

AGENDA FOR 176th MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 27/10/2021 AT 11.30 A.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the minutes of the 175th (Adj.) (1st Sitting) and 175th (Adj.) (2nd Sitting) meeting of Town & Country Planning Board held on 20/09/2021 and 24/09/2021 respectively.

The Minutes of 175th (Adj.) (1st Sitting) and 175th (Adj.) (2nd Sitting) of TCP Board held on 20/09/2021 and 24/09/2021 are circulated to all the members.

The Board may like to confirm the Minutes.

Item No. 2: Appeal under Section 45 of the TCP Act, 1974 filed by Shri Gurudas T. Tari against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021)

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

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

- i) That Yeshwant N. Karapurkar alias Esvonta Naraina Carapurcar and his wife, Kamal Esvonta Carapurcar own a plot of land surveyed under Chalta No. 122 of P.T. Sheet No. 77 of the City of Panaji, situated behind All India Radio, Altinho, Panaji, (referred to as the "said bigger plot of land") wherein there existed a residential house which was earlier assessed for the purpose of house tax by the then Panjim Municipal Council under old house

- No. 102 and is presently assessed for the purpose of house tax by the Corporation of the City of Panaji under house No. 211, C-9 (referred to as the “said bigger residential house”).
- ii) That the said bigger residential house existed in the said bigger Plot of land prior to the liberation of Goa.
 - iii) That the Appellant’s wife, Smt. Satyavati Gurudas Tari vide a Deed of Sale dated 23rd August, 1977 purchased the portion of the said bigger Plot of land (surveyed under Chalta No. 122 of P.T. Sheet No. 77 of the City of Panaji) alongwith the portion of the said bigger residential house having a common wall (referred to as the “said residential house”), totally admeasuring an area of 92.75 sq.mts. from Esvonta Naraina Carapurcar and his wife, Esvonta Naraina Carapurcar (referred to as the “said Plot of land”).
 - iv) The North Goa Planning and Development Authority issued a Show Cause Notice dated 28th April 2011 bearing ref. No. NGPDA/III/Comp/09/ 242/2011 to the Appellant alleging that the inspection was carried out on 16th July 2010 and it was found by the North Goa PDA that the Appellant had carried out illegal construction of first and second floors. Further, the Appellant was called upon to show cause why the structure should not be demolished. The Appellant filed his reply on 4th May 2011 wherein he pointed out all the facts and also pointed out that the present case is a case of repairs/construction and not a new construction.
 - v) That North Goa Planning and Development Authority issued a Final Notice dated 17th August 2011 to the Appellant.
 - vi) That the North Goa Planning and Development Authority issued a Final Notice dated 17th August, 2011 to the Appellant.
 - vii) That thereafter the Corporation of the City of Panaji without considering the Licence bearing No. 20/68-TS-03/CCP/03-04/73 dated 27th October, 2003 issued by the Panjim Municipal Council to the Appellant to carry out repairs to the said residential house, issued final notice dated 28/02/2012 against the repairs/re-

construction carried out by the Appellant to the said residential house. The Appellant challenged the said final notice dated 28/02/2012 of the Corporation of the City of Panaji by filing petition bearing No. MIN/UD/APPEAL/5/2012 before the Hon'ble Minister of Urban Development. However, in view of direction issued by the Hon'ble High Court of Bombay at Panaji Goa vide Order dated 19/11/2012 passed in Writ Petition No. 501/2012 to decide the matter expeditiously and in any case, on or before 28th December, 2012, the Hon'ble Minister of Urban Development without going into the merits of the case vide judgement and Order dated 27/12/2012 dismissed the said Appeal. However, the Hon'ble Minister of Urban Development in the said Judgement and Order dated 27/12/2012 directed the Corporation of City of Panaji to take into consideration any regularization NOC given by the North Goa Planning and Development Authority.

