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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 21.05.2026

Gobind Lal Dureja

....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Rohan Moudgil, Advocate for
Mr. Sandeep Sharma, Advocate
for the petitioner.

HARSH BUNGER J. (Oral)

1 Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari, for directing the respondent No.3 – Commissioner, Municipal Corporation, Gurugram, to remove illegal and unauthorized construction of ramps, platforms, structures, etc., on public street, gali No. 5(1), Rajiv Nagar, Gurugram in front of petitioners' gate, which has been raised by the private respondents No. 4 and 5 by encroaching on public street.

2. Mr. Rajiv Malhotra, DAG, Haryana, appears on behalf of the respondents-State, in pursuance of the advance copy of paper book having already been supplied to him and has raised a preliminary objection as regards the maintainability of present writ petition by submitting that the



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petitioner has an efficacious remedy available under Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which reads as under:-

“152. Conditional order for removal of nuisance.—

(1) Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers—

(a) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(b) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(c) that the construction of any building, or, the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(e) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or



(f) that any dangerous animal should be destroyed, confined or otherwise disposed of, such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order—

(i) to remove such obstruction or nuisance; or

(ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

(iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or

(iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or

(v) to fence such tank, well or excavation; or

(vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order,

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A “public place” includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.”



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3. On the other hand learned counsel appearing on behalf of the petitioner could not refute the aforesaid contention raised by learned State counsel.
4. Keeping in view of the above, the present petition is *dismissed*, however, leaving it open to the petitioner to avail his remedy(ies) in terms of Section 152 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in accordance with law.
5. All the pending application(s), if any, shall also stand closed.

21.05.2026
Ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No