under regulation 6A.2.1, which mentions about "uses prohibited".

The Board was therefore of the opinion that all receipt of such proposal for construction of farmhouses in Settlement zones, the Department can considered the same.

Member Secretary was accordingly directed to issue clarification to the District/Branch offices of TCP Dept./PDAs regarding the same, in case any such issue of interpretation of regulation, etc. arises regarding the subject matter.

c) Update on PIL WP No. 44 of 2018 & 16 of 2019 in respect of Section 16B challenge and PILWP No. 16 of 2023 & 17 of 2023 in respect of Section 17(2) challenge.

Member Secretary briefed the members about the above matters. The PILWP No. 44 of 2018 & 16 of 2019 pertaining to Section 16B is pending for the last more than 5 years and the Government has not issued final approvals with regard to those cases. As far as PILWP No. 16 of 2023 & 17 of 2023 pertaining to Section 17(2) is concerned the same is listed for hearing on 3/1/2024. The Department has filed its pleadings supporting the constitutional validity of Section 17(2). The matter will be taken up for interim relief. The Counsels appearing in the matter have been briefed about the stand of Department with regard to all the Section 17(2) change of zones notified which has been within the scope of the said provision.

In the course of discussion, one of the members broached the issue of the power to modify/amend Regional Plan pending the initiation and finalisation of the succeeding Regional Plan. The members presented their views. The members were of the opinion that Section 16B and 17(2) were brought in for a different purpose and that it is necessary that the Government has a specific power to amend and modify the Regional Plan to meet the development and other requirements of the State from time to time. The members were also of the opinion that in the last 5 years Goa has seen a surge in investments on account of the ever so growing potential of Goa as a holiday and tourist destination and that there are also other investments in the education and business sector. The members deliberated on the various schemes conceived by the State for the intended priority areas including eco-tourism and other cultural initiatives.

Considering the progress of Goa, the members were of the opinion to keep pace of the requirement and to ensure that the State is not impeded in any manner from facilitating the investments and implementation of schemes from time to time, power to amend / modify the Regional Plan is an immediate requirement.

The members are of the opinion that an appropriate draft amendment needs to be drawn to state to give powers to the Government to amend and modify the Regional Plan and that the provision shall include inviting objections from the general public and an Expert Committee to scrutinize the objections and the proposed change of zone subject to the rider that the changes shall not completely alter the overall characteristics of the existing Regional Plans. The members also suggested that the Expert Committee shall after considering the objections, make its recommendations to the Board and the Board shall thereafter be empowered to make recommendation to the Government for its decision. Members suggested that the Expert Committee shall preferably comprise of the following members:

- (1) The Senior Town Planner
- (2) Two members of the Town and Country Planning Board
- (3) One representative of Indian Institute of Town Planners (ITPI)
- (4) One member of the Environment Department
- (5) One representative of the Goa Chamber of Commerce
- (6) One member of the CREDAI

(7) One person having special knowledge of, and practical experience in matters relating to Town and Country Planning, architecture, engineering, transport, industries, commerce, agriculture or geology to be nominated by the Government.

(8) One public spirited person who is involved in environmental causes to be nominated by the Government.

Considering that the matter pertaining to Section 16B of the TCP Act, is before the Hon'ble High Court without any outcome and considering various representations received and concerns raised pertaining to the same Section and also keeping in mind the new provision to be made under the Act to facilitate change of zone, as discussed above, it was felt necessary that Section 16B of the TCP Act, be deleted by following the proper procedure to affect the amendment in the Act.

Accordingly, Member Secretary was directed to prepare a draft of the proposed amendment to the Goa TCP Act to facilitate change of zone and to omit Section 16B of the TCP Act.

Meeting ended with thanks to the Chair.