- viii) That the Appellant preferred an Appeal before Hon'ble Board against the Order dated 24/10/2013 and Hon'ble Board vide Order dated 02/11/2016 directed the North Goa Planning and Development Authority to consider the proposal under Section 45 of the TCP Act, 1974 and take appropriate decision on merit. However, the North Goa Planning and Development Authority failed to comply with the directives by Hon'ble Board in the said Order dated 02/11/2016.

Appellant further states that the Respondent ought to have considered and appreciate the fact as under:

- (i) That the Licence bearing No. 20/68-TS-03/CCP/03-04/73 dated 27th October, 2003 was granted by the Panjim Municipal Council to the Appellant to carry out repairs to the said residential house.
- (ii) That the Unique Homes Builders and Developers vide Stability Certificate dated 21/06/2011 has duly certified the structural stability of the construction and retention of the same in present

condition will not cause any harm or imminent danger of whatsoever nature to the residents of the vicinity.

- (iii) The certificate of conformity with regulations issued by the Civil Engineer, Yaduvir G. Vast in respect of the construction.
- (iv) That the area being slopy and thickly populated, demolition of the construction will jeopardize the life and property/houses of large number of people residing in the vicinity and hence, the retention of the construction as existing, is in larger public interest.
- (v) That the impugned Order shall occasion gross miscarriage of justice if allowed to stand as it will result in demolition of the residential house of the Appellant which has been in existence even prior to the liberation of Goa.

The Appellant has therefore prayed that:

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

The matter was listed in the Agenda of 175th meeting held on 30/06/2021, however due to inability expressed by the Appellant in attending the said meeting due to Covid-19 pandemic and as consented by the Respondent, the matter was adjourned.

The matter came for discussion again in the 175th (Adj.) (1st sitting) meeting of TCP Board held on 20/09/2021. Adv. Siddhi Pardolkar appeared on behalf of the Respondent. The Appellant however submitted an application for adjournment of matter citing the reason that his Advocate was unable to attend the meeting and therefore requested for adjournment. The Board considered the reason and accordingly adjourned the matter.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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

The Board may deliberate.

Item No. 3: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Simi Anand Ghogale and others against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021).

The matter is regarding appeal under Section 45 of the Town & Country Planning Act, 1974 in respect of rejection letter issued by Greater Panaji Planning and Development Authority bearing No. GPPDA/339/PNJ/851/2020 dated 28/12/2020 in the matter of regularization of existing house (G+1) in the property bearing Chalta No. 200 & 201 of P.T. Sheet No. 69 at Fountainhas, Panaji-Goa.

GPPDA has rejected the application with following observations:

- a) No setbacks as required as per regulation 2010 are kept for the existing house to be regularised (front, sides & rear).*
- b) Ownership documents shows only 19.00 m² belongs to Smt. Simi Anand Ghogle and 24.00 m² belongs to Saidutt Velenkar total together is 43.00 m² whereas the plans shows 59.93 m² build up on ground floor which reflects encroachment of structure on adjoining land.*

Aggrieved by the communication dated 28/12/2020, the Appellants have filed the present appeal stating that rejection has been done by the Authority on flimsy grounds and without application of mind and the same is against the facts of the case.

Appellant states that they have sought for the regularization of the house which has been renovated and repaired vide letter dtd. 7/12/2018. The Appellant further states that the findings given by the Authority is without considering the documents on records and that the Authority has misunderstood the documents and further states that the renovation of

repairs of his house has not crossed the road boundary and is in line with the other ancestral houses and that the suit house is also an ancestral house.

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

The Appellants also states that they did not foresee that the suit houses are existing over 100 years and the cadastral survey conducted during the year 1972 also reflects the existence of the said houses. Appellants says that the additional area other than the one specified in Sale Deed belongs to the land owner who has agreed to sell the said area to the Appellants, who are the purchasers of the suit houses and consequently the owners of the said houses.

The Appellants states that the Authority has failed to pass an order which should have been a speaking order and the same is cryptic, illegal and against the well established norms and rules. The Appellant has therefore prayed for following:

- a) To call the records of the proceedings from the Greater Panaji, Planning Development Authority and upon perusing the same quash and set aside the communication dated 28/12/2020.
- b) To stay the implementation of the communication dated 28/12/2020.

