



Amrut

IN THE HIGH COURT OF BOMBAY AT GOA
PIL WRIT PETITION NO.3 OF 2024

1. Mr Dhirendra Phadte,
S/o Gajanan S. Phadte, aged 33 years,
Indian National, Self-employed,
Having email address:
dhirenphadte22@gmail.com
Mobile No.9823567413, operating his
business of interior designing and
decoration, having an income of
Rs.12,00,000/- p.a.,
Holder of PAN No.AUZPP3782H and
Aadhaar Card No.XXXXXX
R/o H.No.109, Post Betim Hanumant
Wada,
Ecoxim, Bardez Goa.403521
2. Mr Peter Franco,
S/o Sebastiao Franco,
Aged 53 years, Indian National,
Retired employee of Toyota vehicles leasing
company,
Having email address:
peterf.05@rediffmail.com.
Mobile No.9309016475, having income of
Rs.2,00,000/- p.a.
Holder of PAN Card No. AAMPF4626M
and Aadhaar Card No.XXXX
R/o H.No.E3/2, Velotim, Ecoxim, Bardez
Goa.
403101.

3. Mr Jayesh Bhosle,
S/o Ramkrishna Bhosle,
Aged 40 years, Indian National, presently
employed at Delta Corp Pvt. Ltd, as a
Cashier Supervisor, having email address:
jaybhonsle@gmail.com, mobile no.
8888209565, having an income of
Rs. 3,60,000/- p.a., holder of PAN Card
No. AQLPB1491K and Aadhaar Card No.
XXXXX
R/o H.No. 128, Hanumant Wada, Ecoxim,
Bardez-Goa. 403101.
4. Mr Joseph Pereira,
S/o Luis Salvador Pereira,
Aged 41 years, Indian National, self-
employed,
having email address: josil2714@gmail.com,
mobile no. 9850468787,
operating his business of business service
provider, fabrication & retail pharmacy,
having an income of Rs. 10,00,000/- p.a.
holder of PAN Card No. BFPP7675A and
Aadhaar Card No. XXXX
R/o H.No.119/1, Hanumant Wada,
Ecoxim,
Bardez-Goa. 403101.
5. Mr Swapnesh B. Sherlekar,
S/o Mr. Bhanudas Sherlekar,
40 years of age, Indian National,
having email address:
swapnesh.sherlekar@gmail.com,
mobile no. 9372730066 and is presently
self-employed since the year 2022,

having an income of Rs. 2,50,000/- p.a.,
prior to which, he was an employee in a
Pharma company.

Petitioner No. 5 is holder of PAN Card No.
BTAPS2713Q,

Aadhaar Card No. XXXX.

R/o H.No. 284, Shirowadi, Mulgao,
Bicholim, Goa. 403 503

...Petitioners

Versus

1. Mr Tarun Radhakrishin Tahilani,
Son of Radhakrishin Tahilani,
Aged 60 years,
Having office at BT-15, 3RD Floor,
Campal Trade Center
Campal Panaji Goa. 403 001.
2. The State of Goa,
through the Chief Secretary,
Alto Porvorim, Bardez Goa. 403 521.
3. The Chief Town Planner,
Town & Country Planning Dept.,
Government of Goa,
Dempo Tower, 2nd Floor,
Patto Plaza, Panaji, Goa. 403 001
4. The Deputy Town Planner,
Town & Country Planning Dept,
North Goa District office
302, Government Building Complex,
Mapusa, Bardez-Goa. 403 507.
5. Village Panchayat of Pompurpa-Olaulim,
Through its Secretary/Sarpanch,
Pomburpa, Bardez, Goa. 403 523.

6. The Deputy Conservator of Forests & Tree Officer,
North Division, Government of Goa,
Ponda - Goa. 403 401.

7. The Additional Collector III (North Goa),
Government of Goa,
Government Complex,
Mapusa, Bardez -Goa. 403 507.

8. Goa State Biodiversity Board (GSBB),
through its Member Secretary,
w/o at Goa State Pollution Control Board,
Opp. Saligao Seminary,
Saligao Bardez - Goa, 403511

9. Goa Coastal Zone Management Authority
(GCZMA),
Through its Member Secretary,
4th floor, Dempo Towers,
Patto, Panaji Goa.

...Respondents

Mr Richard Almeida, Mr Samuel Abraham and Ms Seema Rivankar, Advocates for the petitioners.

Mr Shivan Desai with Mr Raunaq Rao, Ms Tabitha Souto, Ms T. Menezes and Ms Riya Amonkar, Advocates for respondent No.1.

Mr D. Pangam, Advocate General with Mr Prashil Arolkar, Additional Government Advocate for respondent Nos.2 to 4, 6, 7 and 9 and with Ms Maria Correia, Additional Government Advocate for respondent No.8.

Mr S. D. Padiyar, Senior Advocate with Mr Prayash Shirodkar, Advocate for respondent No.5.

**WITH
PIL WRIT PETITION NO.4 OF 2024**

1. Mr Anand Esvonta Achorencar,
Aged 47 years,
Son of Esvonta Achorencar,
Residing at House No.499/G,
Salai, Salvador-do-Mundo,
North Goa – 403 101,
Mobile No.9850304131,
PAN No.: BLCPA6259F,
Email: hacgroencar@gmail. com.
Annual Income 3 lakhs.

2. Mr Pradip Keshav Volvoikar,
Aged 48 years,
Son of Keshav Narayan Volvoikar,
Residing at House No.164, Bhatan, Bardez,
Ecoxim, Betim, Goa – 403101,
Mobile No.9922022885,
Pan No. AXLPV9960E,
Email id : hachroencar@gmail.com
Annual Income 3 lakhs.

...Petitioners

Versus

1. State of Goa,
Through its Chief Secretary,
Having office at Secretariat,
Porvorim Goa.
2. The Deputy Town Planner,
Town & Country Planning Department,
North Goa District Office,
Mapusa, Bardez Goa 403 519.
3. Addl. Collector – III,
North Goa District, Mapusa Goa.

4. Village Panchayat of Pomburpa – Olaulim,
Through its Secretary,
Pomburpa, Bardez Goa – 403 523

5. Mr Tarun Radhakrishin Tahlani,
Major in age,
BT-15, 3rd Floor,
Campal Trade Centre,
Campal, Panaji Goa 403 001.

...Respondents

Mr Yogesh V. Nadkarni with Mr Nilay Naik and Mr Kunal Nadkarni,
Advocates for the petitioners.

Mr Pravin Faldessai, Additional Government Advocate for respondent
Nos.1 to 3.

Mr S. D. Padiyar, Senior Advocate with Mr Prayash Shirodkar, Advocate
for respondent No.4.

Mr Shivan Desai with Mr Raunaq Rao, Ms Tabitha Souto, Ms T.
Menezes and Ms Riya Amonkar, Advocates for respondent No.5.

**CORAM: BHARATI DANGRE &
 NIVEDITA P. MEHTA, JJ**
Reserved on : 16th JULY 2025
Pronounced on: 15th OCTOBER 2025

JUDGMENT (Per Bharati Dangre, J.)

1. The two PIL writ petitions involve construction and development activities in Survey No.292/1-L-7 of Village Salvador –do-Mundo, Taluka Bardez Goa, and the petitioners have expressed concern about the preservation of the areas, earmarked as natural cover and No Development Slopes and seek a relief that such illegal development and construction causing destruction of

the natural cover in the areas earmarked as such shall not be permitted in the State.

PILWP No.4 of 2024, is filed by Mr Anand Esvonta Achorencar and Mr Pradip Keshav Volvoikar, praying for quashing and setting aside the impugned Technical Clearance order dated 03.02.2023 and the construction licence dated 16.06.2023 granted by respondent Nos. 2 and 4 respectively in favour of the project proponent Tarun Radhakrishin Tahiliani (hereinafter referred to as 'Tahiliani')-respondent No.5 to the petition.

A challenge is also raised to the conversion sanad dated 13.06.2023, granted by respondent No.3, and by way of interim relief, the petitioners sought a stay of all necessary permissions. By amendment of the writ petition, the petitioners also seek direction to the private respondent to demolish all the constructions undertaken in the subject property as long as the construction in the areas earmarked and zoned as 'Natural Cover and/or 'No Development Slopes' as per the Regional Plan for Goa- 2021 and to restore the areas to its original condition.

2. PIL Writ Petition No.3 of 2024 is instituted by five petitioners in which Tarun Tahiliani is impleaded as respondent No.1 whereas the State of Goa along with the Chief Town Planner and Deputy Town Planner of Town and Country Planning

Department, Village Panchayat of Pomburpa-Olaulim as well as the Deputy Conservator of Forests and Tree Officer, Goa Coastal Zone Management Authority (GCZMA) through its Member Secretary as well as the Goa State Biodiversity Board (GSBB) are impleaded as respondents.

The petitioners in the said petition claim to be the residents of the same locality and they call in question the Technical Clearance/construction licence as well as conversion sanad, accorded by the respective authorities and it is the claim in the petition that the permissions granted are in violation of RPG-2021 and also in contravention of the order dated 04.02.2015 of the Supreme Court and being without consultation of the GSBB which is responsible for implementation of the Biological Diversity Act, 2000 in the State of Goa, the permissions are required to be quashed and set aside. Apart from this, it is alleged that respondent No.1 has procured permission in a fraudulent manner in active connivance with respondent No.3, and respondent No.1 do not have the requisite access/right of way of 6 metres width.

