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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11724/2024**
CHANDNI SOOD

.....Petitioner

Through: Mr.Shlok Chandra, with
Ms.Madhavi Shukla, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr.Umang Tyagi, ASC for MCD
with Ms.Aishwarya Kapoor, Advs.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER
27.08.2024

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1. Learned counsel appearing on behalf of the petitioner, after making brief submissions, acknowledges that the appropriate course of action is to approach the concerned Magistrate under Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for redressal of the grievance.
2. This Court in W.P.(C) 11400/2024 *vide* order dated 20.08.2024 has considered a grievance with respect to public nuisance and relegated the petitioner in that case to the concerned Magistrate.
3. The relevant paragraphs of the aforesaid order reads as under:-

*“13. The Court finds it pertinent to refer to a judgment rendered by a Division Bench of this Court in *Surender Kumar Sood v. MCD*, wherein, it was observed that a remedy under the writ jurisdiction is to be invoked as a measure of last resort, only after the petitioner has exhausted all other available remedies. The relevant paragraph is*



referred below:

“4. It is a well settled principle of law of mandamus that before approaching the High Court for such a writ the petitioner should first approach the authority concerned for the relief he wants and only if that is not granted to him, then he can file a writ in the High Court. The party cannot directly come to the High Court for making such a grievance vide”

14. It is thus discernible from the aforesaid discussion that the concerned magistrate under Section 152 of BNSS, 2023 has the power to remove public nuisance in circumstances which warrant exercise of such powers. Therefore, in the instant case, the petitioner can duly approach the magistrate to ventilate his grievance rather than directly invoking writ jurisdiction under Article 226 of the Constitution of India.

15. Reserving that liberty in favour of the petitioner, the Court at this stage, is not inclined to pass any directions. Accordingly, the petition stands disposed of alongwith the pending applications.”

4. In view of the aforesaid, learned counsel appearing on behalf of the petitioner seeks leave to withdraw the instant petition with liberty to first approach the said authority.
5. Leave and liberty, as prayed, is granted.
6. Accordingly, the instant petition is disposed of as withdrawn.
7. All rights and contentions are left open.
8. On taking necessary steps by the petitioner, let the concerned Magistrate to deal with the grievance and to pass necessary orders, strictly in accordance with law, as expeditiously as possible.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 27, 2024/MJ