The matter was listed in the Agenda of 175th meeting held on 30/06/2021, however due to inability expressed by the Appellant in attending the said meeting due to COVID-19 pandemic and as consented by the Respondent , the matter was adjourned.

The matter was again listed in 175th (Adj.) (1st Sitting) meeting of TCP Board held on 20/09/2021. During the present hearing, the Appellant was represented by Adv. Arun Talaulikar and whereas Adv. Siddhi Pardolkar appeared on behalf of Respondent PDA. The Respondent PDA

however asked for time to gather more details in the matter and the same was agreed. The matter was therefore adjourned.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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

The Board may decide.

Item No. 4: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Manohar Anant Kamat and Mrs. Shweta Manohar Kamat against Greater Panaji Planning and Development Authority.

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of final notice bearing No. GPPDA/ill/Vol.V/492/2021 dated 20/08/2021 issued by Greater Panaji Planning and Development Authority for carrying out additional construction on open terrace (7th floor) of the block B-2 of the building complex named Adwalpalkar Shelter Co-operative Housing Society Ltd., in the property bearing Survey No. 69/1 and 68/2 at Taleigao Village.

The Appellant states that the Respondent has issued a notice to demolish illegal additional construction as reported by the site inspection and further observations of the Authority.

Being aggrieved by the final notice, the appellant has preferred the appeal under section 52 (2) (b) of TCP Act against Greater Panaji Planning and Development Authority by stating that the impugned order is unjust, illegal, arbitrary and liable to be quashed and set aside mainly on following grounds;

The Appellant states that the impugned Order is issued on the basis of a Notice bearing No. GPPDA/ILL/VOL.V/408/2021 dated 06/08/2021 and further states that the said Notice dated 06/08/2021 itself is bad in law, as the observations/recitals in the said Notice dated 06/08/2021 were factually incorrect as the Notice dated 06/08/2021 indicates that the

Respondent had referred to the alleged illegal construction to be on the 9th floor and submits that the subject matter of the said Notice dated 06/08/2021 did not have 9 floors and therefore states that the Impugned Order is based on an incorrect data as recorded in the Notice dated 06/08/2021 and is therefore liable to be quashed and set aside on this count alone.

It is observed that the Respondent has relied on the Notice dated 06/08/2021 while passing the Impugned Order. A perusal of the Notice dated 06/08/2021 indicates that the construction alleged is on the 9th floor. Reference to the 9th floor is made at two places in the said Notice dated 06/08/2021. A perusal of the Impugned Order indicates that the Respondent has for the first time vide the Impugned Order made a reference to the alleged construction to be on the 7th floor. It is therefore submitted by the appellant that the Impugned Order is in variance with the Notice dated 06/08/2021, which was the basis on which the Respondent had commenced action in the matter and had called upon the Appellants to file their reply. It is therefore submitted by the appellant that the Respondent has no jurisdiction to unilaterally correct the description of the floor, which had a material bearing on the subject matter and hence states that the Impugned Order stands vitiated.

Appellant submits that the very fact the Respondent found discrepancy in the Notice dated 06/08/2021, which discrepancy i.e. change in the floor No. which went to the root of the matter, the Respondent ought to have dropped the proceedings commenced/processed vide Notice dated 06/08/2021. It is submitted that the Appellants were notified of the proceedings vide Notice dated 06/08/2021. In such circumstances, the impugned Order would be a product of violation of principles of natural justice of the Appellants.

Appellant submits that the Respondent had no jurisdiction to alter and/or change any factual data as recorded in the Notice dated 06/08/2021. The change of the 9th floor therefore as recorded in the Notice dated 06/08/2021 to 7th floor in the Impugned Order, is patently illegal and untenable in law.