3. The petitioners in PILWP No.3 of 2024 are represented by Mr Richard Almeida and the petitioners in PILWP No.4 of 2024 are represented by Mr Yogesh Nadkarni. We have heard Mr Shivan Desai and Mr Raunaq Rao for the private respondent –Tarun

Tahiliani, whereas the learned Advocate General represented the State Government along with Mr Arolkar, Ms Maria Correia, and Mr Pravin Faldessai, the Additional Government Advocates.

On the pleadings being completed, by consent of the respective counsel representing the contesting parties, the petitions are taken up for final hearing. Hence, 'Rule'. Rule is made returnable forthwith.

4. On the notice being issued to the respondents, on 17.01.2024, the statement of the learned Senior Counsel Mr Nitin Sardesai, who represented Mr Tarun Tahiliani, on instructions, from the Power of attorney holder was recorded, that respondent will stop construction activities in Survey No.292/1-L-7 of Village Salvador do Mundo, till next date and we have noted that the statement is extended from time to time.

Since the issue involved in the petitions is identical, we would refer to the pleadings in PIL Writ Petition No.4 of 2024, in which the petitioners are represented by the learned counsel Mr Yogesh Nadkarni.

5. Mr Nadkarni would invite our attention to the following sequence of events and we deem it appropriate to reproduce the same in a sequential manner:-

- (A) Mr Tahiliani vide registered sale deed dated 10.08.2010 purchased an area of 14,470 sq. mts. out of 23,086 sq. mts. of Survey No.292/1-L of Village Salvador –do-Mundo from Mr Ganesh Nagvekar and his wife;
- (B) On 12.10.2011, Mr Ganesh Nagvekar along with Mr Mohit Agarwal, in the capacity as owners of the plot moved an application to the Deputy Town Planner, TCP Department for sub-division of the said plot into two Survey Nos.292/1-I and 1-L admeasuring 54,948 sq. mts.;
- (C) The Regional Plan for Goa -2021 (Part) in respect of Bardez Taluka was notified on 20.10.2011;
- (D) The Technical Clearance was granted by the Town Planner to Mr Ganesh Nagvekar and Mr Mohit Agarwal for amalgamation of plots and construction of residential house and swimming pool in Survey No.292/1-I and 1-L and in the approved plan the net effective area in settlement zone is reflected as 5,775 sq. mts. and an area

of 11,670 sq. mts. of Survey No.292/1-L is partitioned and allotted a separate new Survey No.292/1-L-7;

- (E) The directions were issued by the Chief Town Planner in respect of RPG -2021 keeping the proposal based upon RPG-2021 in abeyance till the Government took an appropriate decision in the matter;
- (F) On 04.06.2012, an order is issued by the Chief Town Planner informing that the Government has decided to put certain restrictions and guidelines which should be strictly followed, indicating that the land use which is contrary to RPG-2021 shall not be permitted;
- (G) On 28.03.2018, the Secretary of TCP Department issued fresh directions in supersession of order dated 04.06.2012 and 28.09.2015 directing that the development in land zoned under Settlement zones, or Commercial zones, or Industrial zones, or Institutional zones, as per Regional Plan-2021 to be permitted as per its merit for uses, permitted in respect of zone, by following transparent procedure.

6. The aforesaid sequence of events was followed by revised Technical Clearance granted by the TCP Department on 03.02.2023 for the proposed construction of residential house and construction of staff quarters, swimming pool and compound wall in the property zoned as 'Settlement Zone' in RPG-2021 situated in Survey No.292/1-L-7 of Village Salvador-do-Mundo, indicating that the order is valid for a period of three years from the date of issuance of construction licence, provided the construction licence is issued within a period of three years.

According to Mr Nadkarni, in the approved plan, the area under settlement zone is shown as 2495 sq. mts. although in RPG-2021 the area under Settlement zone is 1070 sq. mts. and this is so indicated in the land zoning information issued by the TCP Department on 29.08.2023 in respect of the subject property bearing Survey No.292/1-L-7, and reflection of the area in zoning plan was shown thus: -

<i>Sr. No.</i>	<i>Zone Name</i>	<i>Area in Sq. mts.</i>	<i>Description</i>
1	Settlement	1,070.000	"Settlement Zone" – Approximately 1070 sqmt.
2	Natural Cover	9,300.000	"Natural Cover", approximately- 9300 sqmt.
3	Natural Cover	1,300.000	"Natural Cover" overlapped with 'No Development Slopes' approximately -1300 sqmt.
<i>Total Area</i>		11,670.000	

7. The PIL Petition further proceed to state that the respondent No.5 (Tahiliani) procured the construction licence from the Village Panchayat on 16.06.2023 and an application was filed under sub-clause (1) of Section 32 of the Goa, Daman and Diu Land Revenue Code, 1968 to the Collector, North Goa, for obtaining conversion sanad in respect of the Survey No.292, Hissa No.1-L-7, with an area of 2495 to be used for residential purpose and this application came to be granted by the Additional Collector on 13.06.2023 for an area admeasuring 2495 sq. mts. more or less for the purpose of residential with 60 FAR. Pursuant to this, Mr Tahiliani secured construction licence from the Panchayat.

According to the PIL petitioners, upon receipt of the complaint from the residents of Bardez in respect of the construction being undertaken by adopting illegal hill cutting, resulting in destruction of forest and natural cover and taking cognizance of activities in 'No Development Zone', on preliminary re-examination, where it was prima facie noted that the construction licence was sought on the subject plot and the authorisation letter made reference to plot bearing Survey No.292/1-Q admeasuring 11,500 sq. mts. and further recording that on site inspection, the plot under development was admeasuring 11,670.00 sq. mts. and on the basis of the certain facts taken note of, the construction was referred to

as unauthorized construction and the stop work order dated 30.08.2023 issued, declared thus:-

“AND WHEREAS an area of 1,070.00 sqmts has been identified as “Settlement Zone” and the approved plan shows an area of 2,495.00 sqmts as “Settlement Zone”, which is prima facie, contrary to the zoning of the land and far in excess of the actual area shown as Settlement Zone in RPG-2021. Total Net Floor Area has been shown as 1240.83 sqmts, which is in excess of the permissible settlement zone.

AND WHEREAS if the Settlement Zone is 1,070 sqmts and coverage area permissible is 40% (as shown by the project proponent in the approved plan), then 40% of 1,070 sqmts works out to 428.00 sqmts: the permission granted is prima facie for an area far in excess of the 428.00 sqmts;

AND WHEREAS the above prima facie shows that the Technical Clearance and Construction License has clearly been obtained by fraud and suppression of fact and contrary to RPG-2021 and also with suppression in relation to the zoning entitlement, road access etc as referred above;

In view of the above, in exercise of powers vested in me under Clause (j) of sub-section (1) of Section 64 of The Goa Panchayat Raj Act, 1994, I hereby direct you to STOP FURTHER DEVELOPMENT WORK in the property hearing Survey No. 292/1-L-7 of Salvador do Mundo village, within the jurisdiction of this Panchayat with immediate effect, for the reasons spelt out above, it is evident prima facie an unauthorized construction is being carried out as the Technical Clearance and Construction License has been obtained by fraud and suppression of fact and by misrepresentation as set out above.

You are directed to remain present in this Office by yourself or your duly authorized representative with your say in writing within 7 (seven) working days from receipt of this Stop Work Order with your reply and documents.

Failure to submit reply will be presumed that you have no reply to be furnished and further action will be decided on its own merits, which please note carefully.”

8. The Petition however state that by an order dated 17.11.2023, the stop work notice was revoked by assigning following reason: -

“And whereas, the office of V.P. Pomburpa-Olaulim received a reply letter from Dy. Town Planner, office of the Senior Town planner, Town & Country Planning Department, Mapusa, Bardez, Goa vide ref. No. TPB/3208/SDM/TCP-2023/9419 dated 06/11/2023 informing that the officials of Town & Country Planning Department had carried out site inspection of the site under Survey No. 292/1-L-7 of village Salvador-do-mundo, Bardez Taluka & accordingly had conveyed the same & further stating that since the site inspection is already carried out & findings are made clear in letter bearing ref. No. TPB/3208/SDM/TCP-2022/8600 dated 11/10/2023, we may decide the same.

And whereas, the letter bearing ref. No. TPB/3208/SDM/TCP-2023/9419 dated 06/11/2023 of the office of Senior Town Planner along with enclosure was placed in the Panchayat body meeting dated 13/11/2023 and vide resolution No. 16 (h) dated 13/11/2023 it was unanimously resolved by the Panchayat body to withdraw/revoke the Stop work order issued u/s 64(1)(j) of the Goa Panchayat Raj Act, 1994.

Now, therefore, the Stop work order issued by the office of village Panchayat Pomburpa-Olaulim vide letter bearing ref. No. VP/P-O/2023-24/650 dated 30/08/2023 is hereby withdrawn/revoked with immediate effect.”

