

Dr. Justice Ferdino Rebello  
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6<sup>th</sup> February 2026

To

1. Chief Town Planner (Planning)  
Government of Goa
2. Town & Country Planning Board  
By its Secretary

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*Chet*  
Town & Country Planning Department  
Government of Goa  
Panaji - Goa

Sub: Section 39-A of the Town & Country Planning Act

Gentlemen,

1. I am addressing this letter on behalf of the people of Goa who have adopted a 10-point charter which includes amongst others repealing the provisions of Section 39-A of the Town & Country Planning Act which hereinafter shall be referred to as **the Act**. This letter is a demand of the people of Goa to stop granting any further permissions under the said Section and reopen all files and revoke all permissions which are illegal as demonstrated in this letter.
2. Section 39-A which was inserted vide Amendment Act No.3 of 2024 and came into force at once. The said section reads as under:

*"39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regard and with approval of the Board, may, from time to time, alter or modify the Regional Plan and/or the Outline Development Plan to the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect if any eco sensitive land as may be prescribed.*

*(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan."*

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3. In my opinion, Section 39A(1) is manifestly arbitrary and Section 39A(2) is merely a colorable exercise of legislation to cover the illegalities sought to be made under Section 39A(1).
4. Pursuant to insertion of Section 39A, as per figures available 423 applications have been made for conversion of 31,54,258 sq. meters. Of these so far final notifications have been issued in respect of 163 applications for a total area of 12,70,113.75 sq. meters.
5. The Legislative Assemblies of Goa prior to 2023 have passed various legislations to protect conversion of agricultural land to non-agricultural. The first such legislation was the Goa Agricultural Tenancy Act, 1964, which restricted conversion of agricultural lands as defined in the Act to non-agricultural purpose. The object of this legislation in making the tenant a protected tenant and then deemed owner was to increase agricultural production and not to sell those lands for non-agricultural purposes whether they be paddy fields or lands given for horticultural purposes.
6. From 2023, various amendments have been made to the Town & Country Planning Act like Section 17(2) and Section 39-A permitting change of zone and change of user inspite of the Regional Plan having become final.
7. To prevent conversions of paddy fields, whether tenanted or not, the Legislature passed the "Goa Restrictions on Transfer of Agricultural Land Act, 2023". Though the object of this Act as reflected in Section 3 appears laudable, the definitions clause Section 2(a) which defines agriculture and Section 2(c) which defines 'agricultural land' is a malafide exercise of legislation, to make it possible to convert paddy fields. These paddy fields inspite of insertion of Section 39-A cannot be converted in view of the provisions of Section 2 of the Goa Land

Use (Regulation) Act, 1991 and also now pursuant to Section 31-A of Code of Comunidades.

8. Section 2 of Goa Land Use (Regulation) Act, 1991 reads as under:

*"2. Regulation of use of land - Notwithstanding anything contained in the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975), or in any plan or scheme made thereunder, or in the Goa Land Revenue Code, 1968 (Act 9 of 1969), no land which is vested in a tenant under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) shall be used or allowed to be used for any purpose other than agriculture.*

9. The entries in Form I and XIV raise a presumption as to the nature of the land, whether it was agricultural, horticultural, etc. and the person in occupation of the land as a occupier / tenant pursuant to proviso to Rule 51 of "The Agricultural Tenancy (Revenue Survey Record of Rights) Rules, 1967. Thus these are presumptive entries showing relationship of landlord and tenant, where the names of a person who was recorded as a tenant was entered. After more than 40 to 50 years of the entries, some tenants in connivance with landlords and builders have sought false declarations that they are not tenants.

#### **CODE OF COMUNIDADES:**

10. There are altogether about 223 comunidades in Goa as per Map No.1 (Article 2) of the Code of Comunidades.
11. A brief history and the relevant provisions of the Code of Comunidades is set out hereinbelow.
- a. There are altogether over 223 comunidades in Goa. These comunidades had the power under the Code of Comunidades

to grant leases of agricultural, horticultural lands. The lands were given in leases as under.