The Appellant points out that the Respondent which has recorded that the Appellants had not produced any satisfactory answer and/or approved plan to justify the illegalities, then was obliged to pass an order, if any, on the basis of the Notice dated 06/08/2021. Appellant state that he had appeared before the Respondent on the basis of the Notice dated 06/08/2021, which made a reference to alleged illegal construction on the 9th floor. Thus, in the event the Respondent was of the opinion that there was no satisfactory answer for the Appellants and/or no approved plan were produced, then the Respondent could have passed an order in the context of the 9th floor of the building as referred and recorded in the Notice dated 06/08/2021.

Appellant further submit that there was neither any basis nor any reasons for the Respondent to allege illegal construction being done by the Appellants and therefore states that the observations/conclusions of the Respondent in the Impugned Order are illegal, perverse and unsustainable in law as the Impugned Order disregards the solitary principle of law which recognizes natural justice as the Impugned Order has changed the floor nos. for the first time while passing the Impugned Order and hence suffers from breach of the principles of natural justice.

Appellant states that for want of proper show-cause notice, they were handicapped in the matter as they were only guided by what was referred to in the Notice dated 06/08/2021 and accordingly acted in the manner. The Appellant also submit that the Respondent has changed its stance for the first time while passing the Impugned Order, which was not permissible and has caused grave prejudice to them.

The Appellant has therefore prayed for the following:

- a) The Hon'ble Court, be pleased to quash and set aside the Impugned Order (Final Notice bearing Ref. No. GPPDA/III/Vol.V/492/2021 dated 20/08/2021 issued by the Respondent)
- b) For suspension of the Impugned Order issued by the Respondent pending the hearing and final disposal of the Appeal.

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

The Board may deliberate.

Item No. 5: The matter of 'Representation by Dr. Suresh Shetye against Goa University.

The representation of Dr. Suresh Shetye against Goa University was earlier decided by the TCP Board in its 170th meeting held on 28/08/2020 on the basis of findings of the Sub-Committee and had decided as under:

- i) The Board directed the Member Secretary to instruct GPPDA to review its Development Permission given to Goa University for construction of compound wall, by considering the provisions of RPG-2021 and any such other statutory plans in force for the area under reference.*
- ii) The GPPDA shall consider the representations as made by Dr. Suresh Shetye pertaining to blockage of his access etc. while reviewing the Development Permission granted to Goa University for the construction of compound wall.*

Representation of Dr. Suresh Shetye was accordingly disposed off.

This decision of the Board was however challenged by the Goa University in Hon'ble High Court of Bombay at Goa and the Hon'ble High Court has passed an Order dated 25/08/2021 in Writ Petition (F) No. 855 of 2021, whereby the Hon'ble High Court of Bombay at Goa has set aside the impugned order dated 28/08/2020 and has remanded the matter back to the

TCP Board for fresh consideration and disposal of the representations made by the Petitioner and Respondent No. 3 with the directions that the TCP Board shall grant an opportunity of hearing to both the Petitioner as well as Respondent No. 3 and thereafter dispose of their representations on merits as expeditiously as possible.

The matter was placed for discussion in 175th (Adj.) (2nd sitting) and the Board considered the directions issued by the Hon'ble High Court and Member Secretary was accordingly directed to issue notices to both the parties to appear before it for the next hearing.

Notices are accordingly issued to the following:

1. The Dr. Suresh B. Shetye,
MZ-1, Sukerkar Mansion,
MG Road Panaji Goa.
2. The Registrar,
Goa University,
University Campus,
Taleigao Plateau Ilhas-Goa.
3. The Member Secretary,
Greater Panaji Planning and Development Authority,
Panaji-Goa.

The matter is now placed before the Board for deliberation.

Item No. 6: Appeal under Section 45 (1) of TCP Act, 1974 filed by Shri Mahableshwar P. Halanker against Mormugao Planning and Development Authority.

The matter is regarding appeal under Section 45 (1) of the Town & Country Planning Act, 1974 in respect of application dated 14/09/2011 of the Petitioner which was placed and discussed in Mormugao Planning and Development Authority's 6th and 7th meeting held on 16/09/2020 and 16/10/2020 respectively and it was decided to refuse the permission.