9. Mr Nadkarni in the aforesaid background facts would submit that the present petition came to be filed on 13.12.2023 and on 17.01.2024, the statement on behalf of respondent No.5 was recorded that no construction activity shall be carried out on the subject plot and the statement continue till date.

According to Mr Nadkarni, the petitioner Nos.1 and 2 are residents of the locality and since they are concerned with the alleged illegal activities carried out, in gross violation of the prevailing norms, they approached this Court calling in question the Technical Clearance as well as the conversion sanad granted in favour of respondent No.5, Tahiliani. According to him, the documents from the TCP Department clearly provide the zoning information of Survey No.292/1-L-7 of Village Salvador do Mundo by setting out that the settlement area where the construction would be allowed is 1070.000 i.e. approximately 1070 sq. mts. and while the Technical Clearance is granted to the project proponent, it is restricted to property zoned as “Settlement Zone” and the Technical Clearance order dated 03.02.2023 granted clearance for carrying out proposed construction of residential house, construction of staff quarters, swimming pool and compound wall as per the enclosed approved plan in the “Settlement Zone” in RPG-2021.

He would invite our attention to the condition No.35 in the order, which reads to the following effect: -

“35. This Technical Clearance is issued as a partial modification to earlier technical clearance order issued by this office vide letter No.TPBZ/3208/SDM/TCP-2011/2888 dt. 10/11/2011 and all conditions imposed in above referred order has to be strictly adhered too”.

10. Mr Nadkarni would place reliance on the approved plan, which was submitted for procuring the Technical Clearance, where the total area of the plot bearing Survey No.292/1-L-7 is set out as 11670.00 sq. mts. whereas the area under Settlement Zone is reflected as 2495.00 sq. mts. and the permissible FAR is shown as 1497.00 – 60% and total net floor area is set out as 1240.83 sq. mts.

According to him, while seeking permission from the Collector, the conversion is sought for 2495 sq. mts., the application being preferred in March 2023. Pursuant thereto the report was called from the TCP, who on 10.05.2023 recommended thus: -

“RECOMMENDATIONS:-

In view of the above, the conversion is RECOMMENDED for RESIDENTIAL purpose admeasuring an area of 2495.00m2 from planning point of view as per the site plan submitted to this office, Subject to the following conditions :-

- 1. The development/construction in the plot shall be governed as per rules in force.*
- 2. Traditional access, passing through the plot, if any, shall be maintained.*
- 3. Verification of ownership of land with specific reference to tenancy as on 02/11/1990 shall be made before issue of Sanad.*
- 4. The forest/private forest may be verified at your end.”*

This was followed by grant of conversion sanad for an area admeasuring 2495 sq. mts. with residential 60 FAR. According to Mr Nadkarni, though a farce was made for issuing a stop work order, on various complaints were being received by the Village

Panchayat, the notice was subsequently withdrawn and he would also invite our attention to another show cause notice issued by the TCP on 14.08.2024, but this notice ultimately came to be discharged on 10.01.2025 by justifying the issuance of the Technical Clearance order on the ground that the two PIL writ petitions are already filed before the High Court and on 08.10.2024, the High Court directed to conduct the hearing and merely by way of an eye wash, which is reflected in the order, the show cause notice was discharged.

11. According to the learned counsel, the defence of past commitments relying upon the Technical Clearance order dated 10.11.2011, which has considered an area under the Settlement Zone to be 2495 sq. mts. which was a corresponding settlement area out of total 5775 sq. mts., is nothing but a misleading attempt. According to him, there do not exist any commitments and therefore, there is no question of honouring any past commitments as according to him, the Technical Clearance granted on 12.10.2011, for carrying out the amalgamation of plots and construction of a residential house and swimming pool, as per the approved plans is void/non-est. As on the date on which it is granted, Regional Plan for Goa -2021 came into force and according to him, there is no requirement for the petitioners to

raise a challenge to the 2011 Technical Clearance as it had lapsed, as it was valid only for three years from the date of issuance of the construction licence provided the construction licence was issued within a period of three years and since this was not complied with, there was no question of its continuation. By referring to the approved plan on the basis of which the Technical Clearance was granted, Mr Nadkarni would urge that the area of plot bearing Survey No.292/1-L (Part) was set out as 31862 sq. mts. and 23086 sq. mts., with an area of amalgamated plot No.292/1-I and 292/I-L being set out as 54,948 sq. mts. In this plan, net effective area in the settlement zone is 5775 sq. mts. According to Mr Nadkarni, the stand of the Government that the RP-2021 in respect of Bardez Taluka along with settlement level plan of 33 Village Panchayats came into effect from 20.10.2011 and therefore, the application for development of lands under Survey Nos.292/1-I and 292/1-L having made prior to coming to the effect of Regional Plan for Goa- 2021 i.e. on 20.10.2011, the application for development of land was considered in accordance with RP -2001 which was in force at the time of making of the application. Mr Nadkarni is extremely critical about the stand of the Government that the net effective area in the Settlement Zone as per the RP Goa -2011 was 5775 sq. mts., as the Chief Town Planner by issuing directions on 09.04.2012 had directed that all projects/proposals based on RP

2021 was kept in abeyance till the Government takes an appropriate decision and thereafter by order dated 04.06.2012 issued by the Chief Town Planner, it was clarified that pending drafting and notifying of the fresh plan, the RPG -2021 continued to be on hold and certain instructions were issued as to how the application shall be processed.

According to Mr Nadkarni, the cloud period is between 20.03.2012 to 28.03.2018 and assuming for a moment that some conundrum was prevailing as regards the permission being granted during this phase but as far as the processing of the case of respondent No.5, it is not covered within the said phase as the Technical Clearance is granted on 10.11.2011 and the RPG – 2021 was notified on 20.10.2011 and hence the Technical Clearance permission is granted after this date but before the cloud period began i.e. 20.03.2012. Therefore, according to Mr Nadkarni, the abeyance issue will not have any impact on the present case and the stand of the respondent that the date of the application i.e. 12.10.2011, was taken into consideration is another farce as it is his submission that when the application is granted on 10.11.2011, the new Regional Plan is already in force. Apart from this, he would submit that the said permission is also invalid as it has validity of three years subject to obtaining a construction licence but admittedly it was not obtained.

In other contingency, Mr Nadkarni would submit that a fresh application was made by the respondent on 31.10.2022, which shall be governed by the new Regional plan and the area of settlement as per new RPG, even according to the TCP Department is only 1070 sq. mts.

12. In short, the submission of Mr Nadkarni on behalf of the petitioners is that the earlier Technical Clearance order was granted for the amalgamation of plots and settlement zone in the approved plan is shown as 5775 sq. mts., which was earmarked in the RPG-2001. However, the Technical Clearance stated that the order is valid for three years from the date of issuing of the licence, provided the construction licence is issued within a period of three years, but no such licence was issued pursuant to the Technical Clearance, and it has therefore expired on 10.11.2014.

Mr Nadkarni has invoked Section 46 of the TCP Act, which provides that the permission granted under the Act is valid for maximum period of six years and assuming without admitting he would submit that Section 46 is not applicable, Regulation 3.9 of the Regulations of 2010 provided that the permission granted will be valid initially for three years and renewable for further period but there is no such renewal of Technical Clearance granted on 10.11.2011 and therefore, it has lapsed on 10.11.2014. According

to him, the application dated 31.10.2022 could not have been considered as a revision application as the original Technical Clearance has already expired and therefore, taking into consideration an area of 5775 sq. mts., as Settlement Zone as per the RPG-2001 is ex-facie illegal and void.

13. Mr Nadkarni would place reliance upon the various authoritative pronouncements including the decision in case of *Usman Gani J. Khatri of Bombay Vs Cantonment Board and others*¹ and in particular paragraph 24, taking a view that the petitioners did not submit any fresh building plans in accordance with the first or the second scheme of restrictions and not even paid a single pie towards the conversion charges, the High Court was justified in adopting a view that the building plans can only be sanctioned according to the building regulations prevailing at the time of sanctioning of such building plans and since statutory bye-laws published on 30.04.1988 were in force and fresh building plans came to be submitted by the petitioners, which shall be governed by new bye-laws and not by any other bye-laws or schemes which are no longer in force.

¹ (1992) 3 SCC 455

Apart from this, Mr Nadkarni would rely on the observations of this Court in case of *Mr Alvito Joseph August D'Silva and another Vs The State of Goa and others* (PILWP No.2 of 2025 decided on 8th May 2025) as regards the Note appended to the Regional Plan, recording thus: -

“24. The Regional Plan- 2021 when approved was accompanied by a specific Note, which state Past commitments/developments like subdivision approvals by competent authorities, as well as the conversion sanad as it indicated that these commitments shall be honoured for specific uses, even though they are not reflected in the plan.

Much argument is advanced before us about the said Note, as it is the submission advanced by Mr De Sa on behalf of the petitioners that it cannot be read as part of the Regional Plan, but we disagree with the said submission.

