

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 219 OF 1997.

The Residents Association  
Vaddem Hill, through its  
President Mr. Raghunata  
Bhikaji Sardesai, r/at  
Near Water Tank, New  
Vaddem Hill, Vasco-da-Gama. ... Petitioner.

Versus

1. Vasco Planning &  
Development Authority  
through its Member  
Secretary, Vasco  
Commercial Centre, Near  
Municipal Council,  
Vasco-da-Gama.
2. State of Goa through  
Secretary Sports,  
Secretariat, Panaji.
3. Director of Sports,  
Government of Goa,  
Panaji.
4. Mormugao Municipal  
Council, Vasco-da-Gama.
5. The Sports Authority of  
Goa, Campal, Panaji. ... Respondents.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. J.  
Godinho, Advocate for the Petitioner.

Mr. A.N.S. Nadkarni, Advocate General with Mr. H.D.  
Naik, Additional Government Advocate for the  
Respondents 1 to 3.

Mr. S.D. Padiyar, Advocate for the Respondent No. 4.

Coram: S.J. VAZIFDAR AND  
P.V. HARDAS, JJ.

Date: 25th March 2003.

ORAL JUDGMENT (PER VAZIFDAR, J.)

The petitioner seeks a direction against the  
respondents 1 and 4 calling upon them to remove the  
allegedly illegal development carried on by the  
respondents 2 and 3.

2. The show cause notice, dated 13th December 1995 (apparently wrong dated as 13th November 1995), was issued by the Member Secretary, under Section 44 of the Town and Country Planning Act, 1974, to the Director, Department of Sports, to show cause why action under Section 52 of the said Act, namely, demolition should not be initiated in respect of the said development. The show cause notice alleges that digging of the open space, thus encroaching on to a 6 metre wide sub-division road, caused obstruction to the movement of the people and was, thus, illegal. However, as nothing was done pursuant to the show cause notice, the present petition was filed.

3. Admittedly, pursuant to the show cause notice, nothing has transpired. However, the respondent no. 1 has filed an affidavit in which the stand now taken is that the construction is not illegal.

4. The learned Advocate General states that in respect of a part of the property belonging to a certain person, the Government has already initiated steps to acquire the same.

5. It is desirable that the concerned authority, namely, the Member Secretary, who issued the show cause notice, should take the show cause notice to its logical

conclusion.

6. In the circumstances, the petition is disposed of with the following directions:-

(i) The concerned authority of the respondent no. 1 shall hear and decide the show cause notice within three months from today after hearing all the concerned parties including the petitioner.

(ii) All the contentions of the parties are kept open.

(iii) The decision shall be taken by the concerned authority independently and uninfluenced by the affidavit filed by the respondent no. 1 in this Court.

7. In the circumstances rule is made accordingly with no order as to costs.

(S.J. VAZIFDAR)  
JUDGE.

(P.V. HARDAS)  
JUDGE.

ed's.