The Appellant states that he is the owner in possession and occupation of the property known as "Devaicalem" or "Korodo" bearing Chalta No. 52 of P.T. sheet No. 91, and is situated at Vasco da Gama,

admeasuring an area of 240 sq. mts. and. The Appellant was a tenant from the year 19714 until he purchased the said property in the year 1983. The MPDA had earlier issued NOC bearing No. MPDA/1006/82-83 dated 12/05/1982 for registration of the Sale Deed of the Appellant for an area of 240 sq. mts. only inspite the area bearing 315 sq. mts.

The Appellant states that the said property originally belonged to Maria Lucinda Jemira Francisca de Chagas Machado, who gifted it to her niece and her husband respectively Mrs. Sara Souza e Machado and Mr. Frollano C.R. Machado vide deed dated 16/01/1965 and at that time the area was stated to admeasure 315.00 sq. mts.

The Appellant states that within the said property there exists his residential house along with a garage which has been in existence since the last 30 years and above. That further the structure consists of Ground plus three stories have been granted approval by the Vasco Planning and Development Authority (VPDA) vide No. VPDA/1-H-14/97-98/1343 dated 19/03/1998.

The Appellant states that he inwards his application dated 14/09/2011 with reference to the file bearing No. VPDA/1-H-14/97-98/1343 with regard to Chalta No. 52 of P.T. Sheet No. 91, Vasco da Gama.

The Appellant states that in the 90th meeting of VPDA held on 24/11/2011 under inward No .847 dated 14/09/2011, he had sought conversion of Garage into shop and Office as regards the Structure situated in Chalta No. 52 of P.T. Sheet No. 91, Vasco, however, the remark recorded by the dealing hand specified “proposal cannot be considered. However, Authority may decide,” and whereas the decision of authority was recorded as “Approved”.

The Appellant states that the MPDA’s Member Secretary by his Order dated 15/10/2015 recorded as “with reference to the above cited subject, plans were scrutinized based on the PDA Development Plan regulation 1989 and the matter was further placed and discussed in the

Authority's 3rd meeting held on 26/08/2015 and rejected on grounds as given in the Order dated 15/10/2015.

The Appellant states that he approached the Hon'ble High Court of Bombay at Goa vide Writ Petition bearing No. WP/340/2016 whereby the Appellant had challenged the Order dated 14/07/2015 as well as the Order dated 15/10/2015 both issued by MPDA, whereby the Hon'ble High Court had observed as under;

“ 10. In such circumstances we are not inclined to interfere with the Impugned Order of remand but only to the extent to modify that the Revision Application filed by the Petitioner would have to be considered in terms of the Regulations 2010 and not Regulations 1989”.

The Appellant states that in spite of the direction from the Hon'ble High Court of Bombay at Goa vide its Order dated 05/10/2016, MPDA did not decide the matter for more than two years and for which he approached the Goa Lokayukta, whereby by an order dated 24/06/2020, MPDA was directed to dispose the matter within a period of four months.

Thereafter, being aggrieved by the Order of MPDA dated 21/10/2020 bearing Ref. No. MPDA/1-H-14/2020-21/626, the Appellant has preferred the present Appeal U/s 45 (1) of the Goa Daman and Diu, Town and Country Planning Act, 1974.

The Appellant states that the order dated 21/10/2020 as received by him was only a one page Order copy with no annexures and that being not satisfied with the same he preferred RTI Application dated 18/12/2020 as no reply was received by him on his letter dated 08/12/2020 and the Information was provided to the Appellant as only on 10/03/2021.

Appellant states that considering the COVID 19 pandemic, he was not able to move out freely and that he was hospitalized for COVID 19 treatment. It is further stated that the period of limitation in filing the Appeal is extended in view of the Hon'ble Apex Court ruling in SMW(C) 3/2020 and further vide MCA No. 665/2021, he is not barred from preferring the present Appeal.