The Regional Plan- 2021 has to be read along with the Note as it offer important clarifications in regards to its implementation, for example it indicates that all O.D.P's and zoning plans prepared in the past by the Planning Development Authorities which are in force (both in P.D.A. areas and non P.D.A. areas) have been incorporated into the Regional Plan-2021. It also clarify that surface utilization plans shall be read with the report of Regional Plan - 2021, and it also clarified that notwithstanding anything contained in the plan, the developments shall be subject to the provisions of Tenancy Act, Land Use Regulation Act, Forest Conservation Act, Highways Act etc.

The Note which is part of the Regional Plan must therefore be read as a part of it, as it offer certain clarifications while the Regional Plan is being read and implemented. Since this Note clearly contemplated honouring of all the past commitments/developments, including conversion sanad under the Land Revenue Code, the building approval/NOC granted before the Regional Plan- 2021 was made effective, this conversion sanad granted in favour of respondent No.5 on 02.06.2008 must receive due weightage.”

14. In short, it is the submission advanced by Mr Nadkarni that the directions dated 09.04.2012 read along with the orders dated

04.06.2012 and 28.03.2018 would show that a cloud existed, as regards RPG-2021, which was kept on hold only for a period from 20.03.2012 to 28.03.2018 and since nothing transpired in the present case during the said period, full effect must be given to the RPG-2021 since the date of its notification and with a clear period from 20.10.2011 to 19.03.2012 and thereafter, pursuant to 28.03.2018, the RPG-2021 deserved its implementation with full force and therefore the Technical Clearance granted on 10.11.2011 in favour of Tahiliani is completely illegal.

15. In the other PILWP No.3 of 2024 filed by Mr Dhirendra Phadte and four others, which also seek an identical relief of quashing and setting aside of the Technical Clearance order in favour of Tarun Tahiliani impleaded as respondent No.1, the petition being filed on 30.11.2023, was amended seeking direction to demolish all the construction undertaken in the suit property bearing Survey No.292/1-L-7 being in the areas zoned as 'Natural Cover' and/or 'No Development Slopes' as per the RPG-2021 and to restore the suit property to its original state and carry out afforestation/re-planting the trees.

The learned counsel Mr Richard Almeida for the petitioners adopted the arguments of Mr Nadkarni but in addition he has also canvassed his submission that the subject property is falling in CRZ

area and by inviting our attention to the affidavit in rejoinder filed by him, he would rely upon the CRZ line reflected in the plan prepared by the GCZMA and he would specifically submit that when the petitioners sought a plan from the GCZMA to demarcate/identify the CRZ/NDZ line in respect of the suit property, and on comparison the petitioners have noticed that the CRZ line indicated by respondent No.1-project proponent is clearly at variance from the one issued by the GCZMA and in fact the one issued to the petitioners by the GCZMA shows that more area of the suit property encompassed in the CRZ line area. It is therefore contended that no development could have been permitted to be carried out without the approval of the GCZMA/MOEF & CC, in terms of the CRZ Regulations in force and therefore, the construction activity undertaken by respondent No.1 is in violation of the CRZ Notification.

As regards the non-existence of 6.00 metres road leading to the property in the rejoinder affidavit, the petitioners have stated that even as on the date of the filing of the petition, there was no such road/access available and only after filing of the petition respondent No.1 by bringing heavy machinery commenced making of 6.00 metres access which is not available on the site.

16. The learned Advocate General Mr Pangam has also placed before us a list of dates and events along with the bunch of notifications and Circulars issued by the TCP Department during the relevant period.

He would submit that RPG-2001 notified the property in question as partly Settlement and partly Orchard, the settlement area being reflected as 2,495 sq. mts. He would submit that respondent No.5 i.e. Tarun Tahiliani purchased the subject property by sale deed dated 10.08.2010 and his predecessor in title had applied for Technical Clearance for amalgamation of plots (Survey Nos. 292/1-I and 292/1-L) and the construction of residential house and swimming pool. It is not in dispute that RPG-2021 notified settlement area as 1070 sq. mts., and pursuant to the site inspection carried out, and on 10.11.2011 the Technical Clearance was granted for amalgamation of plots and construction of residential house and swimming pool, which was granted with reference to the application dated 12.10.2011, before the RPG-2021 came into force and the plan for the proposed construction was approved with an area under settlement zone being set out as 2495.00 sq. mts. According to the learned Advocate General, the Technical Clearance order had a validity of three years from the date of issuance of the construction licence if granted within a period of three years.

However according to Mr Pangam, RPG-2021 though notified faced certain gross errors and it was brought to the notice of the TCP Department that it reverted certain area shown as settlement zone in 2001 but were deleted in final plan provided that they are not Eco-sensitive areas and hence public notice was issued for submission of inputs on the errors noted in RPG-2021.

While this was under consideration, on 09.04.2012 the Chief Town Planner issued directions to be followed by order dated 04.06.2012 carving out certain restrictions and ultimately on 28.09.2015, it was declared that the project cleared by IPB could be issued permission, if the land under reference was falling in settlement zone, industrial zone and institutional zone as per RPG-2021.

It was only on 28.03.2018, in supersession of the earlier orders, the RPG-2021 was made operational and on 06.04.2018, a hierarchical order in which the applications are to be processed and dealt with under the Circular dated 28.03.2018 was issued. The aforesaid order was extended to all the areas including the areas which have commonality in RPG-2001 and 2021 until further orders, provided that the approval of the committee referred to in Category –IV shall not be required in case of areas having commonality.

This resulted in Mr Tahiliani submitting an application for grant of Technical Clearance and this according to the learned Advocate General was revised application, which resulted in grant of revised Technical Clearance on 03.02.2023 for construction of residential house, staff quarters, swimming pool and compound wall. In March 2023, Mr Tahiliani applied for conversion sanad which was granted on 13.06.2023 for 2495 sq. mts., with 60 FAR.

17. It is in the above sequence of events, the learned Advocate General would submit that it is from 2018 RPG-2021 was fully made applicable and while it was made applicable, all prior acts in form of commitments were saved and therefore when RPG-2001 permitted respondent No.1 an area with 2495 sq.mts., it was saved as prior commitment.

As far as arguments advanced in PILWP No.3 of 2024 about the CRZ line, Mr Pangam do not dispute that it is CRZ but would submit that in Goa, CZMP was made applicable in 1996, and CZMP-II was made applicable on 06.09.2022, and therefore, no question of property being impacted by CRZ.

Mr Pangam would place reliance upon the decision of the Apex Court in case of *Goan Real Estate and Construction*

*Limited and another Vs Union of India and others*² and in particular, the following observations therein:-

*“38. The contention raised on behalf of the respondents that the construction already completed would not be affected in any manner by decision of this Court in **Indian Council for Enviro-Legal Action vs Union of India** [(1996) 5 SCC 281] but incomplete construction cannot be permitted to be completed is devoid of merits. Two amendments made in the year 1994 were declared to be illegal vide judgment dated 18.04.1996. Till then, its operation was neither stayed by this Court nor by the Government. Therefore, a citizen was entitled to act as per the said notification. This Court finds that the rights of the parties were crystallized by the amending notification till part of the same was declared to be illegal by this Court. Therefore, notwithstanding the fact that part of the amending notification was declared illegal by this Court, all orders passed under the said notification and actions taken pursuant to the said notification would not be affected in any manner whatsoever.”*

18. Mr Shivan Desai, the learned counsel representing the respondent No.5 in PILWP No.4 of 2024 and respondent No.1 in PILWP No.3 of 2024, Mr Tarun Tahiliani would challenge the locus of the petitioners by submitting that merely because the petitioners are residents of the locality do not give them a right to call in question the construction undertaken by his client and apart from disclosing that they are residents in close proximity, it is his contention that the petitioners have not disclosed any credentials in relation to environment related causes. According to him, there is no exemption from scrutiny or relaxation under the PIL Rules

² (2010) 5 SCC 388

or in terms of the principles laid down by the Apex Court for the residents of the villages as it is too broad based.

He is extremely critical about the fact that PILWP No.4 of 2024 is filed despite the fact that the petitioners were aware of the pendency of the PILWP No.3 of 2024 before the Court on the same issue and therefore, it is his contention that the petitioners should have avoided multiplicity of the proceedings.

In addition, he would submit that Para 23 of the PILWP No.4 of 2024 read with the complaint made to the Sarpanch/Secretary of the Village Panchayat of Pomburpa, in form of complaint against the illegal hill cutting and destruction of forest and natural cover reveal a false narrative that 19 Villa project is coming up and signatures were obtained from the villagers by misleading them and in Para 23, it is stated that they did not have sufficient time to file a complaint/revision. As against this contention, it is the submission of Mr Desai that the relief of mandamus must be preceded by a demand but the petitioners have chosen to directly approach the Court in its writ jurisdiction and he make a serious accusation, that the Court by order dated 08.10.2024, permitted the TCP Department to adjudicate the show cause notices and permitted the petitioners to participate but the petitioners in PILWP No.4 of 2024 did not even bother to

participate in the proceedings but approached the Court seeking a relief of mandamus.

Mr Desai would also invite our attention to a certain portion in the affidavit filed by respondent No.5 about the petitioner Nos.1 and 2 in the respective petitions having indulged in criminal acts of force, threat and intimidation leading to criminal complaint being filed and therefore, it is his submission that the petitions are ill-motivated and filed for collateral purposes and are nothing but abuse of process.

