

REPORT OF THE SUB-COMMITTEE

In the matter of representation made by Dr. Suresh Shetye against Greater Panaji Planning and Development Authority and with regard to appeal under Section 52(2)(b) of TCP Act 1974 filed by Shri Farid Fatehali Habib Veljee against Greater Panaji Planning and Development Authority, the TCP Board in its 168th meeting held on 27/01/2020 decided to refer the matter to the Sub-Committee comprising of members. 1) Shri Glenn Souza Ticlo, Hon'ble MLA 2) Shri Antonio Diniz and 3) Shri Rajiv Sunctankar, to study the issues and submit its report before the TCP Board for further deciding on the representation and appeal respectively.

Accordingly, 1st meeting of the Sub-Committee was held on 22/05/2020 in the office of the Chief Town Planner (Planning), Patto-Plaza and it was decided as under.

(1) In the matter of representation of Shri Suresh Shetye against Goa University:

Dr. Suresh Shetye made representation to TCP Board regarding blockage of traditional access road to his properties bearing Sy. No. 198 of Calapur village of Tiswadi Taluka through property bearing Sy. No. 226 owned by Goa University. Said representation was heard in TCP Board meetings and the TCP Board directed Sub-Committee as constituted by it to give its report in these matters as the issues involved legal implications and required detail study.

During the meeting of the Sub-Committee held on 22/05/2020, the members perused the documents and observed that there was no clarity in the representation of Dr. Shetye about the exact location of blockages as made by Goa University to the access of the property of Dr. Suresh Shetye and as such decided to ask for detail survey plan showing the exact locations of the blockage to the access road as well as the boundaries of the property mentioning therein the areas of jurisdiction of PDA and TCP Department. Accordingly vide letter No. 36/1/TCP/395/Board. Sub-Committee/2020/959 dated 29/05/2020, Dr. Suresh Shetye was requested to submit an authentic survey plan showing property boundaries of his property as well as that of the Goa University, and also to demarcate exact location of

blockage of access and the area of jurisdiction of concerned PDA and TCP Department.

Shri Suresh Shetye initially vide letter dated 14/06/2020 sought time for submissions of detail plan and subsequently complied with the requirement vide letter dated 29/06/2020 only by submitting a survey report prepared by registered surveyor Mr. Prazares A. Gonsalves and also a google image plan.

From the plan enclosed to Survey report, Sub-Committee observed that the traditional access as claimed is through Goa University's acquired area i.e. from property bearing Sy. No. 226 upto property bearing Sy. No. 198 owned by Dr. Suresh Shetye. The property acquired by University falls partly in Taleigao Village and partly under Calapur and Bambolim Village. Sub-Committee took note that the GPPDA had earlier issued permission to Goa University under section 52 vide No. GPPDA/08/475/18 dated 24/07/2018 for regularization of building/block/bungalow and part compound wall.

Sub-Committee further observed that as per the Regional Plan for Goa 2021 in force, a 10.00 mts. wide proposed road is passing partly along the western boundaries of Dr. Suresh Shetye's properties and partly along the eastern boundaries of Goa University properties and the same provision is not considered by PDA while issuing Development Permission for the compound wall. Sub-Committee took note that Shri Suresh Shetye did not produce any authentic document i.e. cadastral survey plan issued by DSLR indicating traditional path, incase existing any within the properties referred. Shri Suresh Shetye has however relied upon Google image showing a pathway leading from internal tar road of University upto property bearing Sy. No. 198 of Calapur Village belonging to him.

Sub-Committee also noted that the Goa University vide letter No. GU/Legal/2020/142 dated 17/06/2020 has submitted a copy of site plan of University Campus approved by the GPPDA.

It was seen from the documents submitted by the Goa University that Greater Panaji Planning & Development Authority had issued permission dated 24/07/2018 for construction of part compound walls along with property boundaries. However considering provision under the Regional Plan 2021 for Goa, it was observed that 10 mts. road proposed over the property boundaries of University has been ignored by PDA thus faulting the approval given. The Sub-

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

It was noted that the alignment of proposed of 10 mts. road shown in RP 2021 passing through the Goa University property bearing Sy. No. 226 partly tallies for a certain stretch with the alignment of traditional access as shown in the survey report of surveyor Mr. Prazares A. Gonsalves, as submitted by Dr. Suresh Shetye. It was also noted that proposed 10 mts. road also passes partly through property bearing Sy. No. 198 of Shri. Suresh Shetye towards North West corner.

In the above referred circumstances the Sub-Committee is of the opinion that since GPPDA has issued Development Permission for compound wall which is almost over the alignment of the proposed road as reflected in Regional Plan, necessary directions needs to be given to GPPDA to review its Development Permission by following the provisions of Regional Plan for Goa 2021, which is in force for the area under the reference or any such other statutory plan in force for the area under reference. The Sub-Committee was also of the opinion that the representations as made by Dr. Suresh Shetye shall duly be considered by GPPDA while reviewing the Development Permission for compound wall.

2) In the matter of appeal filed by Shri Farid Fatehali Habib Veljee

By a Registered Deed of Sale dated 12/05/2014, the Appellant purchased the said Showroom having an area admeasuring 125 Sq. Mts. along with undivided proportionate share in Land and Building, situated on the Ground Floor of the building known as “FELICITY APARTMENT”, under survey No. 82/01, at Taleigao, Panaji-Goa.