Following are the grounds on which Appeal is filed:

- 1) That the Authority has not considered that the Appellant had vide Deed of Sale dated 26/08/1983 purchased the property admeasuring an area of 240 sq. mts. and that prior to the purchase of the said property, the original area of the property as per the Gift Deed dated 16/01/1965 admeasured an area of 315 sq. mts.
- 2) The Authority failed to consider that the structure situated on the said property has been granted approval by the Vasco Planning and Development Authority vide No. VPDA/1-H-14/97-98/1343 dated 19/03/1998 and that the Appellant has been residing and undertaking his business activities much prior to the enactment of the Goa Land Development and Building Construction Regulations, 2010.
- 3) The Authority has failed to differentiate the covered area from the Effective plot area to come to a conclusion that the Appellant has exceeded the coverage area.
- 4) That he Authority has passed an Order dated 21/10/2020 in blatant haste and unjust manner as the Authority itself vide its reply to the Appellant dated 10/03/2021 has stated that the minutes of the 8th Authority's meeting held on 17/12/2020 are not confirmed and till date have not been provided to the Appellant.
- 5) The Authority should have imposed conditions as per the Regulations 2010 and not to adhere to the members suggestion that there is no parking space as no sketch/plan or report depicts such as situation on record. That even in the 7th meeting on MPDA dated 16/10/2020 the suggestion as put up by the member in the previous meeting to hold a site inspection himself was not present.
- 6) The Authority has not considered that the Appellant and his family are wholly dependent on the structure for their shelter as well as their daily earnings.

The Appellant therefore prays

- i) To consider his revision Application dated 14/09/2011 and to quash and set aside the Order dated 21/10/2020 bearing Ref. No.

MPDA/1-H-14/2020-21/626 and to regularize the construction by imposing conditions/penalties in terms of Rule 22.0 of the Regulation 2010.

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

The Board may deliberate.

Item No. 7: Appeal under Section 52 (2) (b) of TCP Act, 1974 filed by Mr. Abdul Karim against Mormugao Planning and Development Authority.

The matter is regarding appeal under Section 52 (2) (b) of the Town & Country Planning Act, 1974 against order dated 09/07/2021 passed by the Member Secretary, Mormugao Planning and Development Authority regarding illegal construction.

The Appellant however, states that he has not carried out any such illegal construction and states that his dilapidated house had collapsed and that he had no other option then to carry out the construction again after the demolition of the house, which he says was existing in the property for last more than 60 years. The Appellant states that he was in the process of applying for obtaining necessary permission from the Mormugao Planning and Development Authority and construction license from the Mormugao Municipal Council and further states that his application to carry out repair is still pending before the Mormugao Municipal Council.

Appellant submits that the Respondent No. 1 without going into the facts of the matter and without even inspecting the site have chosen to send a demolition Notice dated 09/07/2021 under section 52 of the Town and Country Planning Act. 1974 which however is very vague and ambiguous as no detail of the illegality is mentioned and hence requested that the same to be quashed and set aside as it is in clear violation of any act, law and the rules applicable.

The Applicant further submits that he has not carried out any illegal construction in violation of rules and regulations and that the construction has been carried out by keeping proper set back. It is also stated in the Appeal that Notice is against the principle of natural justice, and has not followed proper procedure and hence is illegal.

The Appeal against Order dated 09/07/2021 preferred mainly on the following grounds:

- a) That the impugned notice is bad in law as the Respondent did not give any hearing to the Appellant before issuing the impugned notice.
- b) That the impugned notice issued by the Respondent to the Appellant is without carrying out any site inspection and as such the same is defective and arbitrary without looking the actual position on the site.
- c) The Appellant has not carried out any illegal construction as alleged in the impugned notice. The Appellant house was existing in the said property, or last more than 60 years. The impugned notice is therefore fictitious.
- d) The Notice is not supported by any documentary evidence and is absolutely vague without even showing any illegal development extension which is given by the Respondent and bad in law and hence liable to be rejected.
- e) The impugned notice is issued without giving any valid reasons, and without any site inspection.
- f) Despite the reply filed by the Appellant to the earlier notices of the Respondent, the impugned notice was issued. The Respondent has failed to give any inspection report to the Appellant as to on what basis the Respondent has come to the conclusion regarding the illegal construction.
- g) The impugned notice dated 09/07/2021 was issued by the Respondent and the same was received by the Appellant on 11/07/2021 directing the Appellant to carry out the demolition of the structure, illegal development within 31 days from the receipt

of the same. There is delay in filling appeal as such as application for condonation of delay has been filed.