19. On merits, Mr Desai would submit that the Technical Clearance granted on 10.11.2011 was for amalgamation of plots and construction of residential house and swimming pool in Survey No.292/1-I and 1-L and the land use/zoning certificate issued on 05.06.2008 in regard to the property bearing Survey under No.292 sub- division 1-L and 1-I of Salvador-do-Mundo village admeasuring 63724 sq. mts., was earmarked as partly Settlement zone and major portion as Orchard zone as per RPG-2001. According to him, the settlement zoning of the subject property under Survey No.292/1-L, as superimposed by the TCP Department, corresponds to 2495 sq. mts., and this zoning was notified after following a comprehensive process under Sections 12 to 17 of the Town and Country Planning Act, 1974 and no

objection was raised to the settlement zoning of the subject property by the villagers or any other entity.

According to Mr Desai, the property was purchased by his client based on this representation of the State Government and he would submit that if his client or predecessor were to construct a house prior to 2011, there could have been no impediment in undertaking the subject construction and he would rely upon the Note 6 of RPG-2021 to protect the past commitments, which have availed benefits under RPG-2001, so as to avoid prejudice being caused to them due to adverse zoning of subsequent plan.

According to Mr Desai, on 12.10.2011, the application was made for obtaining the Technical Clearance and RPG-2021 was notified on 20.10.2011 and immediately after the notification of this plan, serious issue arose about its implementation and the errors in RPG-2021 prompted the State Government to keep the plan in abeyance. According to him, the TCP Department granted Technical Clearance/approval on 10.11.2011 based on RPG-2001. The said approval, according to Mr Desai was in view of the policy of the Department, which was subsequently indicated in the Circulars dated 09.04.2012 and 04.06.2012, which confirmed that RPG-2021 was kept in abeyance and the approval was granted on the basis of RPG-2001 prior to the said Circulars were protected. It is his contention that merely because the Circulars are issued in

2012 do not render the decision of 10.11.2011 nullity, as the RPG-2021 was actually kept in abeyance and it is in March 2018, when it was brought into force with full strength and in these circumstances, when an application was made in 2022 by Mr Tahiliani for revision of Technical Clearance dated 10.11.2011, the benefit of past commitments was extended based on Note 6 of the RPG-2021 which protects the prior approvals/NOCs granted on the basis of the RPG-2001.

As far as conversion sanad is concerned, it is his submission that it is granted pursuant to the Technical Clearance dated 03.02.2023, after following the procedure under Section 32 of the Goa Land Revenue Code, 1968 along with the Goa Land Revenue Rules, 1969, more particularly Rule 7, which mandates that conversion can be granted on the basis of the approval. According to him, the TCP Department is the principal regulatory authority, and based on the said approval and the TCP report, which is part of the conversion process, the Collector issued the conversion sanad on 13.06.2023, which is well within the framework of the Rules.

Dealing with the issue of access to the project, he would submit that there is a required access leading to the subject property, and in fact, by deed of transfer dated 09.06.2009, an area of 3600 sq. mts., is transferred to the Panchayat, and permissions

were granted to the predecessor for widening of the existing road, which confirms the existence of the road.

As far as the hill cutting is concerned, he would submit that since the TCP Department has clearly indicated that the slope is less than 25% and therefore, under the Regulations of 2010, the development is permissible, but in any case, he would submit that Section 17A permission shall be obtained at the relevant time when the work is carried out.

In short, according to Mr Desai, the petitions filed on the pretext of public interest cannot be entertained and deserve dismissal.

20. We have perused the pleadings in the two PIL Petitions and heard the counter submissions advanced in support thereof.

The two petitions filed before us as Public Interest Litigations set out a common grievance against illegal developmental activities including hill cutting and destruction of natural cover, carried out by the private respondent, Mr Tarun Tahiliani in property bearing Survey No. 292/1-L-7. The petitioners in both the petitions have approached this Court by pleading that they intend to expose the authorities, who have acted in favour of the private respondent in granting requisite

permissions, by clearly ignoring the prevailing provisions, governing the grant of such permissions and the petitioners in PIL Writ Petition No. 3 of 2024 claim that they are residents of Ecoxim village where the construction is being carried out.

In PIL WP No. 4 of 2024, the two petitioners who raise the very same grievance and have filed the petition, after the first PIL was filed, also claim to be residents of the locality where the subject development has been permitted to be undertaken and petitioner No. 1 is resident of the village Salvador-do-Mundo and reside approximately about one kilometre from the subject property, whereas petitioner No. 2 reside at a distance of about 200 metres from the subject property.

In both the petitions, the petitioners have expressed serious concern about the preservation of areas, which are earmarked as Natural Cover and No Development Slopes and the proceedings are instituted for preventing illegal development and construction being undertaken which has the potential to cause damage to the environment. The petitioners in both the petitions have given a declaration that they have no personal interest in the matter and being driven by the spirit of “Save Goa”, they have filed the subject PILs.

21. Public interest litigation, PIL a novel form of litigation to redress the grievances of a vast section of society, is a well-accepted method of taking cognizance of grievances, pertaining to the public at large, and which definitely could include the one revolving around the protection of the environment. The strict procedure of the Court is dispensed while entertaining a PIL, and history has witnessed such petitions being entertained on a mere letter or a postcard.

A public interest litigation came to be entertained when the causes pertained to protection, preservation of ecology, environment, forest, marine life, wildlife, mountains, rivers etc. and in all the proceedings entertained as public interest litigation, the credentials of a party who file PIL assume significance as the Courts entertaining such litigations, noted that at times, it amount to an abuse of process of law as many demotivated individuals, busy bodies and publicity seekers knocked the doors of the Court on the pretext of involvement of larger public interest. The norms which contemplate testing of the correctness of the information are to be given by the petitioner, who filed the petition as public interest litigation, intended to only encourage genuine and bonafide PIL and discourage and curb the PIL is filed for extraneous considerations.

22. In the wake of the decision of the Apex Court in the case of *State of Uttaranchal Vs. Balwant Singh Chauhan*³, the Apex Court requested the High Courts to frame the Rules for encouraging the genuine PILs and made it imperative for the Court to prima facie verify the credentials of the petitioner before entertaining a PIL and to be satisfied, prima facie about the correctness of the contents of the petition before entertaining the same. It was also indicated that the Court should ensure that a petition which involve larger public interest congregating an urgency must be given priority and only the PIL, which is aimed at redressal of genuine public harm or public injury deserve consideration and the possibility of the PIL being filed for personal gain, private motive or public motive, must be first overruled before the PIL petition is entertained.

In testing the bonafides of the petitioner to approach the Court by public interest litigation, if it is found that it is a camouflage to foster personal disputes, the petition must be thrown out as the Court shall not entertain any “publicity interest litigation or private interest litigation”. A party who come before the Court by way of a public interest litigation must come to the Court not only with clean hands, which is a requirement of any other petition, which is filed before the Court in exercise of its writ

³ (2010) 3 SCC 402

jurisdiction, but the party must also come with clean object for redressal of a genuine public law or public injury and therefore, a checklist has emerged from various authoritative pronouncements to be asserted before a PIL is entertained, viz, (a) credentials of the applicant (b) prima facie correctness of nature of information given by him and (c) information not being vague and indefinite and involvement of an element of public interest.

23. It is with this principle in mind, we have examined the objection raised by Mr. Desai about the locus of the petitioners to file the PIL and the specific challenge to the credentials of the petitioners in approaching this Court through the public interest litigation.

On this count and on applying the well-settled parameters of entertaining a public interest litigation, we find that the petitioners' concern and apprehensions about causing disturbance to the environment and the natural covers to be a bonafide cause which deserve consideration.

Both the petitions are framed on this very basis as there is a challenge to the permissions granted in favour of the project proponent by alleging that on the basis of the land zoning information obtained by the petitioners in respect of the subject

Survey No. 292/1-L-7, as the petitions make a grievance that the Technical Clearance granted as well as the construction license and conversion sanad permit an area for development to be more than what is indicated in the land zone use information in accordance with RPG-2021, which was notified on 20.10.2011 and from that date all the developments shall conform to RPG-2021 and no development in contravention thereof is permitted. The grievance raised by the petitioners is about the area which is permitted to be developed by depicting it to be a settlement zone, though according to them, in RPG-2021, a much lesser area is marked as a settlement zone and this is the bone of contention of the petitioners in both the petitions.

At the outset, we must note that we do not find any malafides in the claim raised by the petitioners and it may be a different thing to say that we do not find merit in the said submission, but as far as the attempt of the petitioners to invite attention of this Court to the issue by filing the public interest litigation by no way can be said to be ill motivated, as we find that the petitions raise a genuine concern about protection of the natural cover and the No Development Slopes as per the RPG-2021.

There are two petitions which are filed on the same subject matter and virtually the reliefs sought in both the petitions are identical, but we do not blame the petitioners for that and we do

not want to turn them down only on this ground as we find that they are the local residents, who are concerned about the depletion of the natural cover in the area and perfectly justified in knocking the doors of the Court.

