

**The Goa Legislative Diploma No. 2070 dated 15-4-1961  
(Amendment) Bill, 2024**

**(Bill No. 11 of 2024)**

**A**

**BILL**

further to amend the Goa Legislative Diploma No. 2070 dated 15-4-1961, in its application to the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Seventy-fifth Year of the Republic of India as follows: -

**1. Short title and commencement.-** (1) This Act may be called the Goa Legislative Diploma No. 2070 dated 15-4-1961 (Amendment) Act, 2024.

(2) It shall come into force at once.

**2. Amendment of article 9.-** In article 9 of the Goa Legislative Diploma No. 2070 dated 15-4-1961 (hereinafter referred to as the “principal Code”), for the words “without permission of the Administrative Tribunal”, the words “without approval of the Government and permission of the Administrative Tribunal” shall be substituted.

**3. Amendment of article 31.-** In article 31 of the principal Code, for the expression “clauses (a) to (f) and (h) to (j)”, the expression “clauses (a) to (j)” shall be substituted.

**4. Amendment of article 153.-** In article 153 of the principal Code, after clause 9 , the following clause shall be inserted, namely:-

“9A. Grant approval to the comunidades to file suits in accordance with article 9 and to withdraw, admit and compromise, as well as authorize the respective expenditure; ”.

**5. Amendment of article 349.-** In article 349 of the principal Code, for the expression “When the comunidade decides to file any suit, in terms of article 9, the attorney shall explain, with indication of the probable expenditure to be incurred with the suit, with para wise pleadings in fact and law supported by documents and addressed to the Administrative Tribunal, through the respective administrator, who shall put his remarks on it.” , the expression “When the comunidade decides to file any suit in terms of article 9, it shall first obtain approval of the Government and thereafter the attorney shall explain, with indication of the probable expenditure to be incurred with the suit, with para wise pleadings in fact and law supported by documents and addressed to the Administrative

Tribunal, through the respective administrator, who shall put his remarks on it.” shall be substituted.

**6. Amendment of article 379.-** In article 379 of the principal Code, for the expression “in order to request permission of the Administrative Tribunal”, the expression “in order to obtain approval of the Government and request permission of the Administrative Tribunal” shall be substituted.

**7. Amendment of article 380.-** In article 380 of the principal Code, in clause 2, for the words “approval of the Administrative Tribunal” , the words “approval of the Government and permission of the Administrative Tribunal” shall be substituted.

## **STATEMENT OF OBJECTS AND REASONS**

As per the provisions contained in articles 9, 154, 349, 350 and 379 of the Code of Comunidades, a comunidade is required to obtain permission of the Administrative Tribunal for the purpose of filing a suit and also to withdraw, admit or compromise a suit. The Code of Comunidades does not contain a specific provision for obtaining approval of the Government for the said purpose before approaching the Administrative Tribunal for such permission. In terms of articles 349 and 350 of the said Code the Administrative Tribunal is required to independently decide any request made by the comunidade for permission to file a suit, to withdraw, admit or compromise the suit. However, the Administrative Tribunal in one case by its Order dated 23/11/2023 has without examination of the merits of the case, rejected the application filed by one Comunidade for permission to compromise a Suit for want of approval of the Government. The Administrative Tribunal has taken a view that in case of a compromise of a Civil Suit involving transfer of Comunidade land or which has effect of affecting the rights of the comunidades in the land claimed by them as their own, permission of the Government would be required for the transfer of the comunidade land. Hence, there is every possibility that on the said reasoning the applications for permission to institute, admit or withdraw civil suits may be outrightly rejected without examination of the merits of the case solely on the ground that the comunidade has not obtained approval of the Government, which may cause unnecessary delay and hardship for the comunidades. The Bill now seeks to make a provision so that comunidade also obtains approval of the Government before it approaches the Administrative Tribunal for permission to institute, admit, compromise or withdraw civil suits.

This Bill seeks to achieve the above object.

## **FINANCIAL MEMORANDUM**

No financial implications are involved in this Bill.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

No delegated legislation is envisaged in this Bill

Porvorim, Goa  
\_\_\_\_\_, 2024

Atanasio Monserrate  
Minister for Revenue

Assembly Hall,  
Porvorim , Goa

(Namrata Ulman)  
Secretary to the Legislative Assembly

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**Extracts of the Article of the Goa Legislative Diploma No. 2070 dated 15-4-1961**

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**Article 9:** The comunidades are not entitled to file any civil suits without permission of the Administrative Tribunal, save in cases where civil suit is merely of preventive relief or of executive nature or the delay in its filing may result in extinction of the right or any guarantee, in which case the sanction of the administrator be enough.

**Article 31:** The deliberations referred to in Nos. 1 and 2 of the preceding article are executable immediately;

Sole § The deliberations referred to in clauses (a) to (f) and (h) to (j) of No. 4 of preceding article shall be devoid of any enforce ability without the approval of the Government, without prejudice to the consultation with the Directorate of Health Services regarding creation of medical posts.