The Appellant has therefore prayed that the Order/Notice dated 09/07/2021 bearing No. MPDA/ILL/Vasco/242/2021-22/640 be quashed and set aside.

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

The Board may deliberate.

Item No. 8: Appeal under Section 37(b)(5) of the Goa Industrial Development Corporation Act, 1965 and Section 45 of TCP Act, 1974 filed by Mahalsa Foods through its Proprietor Shri Pradeep Shet against Goa Industrial Development Corporation (GIDC).

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

The Appellant states that he runs a business of Restaurant and such other commercial activities in the building located in the property under reference.

The Appellant states that there was partial modification in the Allotment Order dated 5/12/2001 and the Order bearing No. IDC/ED/VECP/S-157/1-Part/286 dated 14/10/2005, land admeasuring an area of 2605 square meters remained allotted to him for the purpose of for setting up of Utility Services like Canteen, Communication etc.

It is further stated that although initially the plot was allotted for the purpose of Utility Services and Canteen, the permission for changes of zone to Commercial/Industrial was issued by Town and Country Planning Department vide No. DH/1977/TCP/3385 dated 03/10/2001.

The Appellant states that he applied for revised plans, as there were minor internal changes in the form of entry and exit and the partitions

carried out in the shed as a part of interior works and which did not affect the FAR as approved vide permission dated 03/09/2018.

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

The Appellant has submitted that the Order dated 14/05/2020 and 09/03/2021 are mutually inconsistent and has therefore requested for quashing of same orders and has prayed for following.

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

The matter was listed in the Agenda of 175th meeting held on 30/06/2021, however due to inability expressed by the Appellant in attending the said meeting due to Covid-19 pandemic and as consented by the Respondent, the matter was adjourned.

The matter was again heard in the 175th (Adj.) (2nd Sitting) meeting of the TCP Board held on 24/09/2021. The hearing was attended by Appellant and the Member Secretary (IDC) Respondent, however, during the hearing, the respondent stated that he has not received any appeal memo and therefore requested for a copy of appeal filed by the M/s Mahalasa Foods, such that he could file his reply or argue on the matter in the next meeting.

The request of Member Secretary, IDC (Respondent) was agreed upon by the Board and accordingly the matter was adjourned.

Member Secretary was accordingly directed to inform the next date of hearing to both the parties, as and when the same was fixed.

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

The Board may decide.

Item No. 9: Submission of final ODP-2030 of Vasco Planning Area by the Mormugao Planning and Development Authority for the Government Approval under Section 36 of Town and Country Planning Act, 1974.

The Member Secretary, Mormugao Planning and Development Authority has submitted final ODP-2030 of Vasco-da-Gama Planning Area under Section 36 of Town & Country Planning Act, 1974 vide letter bearing No. MPDA/Rev.ODP-2030/2021-22/116 dated 08/10/2021, inwarded under inward No. 4411 dated 13/10/2021 for approval of Government.

The Member Secretary, Mormugao PDA has informed that the Draft ODP-2030 for Vasco da Gama Planning Area was submitted to the Chief Town Planner (Planning) vide letter No. MPDA/ODP-2030/2020-21/655 dated 30/10/2020 under Section 34 of Goa Town & Country Planning Act, 1974. The Chief Town Planner (Planning) and the approval of Government for the said Draft ODP-2030 was conveyed vide letter No. 36/1/TCP/324/2018/90 dated 12/01/2021 under Section 34(2) of TCP Act, 1974. Thereafter, the Authority in its 8th (Adj.) meeting held on 15/01/2021 had decided to notify the Draft ODP-2030 for Vasco da Gama Planning Area and accordingly, the said Draft ODP was notified in Official Gazette Sr. III No. 44 dated 28/01/2021 inviting objection on draft ODP-2030 for Vasco Planning Area within a period of 60 days which concluded on 28/03/2021 but was further extended to 20/04/2021 due to the on-going COVID pandemic.