The petitioners also carry some misconception about records for which they cannot be blamed, as they do not have access to all the requisite documents from the Department or in the hands of the project proponent as we have now received a clarification that what is coming up is not a cluster of villas, but only one villa with a swimming pool and which has an area less than 7% of the total area.

Apart from this fact, we must note that once the issue is brought before us, we, as a writ Court, are entitled to examine the issue, and whether to grant the relief as prayed for is the question to be determined by us purely by examining the merits of the matter.

Therefore, we reject the preliminary objection of Mr Desai that the petitioners lack the locus to file the petitions, as we agree with Mr Nadkarni in his submission that when finality is attached to the orders passed by the TCP Department, the only remedy available is to invoke the jurisdiction of this Court.

24. By overlooking the objection of Mr Desai, we proceeded to examine the claim in the petitions.

The precise grievance raised in both the PIL petitions is that the RPG-2021, which was notified on 20.10.2011, clearly declared that on and from the said date, all developments shall conform to RPG-2021 and no development is permissible in contravention thereof. This stipulation is also specifically set up in Section 16 and Section 16A of the Goa Town and Country Planning Act, 1974.

There can be no second view on the said proposition. The land use zoning information of 29.08.2023, which is the fulcrum of the arguments advanced on behalf of the petitioners, has reflected the settlement area of Survey No. 292/1-L-7 of village Salvador-do-Mundo, as 1,070 sq. mts. and the natural cover of the area being set out as approximately 9,300 sq. mts. and the natural cover overlapping with No Development Slope being 1,300 sq. mts. The petitioners, therefore, assume that the Technical Clearance, which is granted to Tahiliani's project, must be restricted to that area as the Technical Clearance permitted the construction of a residential house, staff quarters, swimming pool and compound wall as per the approved plan in the property zoned as "settlement zone" in RPG-2021. The petitioners proceed under an impression that the Technical Clearance can only be restricted

to the area of settlement as enlisted in the land use zoning information furnished by the TCP Department.

Based upon the Technical Clearance, on 16.06.2023, a construction license was issued by the Village Panchayat Pomburpa-Olaulim for the proposed construction. This was followed by an application for conversion sanad granted by the Additional Collector-III, North Goa District, on 13.06.2023 in terms of the Goa Land Revenue (Conversion of Use of Land and Non-Agricultural Assessment) Rules, 1969. The conversion sanad granted permission to use the plot of land, forming a part of Survey No. 292/1-L-7 (Part) of village Salvador-do-Mundo, admeasuring 2,495 sq. mts., for the purpose of residential with 60 FAR.

25. When the petitioners sought information about the application that was preferred under sub-section (1) of Section 32 of the Goa Land Revenue Code, 1968, it came within their knowledge that the permission itself was sought for an area of 2,495 sq. mts., for residential use and this is what is granted. Reliance is also placed upon the report of the Senior Town Planner dated 10.05.2023 which refer to the RPG-2021, who forwarded a recommendation for allowing conversion of an area admeasuring 2,495.00 sq. mts., from planning point of view and it contain a declaration, “The proposal is not contrary to any scheme for the

planned development of the village” with a Note to the following effect:-

“This conversion recommendation is issued based on the order issued vide no. 29/8/TCP/2018 (Pt. file)/1672 dtd. 13/08/2018 by Secretary(TCP)/HOD.”

Both the petitions, therefore, proceed on the premise that since RPG-2021 described the settlement zone of Survey No. 292/1-L-7 of village Salvador-do-Mundo to be restricted to 1,070 sq. mts., the conversion sanad granted for 2,495 sq. mts., construing it to be the settlement zone, is faulty and deserve to be quashed and set aside.

It is quite understandable that the petitioners lack the exact information and preferred a complaint on 16.08.2023 to the Village Panchayat about the alleged illegal hill cutting, destruction of forest, destruction of natural cover etc. and voiced their concern in layman’s language, ultimately alleging that the construction activity on Survey No. 292/1-L-7 is detrimental to the interest of the village as it is intended to destroy the hilly forest by bringing up a mega housing/commercial project.

26. Responding to the aforesaid accusation, the project proponent Tahiliani and also the State Government have come up with a clear stand before us through their affidavits and submissions. It is brought to our notice that RPG-2001 notified

the subject property as partly Settlement and partly Orchard and the settlement area as per RPG-2001 is 2,495 sq. mts. The land use of the zoning information of the Survey Nos. 292/1-L-7 and 1-I earmarked it as partly Settlement and a major portion as an Orchard.

Thereafter, the draft Regional Plan 2011 was published on 06.07.2004. However, since the Government was of the opinion that the time limit to submit the comments is required to be extended, it notified an extension. The Revised Regional Plan 2011, as approved by the Government, came to be notified vide notification dated 09.08.2006, published in the Official Gazette dated 10.08.2006. However, on 07.02.2007, the Government of Goa withdrew the Revised Regional Plan 2011 in its entirety by notification dated 10.08.2006, with retrospective effect. Pursuant to the withdrawal of the RP-2011, as per general instructions issued by the Government, RP-2001 continued to be in force for the purpose of grant of permission for the development and construction in the State.

After the withdrawal of the revised RP-2011, the Government of Goa, with the intention of preparing a broad-based Regional plan for the horizon year 2021, appointed a “Task Force” for guidance by setting out a framework for the preparation of RPG-2021. Upon the necessary survey/studies and through

deliberations involving a consultative process, a draft revised Regional Plan 2021 was submitted to the Chief Town planner to be placed before the Goa Town and Country Planning Board for its consideration, which was approved on 29.09.2008.

The said revised RP-2021 was notified under Section 3 of the Act of 1974 on 08.10.2008, published in the Official Gazette dated 16.10.2008, inviting comments in writing from the public at large.

The TCP Board in its 139th meeting held on 21.09.2011 considered and approved the revised Regional Plan 2021 in respect of Bardez Taluka with its settlement level plans of 33 Village Panchayats and thereafter, the RPG-2021 (Part) was notified on 20.10.2011. However, several major flaws were discovered in the notified RP-2021, and a decision was taken to revise the same, and accordingly, directions were issued under Section 17 of the TCP Act by the Chief Town Planner to revise the RP-2021. In order to enable the local bodies and public to submit inputs/errors noted in the published revised RP-2021, the Government offered an opportunity to submit objections and even extended the timelines.

27. The learned Advocate General has also placed before us the directions issued by the Chief Town Planner as well as to the

Branch Officers, pursuant to the Note received from the Secretary (TCP), which directed as under:-

“All projects/proposals which are based upon the RPG 21 shall be kept in abeyance with immediate effect, till the Government takes an appropriate decision in the matter. Files in respect of cases/projects/proposals which have already been cleared by the Department after 20th March 2012 shall be put up to the Government for decision on case-to-case basis, pending which the concerned officials may be directed not to act upon them.

You are hereby directed to comply with the directions strictly and submit the compliance immediately. You are also directed to submit the files approved after 20/3/2012 for the decision of the Government by Wednesday ie. 11/4/2012.”

The follow-up of this in the form of an order dated 04.06.2012 is also placed before us, which referred to the directions dated 09.04.2012 as regards RPG-2021, which state that the Government examined the matter further and decided to issue the following directions:-

“Whereas the Government had issued certain directions vide No. CTP/Conf/FCP/2012/1128 dated 9/4/2012 as regards to R.P.G. 2021 where by, “all projects/proposals which are based upon the R.P.G. 2021 were to be kept in abeyance with effect from 20-3-2012, till the Government takes an appropriate decision in the matter. Accordingly, the Department had discontinued issuance of all N.O.C’s for conversion, construction, completion certificates, etc.

Whereas, the Government has examined the matter further and has decided to issue the following directions:

Pending drafting and notification of fresh plan, the RPG-21 will continue to be on hold. However, for the purpose of allowing the developmental activities in the State, the Government has decided to put certain restrictions and guidelines to ensure that, the genuine developments are permitted keeping in mind the apprehensions raised on RPG-2021. The following directions are

issued for strict compliance by the Department while issuing NOC's for development/Conversion, etc. until further orders.

a) Pending drafting and notification of fresh plan, the Regional Plan 2001 shall be used as a reference Plan for the purpose of determining the land use but with the FAR policy and height of buildings, categorization of Village Panchayats (VP1 & VP2) etc., as per Regional Plan for Goa 2021.

b) In addition to the above, eco-sensitive zoning of RPG-2021 shall also be strictly adhered to while deciding on the permissions to be issued.

c) Land use contrary to RPG-2021 shall not be permitted.

d) All applications/proposals decided prior to the issuance of directions dated 9/4/2012 shall be allowed to be executed, as per the approvals.

For any clarity or doubts, arising out of the said directions, if any, shall be referred to the Chief Town Planner who shall clarify the same and if necessary, he shall issue further directions in consultation with the Government.”

It is not in dispute that the directions issued by the Government are binding on the Authority in terms of Section 132 of the TCP Act, 1974.

28. A reading of the aforesaid orders/directions would reveal that the Chief Town Planner contemplated a situation for planning, drafting and for notification of the fresh plan, and in the meantime it kept the RPG-2021 on hold, but at the same time, so as to continue the development activities in the State, issued certain guidelines to ensure that the genuine developments are not stalled and are permitted, but while issuing No Objection Certificates for development/conversion, RP-2001 shall be used as a reference plan

for the purpose of determining the land use but only as far as the FAR policy is concerned, RP-2021 was to be applied and no land use contrary to RPG-2021 was permitted.