**Art. 153:** Government is empowered to:

1. Appoint, contract, promote, transfer, retire and dismiss administrators and employees of the administration office and of the comunidade, in accordance with the law;
2. Exercise disciplinary action on the administrators and the personnel referred in the previous number, as per law, and grant them leave;
3. Appoint and dismiss the effective and substitute presidents of the managing committees, dissolve the elected part of them, and appoint suitable persons to replace them, in terms foreseen in this Code;
4. Approve urgent expenses in terms of article 65;
5. Authorise the meetings of the comunidades in the seat of the administration office and direct the administrator to attend the meetings, where they are normally held;
6. Authorize eventual or unforeseen expenses in excess of Rs.250/- and the extraordinary expenses approved by the respective comunidade,

7. Compel the comunidades to use the technical means necessary for the maintenance of the paddy fields of one or two crops and to cultivate the uncultivated lands suitable for cultivation;
8. After hearing the comunidades, to order the acquisition of machinery and tools that facilitate and improve agriculture, the rational use of fertilizers and experiment new crops and the creation of new artificial pastures for the feeding cattle;
9. Grant emphyteusis, authorize the exchange of the land of comunidades and order its reversion;
10. Grant long time leases;
11. Grant extension of period for the utilization of the lands granted on emphyteusis;
12. Grant rebate (quita) to the lease holders of the paddy fields;
13. Authorize the payment, in instalments, of the dues to the comunidades;
14. Decide the complaints and appeals against the decisions of the administrator in non-contentious matters;
15. Wind up the insolvent comunidades which are in the conditions mentioned in the article 178;
16. Exercise all the powers conferred in this Code;
17. After hearing the Government Council, to approve the budgets of income and expenditure of the administration office of comunidades and of the Pension Bank (Caixa de Aposentações).
18. And, in general, to take cognizance of all the acts of the administrator of the comunidades, in matters which are not within the cognizance of the Administrative Tribunal or by common courts.
19. To make rules for carrying into effect the provisions of the Code.
20. To direct the Administrator of the Comunidade, without prejudice to any other remedy provided by law, to recover such amount or sum due, if any, from the Comunidade as arrear of land revenue and for this purpose the

Administrator thereof may forward to the Collector a certificate as early as possible in the prescribed form mentioning, the sum due from such Comunidad and requesting that such sum may be recovered as if it were an arrear of land revenue.

**Art. 349-**When the comunidad decides to file any suit, in terms of article 9, the attorney shall explain, with indication of the probable expenditure to be incurred with the suit, with para wise pleadings in fact and law supported by documents and addressed to the Administrative Tribunal, through the respective administrator, who shall put his remarks on it.

The Administrative Tribunal shall decide, independently of the approval without circulation to other members, with exception that of the Ministerio Público, and if the permission is granted to file the suit, it shall sanction the expenditure to be incurred for the purpose.

**Art. 379-** If from the evidence produced, as per preceding articles, the existence of the encroachment of land stands proved, the administrator shall order the issue of a copy of the respective report and other extracts of the file of proceedings, which shall be handed over to the attorney of the comunidad in order to request permission of the Administrative Tribunal for filing of the competent suit in the Court, and shall impose, by order on the file of proceedings, on the encroacher, the following penalties:

- a) Banning for a period of five years, from holding any post of the comunidades of the respective taluka and from bidding and standing as a guarantee in the ordinary and extraordinary auctions in the same comunidades, either directly or through an intermediary;
- b) Forfeit in favour of the comunidad, for an equal period of time, the proceeds of zonnas, dividends on shares, annuities, votonas 224 or any other pension to which he be entitled in the respective comunidad;
- c) Fine to the tune of Rs.100/- to Rs.500/- when the person denounced is not member of the comunidad. The fine shall not be greater than the double of the value of the land encroached.



§ 1. The penalties laid down in this article shall be enforced only after the suit is decided in favour of the comunidades by a judicial decision which has become res- judicata.

§ 2. If it is verified that the denouncement was found to be without any ground, the administrator shall order the proceedings filed.

**Art. 380** -The encroacher may, at any stage of the administrative inquiry, sign a declaration undertaking to surrender the land or to pay its value, when it does not exceed Rs.300/-. However he shall not be allowed to do so in any circumstance, when the encroached land is subsequent to the cadastral survey done for the purpose of preparing the register in respect of that land or when he might have earlier been involved in another case of encroachment of land.

§ 1. If the encroacher admits the encroachment of land, by undertaking to surrender the land, the administrator shall order that the attorney of the comunidate, along with the clerk of the same, take possession of the said land, writing the competent report, which shall be incorporated in the file.

§ 2. The record in which the encroacher undertakes to pay the value of the land, shall not have any legal effect, without the approval of the Administrative Tribunal, on the basis of prior report of the administrator, after hearing the managing committee and the comunidate which shall state whether it is convenient to restore the land to the comunidate or accept its value.

§ 3. If the Administrative Tribunal does not approve the record mentioned in the preceding paragraph, judicial proceedings shall be initiated against the encroacher, irrespective of the authorization referred to in the article 349 and following ones.

§ 4. In the case of return of the land or of payment of its price, the encroacher shall not be subject to the penalties provided for in article 379, but shall pay only the costs and stamp duty.

§ 5. When the encroachment of land had taken place prior to taking of the cadastral survey and its value does not exceed Rs.150/-, the Administrative Tribunal may authorize or determine the respective comunidate to grant the land to the denounced person for the price determined during the investigation.