- b. Articles 291 / 292 – Lease of paddy fields to be done between 1<sup>st</sup> July to 30<sup>th</sup> September of the concerned year.

Article 295 – only cultivators could apply.

Article 317 provided for long term leases between 18 to 20 years.

Article 324 provides for granting on Afframento / Emphyteusis uncultivated land and undeveloped land for cultivating rice, fruit bearing trees or orchids.

Article 329 – whoever applies to take land on Emphyteusis in the proposal must show the proposed use. When the Application is allowed, the purpose for which it is granted is reflected in the Tombo I. On redemption the same again is reflected in Tombo II. In other words, the initial grant for a specific purpose is confirmed.

Article 238 Redemption of Afframento: The Code of Communiades provides that on payment of 20 times Foro, definitive possession is given, whereupon in terms of Article 1665, of Portuguese Civil Code it has to be by a Public Document and has to be registered with Civil Registrar. It will have effect in relation to third parties only when registered. After liberation and on extension of the Indian Registration Act, the document will have to be registered otherwise it cannot be taken into evidence. Similarly, stamp fee must be paid in terms of the Indian Stamp Act, otherwise it cannot be taken into evidence.

c. Articles of Portuguese Civil Code

Article 1673: Holder of an Emphyteusis shall have the right to enjoy the property and dispose of the same as his own, subject to restriction imposed by Law

Article 2187 – Absolute ownership and limited property – Absolute ownership is the enjoyment of all the rights contained in the right to the property. Limited property consists in the enjoyment of part of these rights.

Article 2189 – Types of limited property – The following are the types of limited property:

1. Emphyteusis and sub emphyteusis.

Thus, emphyteusis is in the nature of a perpetual lease with a right of reversion of land to the Comunidade in specific cases. Thus there can be no sale of land given on emphyteusis. Any such sale is illegal.

12. Reference may be made to Article 1673 of the Portuguese Civil Code, which reads as under:

*“Article 1673, holder of emphyteusis shall have right to enjoy the property and dispose of the same as his own subject to the restriction imposed by law.”*

By virtue of Section 31-A of the Code of Comunidade, if land was given on emphyteusis for specific purposes like agriculture, horticulture that cannot be converted to a non-agricultural purpose by merely bringing it in settlement zone.

13. (a) Most lands in Goa, belonging to the comunidades were held on lease in this manner, and all these lessees / sub-lessees became tenants under the provisions of the Tenancy Act. Paddy fields were given on short-term leases and on coming into force of the Agricultural Tenancy Act, they became deemed tenants.

(b) If the land was granted on emphyteusis and the original grantee had cultivated the land either for paddy or horticulture and had sublet the land at the time of coming into force of the Tenancy Act, then such sub-tenant also became deemed tenant.

14. Lands in Goa were held in a gaunkari system till the establishment of comunidades. Comunidades allotted lands for agriculture including horticulture under the provisions of the Code of Comunidades either on short-term lease, long-term lease or emphyteusis. Thus, wherever there were comunidades, leases were created by the comunidades.

In case of short-term leases and long-term leases, such lessees would become deemed tenants and subsequently deemed owners under the Tenancy Act.

In respect of person holding land on emphyteusis, if such holder has created a sub-emphyteusis, then such sub-tenant would become deemed tenant and consequently deemed owner.

15. Article 31-A was introduced in the Code of Comunidades in 2025 and reads as under:

***"Article 31-A.- (1) Notwithstanding anything contained in this Code, the Goa Town and Country Planning Act, 1974 (Goa Act 21 of 1975), the Goa (Regulation of Land Development and Building Construction) Act, 2008 (Goa Ac 6 of 2008), the Goa Land Development and Building Construction Regulations, 2010, the Goa Municipalities Act, 1968 (Goa Act 7 of 1969), the Goa Panchayat Raj Act, 1994 (Goa Act 14 of 1994), the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003) or any other relevant law for the time being in force, any land belonging to the Comunidade if granted for certain purpose either by way of sale or lease or emphyteusis or leave and license, shall not be used for any other purpose except for the purpose for which the land was so granted.***

**(2) If any such land granted by the Comunidade for certain purpose/use is put to any use other than for which it was granted, such land shall be reverted back to the concerned Comunidade in the manner hereinafter specified.**

...”