It is informed by MPDA that it received 340 objections on the draft ODP-2030 for Vasco da Gama Planning Area. The Authority in its 9th (virtual) meeting held on 02/06/2021 resolved to appoint a Sub-Committee as required under Section 35(3) of Goa TCP Act. 1974 to hear all the objection received, which further appointed Architect Shri Viraj Desai as a

co-opted Member under Section 35(4) of Goa TCP Act, 1974 and the hearings were conducted accordingly and also the site inspections were carried out wherever required.

The Sub-Committee then prepared the Report, which was placed before the Authority meeting giving therein the details of methodology followed, Economic profile, Evaluation, Brief History of Planning Area, Demographic and Socio-economic profile, Population projections and Infrastructure projections, Land use analysis of ODP etc. The same report and the ODP was considered by the Authority in terms of Section 35(6) of Town and Country Planning Act, 1974 and was approved.

The said Report and ODP-2030 for Vasco da Gama Planning Area as finally approved to the Chief Town Planner (Planning) is placed before the Board for consideration and approval of the Board and the Government under Section 36 of TCP Act, 1974.

The Board may discuss.

Item No. 10: Issues related to report from different Authorities in the meeting Section 16B of TCP Act.

The Department has been seeking reports from Authorities like Agriculture Department, Forest Department and Water Resource Department in the matter of applications received under Section 16B of TCP Act, such reports are usually sought after placing the applications before the TCP Board under Section 12 of the TCP Act and it is only after receipt of such reports from the respective Departments, the applications are further processed for consideration under Section 13(2) of the TCP Act.

Regarding Forest Department

It is observed that many a times the reports received from Forest Department are non-conclusive, whereas in certain cases, the Forest Department clearly mentions that the NOC cannot be granted for consideration of the application under Section 16B of TCP Act and cites

the reason for the same and clearly makes the statement that “NOC not be issued”.

The reason mainly are the following:

- i) Whether tree canopy density is exceeding 0.1 and an area above 1 hac.
- ii) Whether tree canopy density is exceeding 0.1 and whether Supreme Court Order dtd. 4/2/2015 is applicable or not in the matter.
- iii) Whether the area forms part of eco-sensitive zones.
- iv) Whether the area forms part of Wild Life Sanctuaries and National Park.

It is therefore desired that the Forest Department clearly gives their opinion whether the proposal can be considered or not.

Regarding Water Resource Department

It may be noted that a letter is earlier issued by Water Resources Department in 16B matters, bearing reference No. WRD/SE-IV/F.255/2021-22/187 dated 11/10/2021, wherein it is mentioned that the notification/ circular 16/11/90/RD, Series I No. 48 dated 02nd March 2006 of the Revenue Department states at para 3 that **“once the Town and Country Planning Department indicates the land use applied for, as Settlement/Industrial/Commercial etc., based on the Regional Plan and/or ODP, the question referring to CADA/Irrigation Department for their report, is not required”**.

It may therefore be required to clarify whether the NOC of WRD is essential in the matters where the property was earlier earmarked as Settlement zone under the provisions of RP-2001 and whereas the same has been subsequently changed to paddy field/cultivable zone etc. under RPG-2021.

Item No. 11: Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The proposals as received under Section 16B are scrutinized in terms of site conditions and potentialities of the area under Section 10 of TCP Act and are placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. Refer Annexure 'A'.

Item No. 12: Proposals received under Section 16B of the TCP Act for consideration under Section 13(2) of TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The Board had earlier considered applications under the provision of Section 12 of the TCP Act. The proposals are now placed before the Board for consideration under the provisions of Section 13(2) of the TCP Act. Refer Annexure 'B'.

Item No. 13:- Any other item with the permission of chair.