In the appeal, the appellant challenged the Order/Final Notice dated 21/06/2019, bearing No. GPPDA/270/TAL/199/2019 passed by the Member Secretary, Greater Panaji Planning & Development Authority, directing him to demolish/ remove the alleged illegal development and restore the set back area to

its original as approved by GPPDA within 30days from receipt of the Notice. The GPPDA in its order cited following illegal developments:

1. *Unauthorized construction of compound wall of length 4.00 mts. on South side and 5.50 mts. on North side in the building setbacks area at the height of 1.50 mts. and on top of the said compound wall erected the asbestos sheets with the help of M. S. Steel Frame and covered with mesh.*
2. *Erection of M. S. structural shed along with periphery of showroom/commercial shop at the height of 5.00 mts. i.e. at the level of First Floor Slab and in the setback area which admeasuring $15.00 \times 5.00 = 75.00$ sq. mts. in Northern set back of building.*
3. *Erection of glass sheet canopy to front set back of building, abutting the show room facade at the level of 5.50 mts. from the ground level.*
4. *Construction of platform of width 1.00 x length 2.00 mts. with one side ramp and other side step.*

Aggrieved by the Impugned Order dated 21/06/2019, the Appellant preferred the Appeal by citing the grounds as under:

- (a) *The Impugned Order is illegal and without application of mind as it fastens the liability of the illegal development on the Appellant despite the documents i.e. the Deed of Sale dated 12/05/2014 and Deed of Rectification dated 05/12/2014, clearly mentions that the Appellant was entitled to exclusively “use the area within compound wall’ around the showroom. The said documents clearly establish that the compound wall was constructed even prior to the purchase of the premises by the Appellant.*
- (b) *The Impugned Order is bad in law in as much as it fails to specify the exact nature and extent of the alleged illegality/ illegal development that the respondent directs the Appellant to demolish.*

The site was visited by the Sub-Committee on 22/05/2020 alongwith the appellant and respondent. It was observed that the property is accessible by main road as well as by another road towards Southern side which has a proposed right of way of 8.00 mts. The compound wall constructed towards Southern side is as

per the approval plan. It was also noticed that there are two existing gates for the compound wall towards Southern side which are presently used for entry and exit of the vehicles of the residents of the building. An electric generator has been placed in the setback area by the residents of the building in the south east portion which in no way obstructs any access to the resident of the building. The ground level of the residential block is higher than ground level of commercial block by 0.90 mts. The canopy projection and structural shed are within the setback area as mentioned in GPPDA's notice. The ramp is constructed to provide access to the showroom as the plinth of the showroom is higher by 0.9 mts. from the actual ground level.

The Sub-Committee took note that appellant during the hearing before the Board had contended that:

1. Side metal shade can be regularized as it is for protection from rain and sunlight.
2. Canopy of Acrylic sheet from front side can be regularized as it is an aesthetical addition.
3. Steps are required to access show room as it is approximately 0.9 mts. above compared to surrounding ground level.
4. The compound wall between for residential and commercial premises does not affect the movement of the residents of buildings as the same was already existing on site as may be seen from the contents of sale deed.

For the purpose of deciding on the matter, the Sub-Committee referred to all the documents placed before it and relied upon different definitions mentioned under the Goa Land Development Building Construction Regulations, 2010 such as that of: Alteration, Building and the Note referred under it pertaining to erection of temporary structure, Building Footprint, Built Up Area, Canopy, Cantilever, Covered Area, Unstoreyed Porch Areas, Coverage, Development, Floor Area, Front of a Building, Plinth, Porch, Ramp, Temporary Structure and such other relevant portion of the GLDBCR-2010.

After considering the documents placed before it and the observations as made during site inspection and the queries raised by the PDA, the Sub-Committee decided as under:

- a) Appellant cannot be made answerable to the development/construction of compound wall already existing on site, prior to his purchase of the property, which fact cannot be ignored looking at the description of the property on the sale deed, which almost certifies the existence of compound wall at the time of purchase of showroom by appellant.
- b) As per the description as made of the shed on the final notice issued by PDA and as seen from the site, the erection of shed appears to be of temporary nature, as the materials used are M. S. columns with zinc sheet roofing, which may last for a specific period and are for specific purpose and could be for limited time and could be dismantled thereafter.
- c) As regards to erection of glass sheet canopy along the frontage, the Sub-Committee observed that the same as described by PDA in its final notice, is an architectural feature and does not amount to violation of any planning parameter/perimeters, such as FAR, coverage, setback, etc.
- d) As regards to construction of platform, the same appears to be landing area for plinth having dimension of 1.00 mts. x 2.00 mts. with a ramp on one side and steps on other side which are provided to facilitate the movement of persons and two wheelers. The same was found to be agreeable considering the main use of the premises.

The Board may decide accordingly.

Shri Glenn Souza Ticlo
Hon'ble MLA

Shri Antonio Diniz
Member

Shri Rajiv Sunctankar
Member

Shri Ranjit Borkar
Town Planner
(Convenor)