16. By virtue of Article 31-A even persons holding land on emphyteusis for agricultural purposes cannot convert land to a non-agricultural purpose.
17. Thus, in respect of short-term leases, long-term leases, paddy fields and other agricultural lands could not be converted by virtue of Section 2 of the Land Use Act irrespective of the provisions of the Town and Country Planning Act.

After introduction of Section 31-A to the Code of Comunidades, even land granted for agricultural purposes on emphyteusis, irrespective of the provisions of the Town and Country Planning Act or any other law, cannot be converted.

If the comunidade had given land by sale, lease, emphyteusis or leave and license for agricultural purposes, it cannot be converted for non-agricultural purposes and if put to use other than for the purpose reverts back to the comunidade.

18. By this amendment any person who by lease, emphyteusis etc. was granted land by the comunidade cannot use it for a purpose other than for which it was given. All such leases etc. are reflected in Tombo I maintained by the comunidades under the Comunidades Law. Similarly, if the lessee has paid the “foro” and redeemed the lease, the same is reflected in Tombo II.
19. The Advocate General of Goa on a challenge to Section 31-A made a statement on behalf of the State Government in the High Court that the object and scope of Section 31-A is that no land given by the

Comunidade by way of sale, lease, emphyteusis, etc. for a specific purpose can be converted for any other purpose.

Thus any application coming for change of zoning of land falling within a Comunidade, the party must produce the original document evidencing the purpose for which the land was allotted.

20. On the extension of Registration Act and the Stamp Act to the State of Goa, if this is not registered with the Registrar under the Registration Act or Stamp Act is not paid under the provisions of the Stamp Act, all such transfers would be illegal and cannot be recognised in law.
21. At any rate lands given by the comunidades for agricultural purposes, horticulture or other agricultural activities after the amendment cannot be converted to a purpose other than for which it was granted.
22. Under Section 2(a), 2(c) read with Section 3 of "The Goa Restrictions on Transfer of Agricultural Land Act, 2023," paddy fields whether tenanted or not cannot be converted. That part of Section 2(c) which carves out an exception for paddy fields shown in the plan prepared under the Goa Town & Country Planning Act in the settlement zone is illegal as it would be contrary to the provisions of Section 2 of the Goa Restrictions on Transfer of Agricultural Land Act, 2023.
23. **Thus, there is a complete ban on conversion of comunidade lands other than for the purpose for which it was granted.**

**The conflict between the Goa Land Use (Regulation) Act, 1991 and the Goa Restrictions on Transfer of Agricultural Land Act, 2023**

24. The relevant provisions of the Goa Restrictions on Transfer of Agricultural Land Act, 2023 read as under:-

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(a) "agriculture" means cultivation of paddy;

(b) "agriculturist" means a person who cultivates agricultural land personally;

(c) "agricultural land" means a land which is presently being used for cultivation of paddy but does not include the land which is earmarked for the use or purpose, partly or fully, other than agriculture in any plan prepared under the Goa Town and Country Planning Act, 1974 (Act 21 of 1975);