A pertinent direction in the form of clause (d) in the said order provided that all the applications/proposals decided prior to the issuance of directions dated 09.04.2012 shall be allowed to be executed as per the approvals.

29. On 28.09.2015, the Government decided to relax its earlier order for proposals cleared by the Goa Investment Promotion and Facilitation Board (GIPFB).

Ultimately on 28.03.2018, the Secretary (TCP) issued an order in form of fresh directions in supersession of the orders of the directions dated 04.06.2012 and 28.09.2015, as it was noticed that many applications for personal housing and lands classified as Settlement areas as per RP-2021 are pending for clearance, as the land pertaining to the same are not classified under Settlement Zone in RP-2001 and vice versa and due to the instructions contained in the order dated 04.06.2012, the public at large was put to grave hardship.

The rationale in issuing the directions of 28.03.2018 is to be found in the circular/order being set out in the following words:-

“And whereas, the Government has recently brought about amendment to section 49(6) of the Act, thereby making it mandatory for registration of

plots which are not as per the survey plan or plots which are not having approval from competent Authority, to obtain a No objection Certificate from Chief Town Planner (Planning). This was enacted primarily to control large scale unauthorized fragmentation of Orchard and agricultural lands which was taking place at brisk pace in the state. Government has observed that many unauthorized land developments have already taken place by way of registration of sale deeds for smaller plots and construction of pucca houses/buildings have sprung up in many plots. Some of them are within settlement areas, as per RPG 2021 and where as many such developments are in non settlement areas as per both the Regional Plans. It was found necessary, that whatever developments which have come up in settlement area of Regional Plan 2021, could be considered for regularization by following rules.”

In supersession of the existing directions, it was directed thus:-

“A. Development in land zoned under Settlement Zones or Commercial Zones or Industrial Zones or Institutional Zones as per Regional Plan-2021 to be permitted as per its merit for uses permitted in respective zone, by following transparent process as under:-

i) Applications as received by the Taluka Level offices of the Department to be scrutinized with respect to the following:-

- Report on settlement character of the land and surroundings.
- Access conditions.
- Nature of land as to whether sloping/low lying or having forest trees etc.
- Permissibility as per Goa Land Development and Building Construction Regulations.

ii) The release of land shall further be subjected to the following:-

a) In case the area of land is more than 5000.0sq.mts, opinion of Forest Department and Agricultural Department shall be obtained.

b) Areas such as low lying paddy field, water body, khazan land, flood prone area, land having slopes more than 25%, forest land including private forest land, land falling in the buffer zone of Wild Life Sanctuaries (without the prior permission of Forest Department) and No Development Zone

as per CRZ notification (without prior permission of GCZMA) even if they fall in settlement or developable zone shall not be permitted.”

The procedure to be followed was further supplemented by an order issued by the TCP on 06.04.2018, thereby creating a hierarchy for processing the applications.

30. It has thus clearly emerged before us, that in the wake of the aforesaid transitory provisions made, the Regional Plan 2001, which was notified on 11.12.1986, remained in force till 28.03.2018 as RP-2011 was withdrawn by the Government in totality and was treated as non-existing. The RP-2021, although notified on 20.10.2011, remained in abeyance from the date of its notification till it was made operational and this happened only on 28.03.2018. It is worth to note that, notwithstanding notification of the RP-2021 on 20.10.2011, RP-2001 was never withdrawn and rather order/directions issued on 09.04.2012 and 04.06.2012 applied RP-2001 pending finalization of RP-2021.

In the aforesaid scenario, the predecessor of Mr Tahiliani, Mr Ganesh Nagvekar and Mr Mohit Agarwal had applied for the construction of a residential house with a swimming pool by amalgamation of the plots in consonance with RP-2001. The Technical Clearance order passed on 10.11.2011 granted approval

based on the application, which is preferred prior to the publication of RP-2021.

The noting sheet dated 12.10.2011 at page N/2 with reference to item No. 6 record thus:-

“Presently there is a 4 metre wide underdeveloped road i.e. only soiling has been done as shown on the site plan. The said road has been transferred to the Village Panchayat on 09.06.2009 by Deed of transfer. There is also a resolution passed by the Gram Sabha for construction of the said road based on the representation of the villagers. The Panchayat has also given the NOC to the owner for a construction of the said road. The Chief Town Planner has also issued an NOC to the panchayat under Section 17A for development of 6 metres wide road. The Panchayat has also obtained NOC from GCZMA for construction of a road falling within 100 metres. The plans submitted are within the prevailing Rules and Regulations. The coverage and F.A.R. are well within permissible limits. All the setbacks are adequate. The area ...deducted for calculation of coverage and F.A.R. Area only taking in settlement zone has been shown for development. Open spaces of entire area falling in settlement zone has been maintained.”

Thus, it is evidently clear that the Technical Clearance order dated 10.11.2001 was in terms of RP-2001 and this continued to remain in operation because of the intervening developments at the level of the State.

31. When the RP-2021 was brought into force, it was accompanied with a Note which read thus:-

“All past commitments/development like sub-division approval by competent authority, conversion sanad under LRC, building

approvals/NOC granted, shall be honoured for specific uses if not reflected in the Plan.”

It is on the basis of this protection in form of past commitments, Mr Tahiliani made an application for obtaining Technical Clearance (revised), which was granted on 03.02.2023 and a perusal of the Technical Clearance order of the TCP Department in Clause 35 record thus:-

“This Technical Clearance is issued as a partial modification to the earlier Technical Clearance order issued by this office vide letter no. TPBZ/3208/SDM/TCP-2011/2888 dt. 10/11/2011 and all conditions imposed in above referred order has to be strictly adhered too.”

In addition, the Note also make reference to the order issued by the Secretary (TCP) dated 13.08.2018 and the order issued by the Chief Town Planner (Planning) dated 19.07.2022, pertaining to guidelines for processing various applications.

32. The learned Advocate General has placed before us the order dated 13.08.2018 with reference to the decision of the Government to operationalize the Regional Plan for Goa in 2021 and the said direction reads thus:-

“And, whereas, in the 162nd (Adjourned) meeting of the Town and Country Planning Board held on 16/5/2018, the policy decision for implementation of Regional Plan vis-a-vis Zoning Plan/Outline Development Plan of erstwhile planning area were discussed. The Board had considered that there shall be only one Plan in the State of Goa in respect of non planning areas i.e. Regional Plan for Goa 2021

and all other Plans such as old ODPs, Zoning Plans, Area Development Plans along the railway stations and Regional Plan for Goa 2001 shall cease to exist. The Board further decided the Order dated 6/4/2018 read at preamble (2) issued in pursuance to Order dated 28/3/2018 needed to be modified for clarity. The decision of the Board was approved by the Government.

In view of the above, it is hereby directed there shall be only one Plan i.e. Regional Plan for Goa 2021 for non-planning areas with the riders/condition of Orders dtd. 28/03/2018 and 06/04/2018 and that while considering the application based on the aforesaid Orders referred at preamble, the Zoning Plan, old ODPs of erstwhile planning areas shall not be considered and only Regional Plan for Goa 2021, to be considered for the purpose of ascertaining prevailing land use.”

33. It is in the wake of the aforesaid, it is to be noted that when the Technical Clearance Order is issued in favour of Mr Tahiliani, it is issued as a partial modification to the Technical Clearance Order dated 10.11.2011.

It is urged before us that the past commitments have no legal basis and a binding effect because the earlier Technical Clearance contemplated that the order shall remain valid for a period of three years from the date of issuance of the construction license, which should be obtained within a period of three years and if it is not so obtained, the Technical Clearance shall lapse.

We had an opportunity to deal with the effect of the Note in the past, and in the case of *Mr. Alvito Joseph August D'Silva & Another Vs. State of Goa & Others* (PIL WP 2 of 2025 decided on 08.05.2025) to which one of us (Bharati Dangre, J.) is a party,

we had an opportunity to deal with the said argument which was met with the following observations:-

“24. The Regional Plan- 2021 when approved was accompanied by a specific Note, which state Past commitments/developments like subdivision approvals by competent authorities, as well as the conversion sanad as it indicated that these commitments shall be honoured for specific uses, even though they are not reflected in the plan.

Much argument is advanced before us about the said Note, as it is the submission advanced by Mr De Sa on behalf of the petitioners that it cannot be read as part of the Regional Plan, but we disagree with the said submission.

The Regional Plan- 2021 has to be read along with the Note as it offer important clarifications in regards to its implementation, for example it indicates that all O.D.P's and zoning plans prepared in the past by the Planning Development Authorities which are in force (both in P.D.A. areas and non P.D.A. areas) have been incorporated into the Regional Plan-2021. It also clarify that surface utilization plans shall be read with the report of Regional Plan - 2021, and it also clarified that notwithstanding anything contained in the plan, the developments shall be subject to the provisions of Tenancy Act, Land Use Regulation Act, Forest Conservation Act, Highways Act etc.

The Note which is part of the Regional Plan must therefore be read as a part of it, as it offer certain clarifications while the Regional Plan is being read and implemented. Since this Note clearly contemplated honouring of all the past commitments/developments, including conversion sanad under the Land Revenue Code, the building approval/NOC granted before the Regional Plan- 2021 was made effective, this conversion sanad granted in favour of respondent No.5 on 02.06.2008 must receive due weightage.

25. The argument advanced that the conversion sanad had lapsed since the conversion sanad issued under Rule 7 of the Goa, Daman and Diu Land Revenue (Conversion of use of land and non-agricultural Assessment) Rules, 1969 stipulated that the holder of the sanad shall within one year from the date of its issuance commence the construction on the plot failing which, unless extended by the Collector from time to time, the permission

shall be deemed to have lapsed. It is worth to note that Clause (c) of Rule 4, which contemplated such a stipulation, was amended by the Amendment Rules, 2009, and the said clause itself is omitted.

In the wake of the aforesaid amendment in the Rules of 1969, since the condition in form of Clause (c) of Rule 4 itself is deleted, it cannot continue to exist in the grant of sanad in 2008 and in absence of this stipulation being enforced, since the grant of sanad for the subject property by exercising powers under Section 32 of the Land Revenue Code, 1968, since the property at that time was surveyed as "Settlement Zone", the requisite permission was granted for it being used for the purpose of residential. Needless to state that this permission was subject to the stipulations that were contained in the sanad itself and it included the permission under Section 17-A of the TCP Act as well as maintaining of traditional access passing through the plot, if any, and development/construction in the plot to be governed as per the Rules in force.

In the wake of the aforesaid, since we are of the view that 'Note' appended to the Regional Plan offered clarification on certain aspect which form part of the Regional Plan and implementation of the Regional Plan is subject to the conditions which are specifically set out in the Note and bind the Planning Authorities as well as the persons desirous of undertaking development as per the Regional Plan -2021 and therefore the Officers of the Town and Country Planning Department are bound by it."

34. In the wake of the aforesaid observation, we have no difficulty in holding that the Note appended to RP-2021 preserving past commitments/developments like sub-division, approvals granted by competent authorities, conversion sanads, building approvals, N.O.Cs granted shall be honoured for specific uses, if they are not reflected in the new plan. We must record that when the Technical Clearance order dated 03.02.2023 is sought in

revised form and even the TCP Department granted it as a partial modification of the earlier Technical Clearance order dated 10.11.2011, with the past commitments being saved under RP-2021, we are of the considered view that Mr Tahiliani, the project proponent is entitled to develop the property by considering the settlement area to be 2,495 sq. mts. which was existing and reflected in RP-2001.

At this stage, we must also make reference to a specific commitment made by the project proponent in his affidavit, affirmed by his power of attorney, where the following undertaking is set out:-

“3. That in order to give a quietus to this matter, on the instructions of the Respondent No. 5, without prejudice to his rights, contentions, benefit enuring by operation of law and/ or subsequent change of zoning, the Respondent No. 5 solemnly states that the Respondent No. 5 shall restrict the development undertaken in the property bearing Survey No. 292/1-L-7 only within the portion which is zoned as "Settlement Zone" under the Regional Plan 2021.

4. Further, it is solemnly stated that the Respondent No. 5 prior to commencing any further construction activity in the said property, shall apply and obtain revised Technical Sanction from the Town & Country Planning Department, Mapusa and Construction License from the Village Panchayat of Pomburpa – Olaulim including all other licenses and permissions that may be required by law to be obtained by the Respondent No. 5.

5. That the above may be accepted as an undertaking from the Respondent No. 5 to this Hon'ble Court, and the present petition may be disposed off.”

35. We shall now come to the issue of the availability of the road width of 6.00 metres.

Dealing with the contention raised in the PIL petitions about the availability of the access road leading to the subject property, it is brought to our notice that by deed of transfer dated 09.06.2009, an area of 3600 sq. mts., is already transferred to the Panchayat and the permissions were granted to the predecessor of Mr Tarun Tahiliani for widening of the existing road, which is placed on record by the Panchayat, which confirms the existence of the road. It is brought to our notice by respondent No.1 (PILWP No.3 of 2024) that in the wake of the conveying of a total 3600 sq. mts., of the land in favour of the Village Panchayat of Pomburpa-Olaulim, the area consumed by the existing road having width of 6.00 metres is made available, by deed of transfer dated 09.06.2009. After the land was vested in Panchayat, it requested the Goa Coastal Zone Management (GCZMA) for delineation of the CRZ line and requested for a N.O.C. for construction of 6.00 metres wide road over the existing traditional pathway/mud road passing through the properties bearing Survey Nos.292/1-I(Part), 292/1-J (Part) and 292/1-L (Part) of Village Salvador-do-Mundo, as a means of access to the place of worship as well as adjoining properties. Pursuant thereto, on 04.08.2009, the GCZMA referred

the Panchayat to the Directorate of Settlement and Land Records, Panaji, in order to get the 'No Development Zone' demarcated for the said properties and to submit a plan to the GCZMA in order to enable it to proceed with the delineation of the CRZ line.

After holding a joint site inspection along with GCZMA, the DSLR prepared and supplied the Panchayat, a plan, delineating the CRZ line and marking the same on the said plan and by letter dated 12.04.2010, the GCZMA informed the Panchayat that its application for proposed construction of 6.00 metres wide road was examined in its 54th meeting held on 03.03.2010 and the same was approved subject to strict compliance of the CRZ Notification, 1991 and obtaining of N.O.C/approval from the Town and Country Planning Department, prior to commencement of the work.

In the wake of the aforesaid, we find no merit in the said contention raised in the PIL petitions as regards non-availability of 6.00 metres long road, as the existence of this road is clearly recorded in the records of the Panchayat.

36. Mr Padiyar who represented the Village Panchayat has placed on record the order passed by the Town and Country Planning Department on 09.02.2011, permitting the construction

of 6.00 metres wide road and therefore, according to us, this grievance raised in the PIL petitions is already taken care of.

37. On the detailed analysis of the contentions raised in the two PIL petitions and the stand adopted by the private respondent Mr Tahiliani and the Village Panchayat, since we have already entertained the petitions on merits and found locus in the Petitioners to entertain the petitions, but having examined the same since we find that the contentions to be without any basis, we dismiss the PIL writ petitions by expressing our clear opinion that the predecessor in title of respondent No.1 had applied for permission for amalgamation of two plots as well as the construction of residential house and swimming pool, as early as on 12.10.2011, which was based upon the Regional Plan notified on 11.12.1986 and the property which was zoned as partly Settlement and partly Orchard, set out the Settlement area as 2495 sq. mts. After coming into force of RPG-2001, the Technical Clearance was granted on 10.11.2011 and this was based on the application dated 12.10.2011, and therefore, though in RPG-2021, Settlement area was reduced to 1070 sq. mts., but the Technical Clearance was issued on the basis of the zoning contained in RPG-2001. We have noticed that for a long period of time, there was no clarity about the implementation of RPG-2021

and it is only on 28.03.2018, the RPG-2021 came into force and in this background, the Technical Clearance order dated 10.11.2011 have become a Past Commitment and the Technical Clearance order dated 03.02.2023 based on such past commitments referred to it as the revised Technical Clearance, was protected in terms of the Note 6 appended to the RPG-2021. Though it may be true that the validity for the Technical Clearance dated 10.11.2011 had lapsed in terms of Section 46 of the TCP Act, worth it to note that the said provision pertains to permission granted in planning area and not to non-planning area and Village Salvador-do-Mundo is in non-planning area and therefore, the provisions of Section 46 of the TCP Act are not applicable to it.

In any case, with the Note 6 appended to RPG-2021, the past commitments, including developments like sub-division, approval, conversion sanad, building approval, continue to hold good and therefore stand saved.

In the wake of the aforesaid, we do not find that there is any violation.

38. Further, we do not find any violation of CRZ norms, as at the time when the Technical Clearance order dated 10.11.2011 was issued, the said property was governed by the Coastal Zone Management Plan (CZMP) prepared under the CRZ Notification

1991. It is only on 06.09.2022, the CZMP under the CRZ Notification 2011 was notified and it is an admitted position that under the old CZMP, the property falls outside the purview of CRZ Notification, whilst in the new CZMP notified a portion of the said property within the purview of CRZ Notification. However, the original permission having been granted in 2011, and the rights of the parties having been crystalized in terms of Note 6, it shall be governed by the demarcation in terms of the Coastal Regulation Zone Map prepared under the CRZ 1991. Therefore, even on this point, the contention raised on behalf of the petitioners is without merit and it do not deserve any consideration for setting aside the permissions granted in favour of Mr Tarun Tahiliani, respondent No.1 in PILWP No.3 of 2024 and respondent No.5 in PILWP No.4 of 2024.

In the wake of the aforesaid, the PIL Writ Petition Nos.3 of 2024 and 4 of 2024 deserve dismissal and are accordingly dismissed, on examining the pleas raised therein on merits.

Rule is discharged accordingly.

No order as to costs.

NIVEDITA P. MEHTA, J

BHARATI DANGRE, J