3. Restriction on transfer of agricultural land. —

(1) No person who owns or occupies or in possession of an agricultural land shall transfer such land by way of sale (including sale in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue), gift, exchange, lease or by any other mode of transfer, in favour of a person other than an agriculturist: Provided that the Collector may on an application made in a prescribed form grant permission to transfer such land to a person other than Agriculturist in any of the following circumstances, namely:— (a) the land is required for purpose of agriculture by industrial or commercial undertaking in connection with such industrial or commercial operations carried on by such undertaking; (b) the land is required by a co-operative farming society; (c) on the request by a person to the Collector, the Collector is satisfied that the land is required for cultivating it personally by a person, who, not being an agriculturist, intends to take up agriculture and is capable of cultivating land personally; (d) in such other circumstances as may be prescribed: Provided further that the person referred at clause (c) above shall take up agriculture on such land within a period of three years from the date of acquisition of such land and continue to carry thereon agriculture, failing which, such land shall vest in the Government, upon expiry of three years from the date of abandonment or discontinuation of such activity.

(2) No person who owns or occupies or in possession of any agricultural land shall use or allow it to be used for any purpose other than agriculture, except by following due procedure laid down under any law in force.

(3) Any transfer of an agricultural land in contravention of the provisions of subsection (1) shall be null and void and non-est in the eyes of law and shall not confer any right or title to or interest in such agricultural land in favour of the transferee. (4) If any question arises as to whether any land is an agricultural land or not, the Mamlatdar of the respective jurisdiction shall after holding such inquiry as deemed fit by him decide such question.

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25. For better appreciation, Section 2 of the Goa Land Use (Regulation) Land Act, 1991 is once again reproduced.

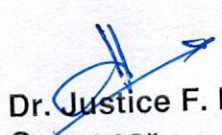
*“2. Regulation of use of land - Notwithstanding anything contained in the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975), or in any plan or scheme made thereunder, or in the Goa Land Revenue Code, 1968 (Act 9 of 1969), no land which is vested in a tenant under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964) shall be used or allowed to be used for any purpose other than agriculture.*

26. Section 2 of the Goa Land Use (Regulation) Land Act, 1991 starts with a non-obstante clause and as such even if paddy fields which were tenanted are shown in a settlement zone, they cannot be converted and this overrides the provisions of Section 2(c) read with Section 3(2) and other provisions of the Goa Restrictions on Transfer of Agricultural Land Act, 2023. In respect of paddy fields falling within the comunidade area, if cultivated by the lessee such lessee has become deemed tenant.
27. If land was given in emphyteusis for the purpose of paddy cultivation, then by virtue of Section 31-A of the Code of Communitades, which also has a non-obstante clause, such paddy field, even if falling within a settlement zone cannot be converted.
28. Considering the above, the amendment to Section 32 which allows the Collector to act on a certified copy from Director of Agriculture that the land is not covered under the definition of the term ‘agricultural land’ as defined in the Goa Restrictions on Transfer of Agricultural Land Act is irrelevant and/or of no consequence.
29. We therefore call upon you all:-
- (i) To examine and re-examine all pending applications forwarded under Section 39-A until the section is repealed in the manner as set out in this letter;

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- (ii) To re-open all files or permissions already granted as such permissions could not have been granted in the light of what is set out in the said letter;
- (iii) This is to put every employee of the Office of the Town & Country Planning Department and every member of the Town & Country Planning Board on notice that they have no power and/or jurisdiction to grant permission to convert agricultural land including paddy fields whether tenanted or not tenanted. Permissions which have been granted are contrary to the law in force. In case of Section 17(2) applications, it has already come on record that out of the applications under Section 17(2), 11 applications were randomly selected and all applications in respect of which permissions were granted were found to be illegally granted.
- (iv) Every employee and every member of the <sup>Board</sup> ~~member~~ who have participated in granting permissions to convert agricultural land will be liable in law for departmental enquiries insofar as government employees are concerned and criminal prosecution of all those including board members who have allowed these illegal conversions.
- (v) The Secretary, Town & Country Planning Board to bring this to the notice of all members of the Board by forwarding a copy of this letter to all members.
- (vi) The Chief Town Planner (Planning) to bring this to the attention of the Chairman and Members of all town and country planning boards set up for the respective regions.

  
Dr. Justice F. I. Rebello (Retd.)  
Convenor