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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 24th July 2026***

\+ **W.P.(C) 9684/2026 and CM APPL. 45118-45119/2026**

DNA FORENSICS TEST SOLUTIONS PRIVATE LIMITED

.....Petitioner

Through: Mohd. Kashif, Mohd. Suza Faisal, Advocates.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Ms. Sarika Singh, SPC for Respondent nos.1 & 2.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This petition has filed challenging order dated 08th June 2026, passed by respondent no.2 [*Regional Director*, *Office of Regional Director*] under *Section 16(1)(a)* of the Companies Act, 2013 [hereinafter, '***the Act***'], whereby the petitioner/company ['*DNA FORENSICS TEST SOLUTION PRIVATE LIMITED*'] was directed to change its name, on the ground that it was similar to and, resembled that of respondent no. 3/complainant company, namely, '*DNA FORENSICS LABORATORY PRIVAYE LIMITED*' ['***impugned order***'].

2. *Mr. Md. Kashif,* counsel for petitioner/company, raises an issue of jurisdiction and states that the trigger under Section 16(1)(a), is in contradistinction to Section 16(1)(b) of the Act. Under section 16(1)(b) of the Act, a direction can be issued on an 'application' made by registered proprietor of a trademark; whereas under Section 16(1)(a), it has to be based upon an 'opinion' of the Central Government. He states that since the impugned order was triggered by an application moved by respondent no. 3/complainant company, the same cannot be entertained under *Section 16(1)(a)* of the Act.

3. *Ms. Sarika Singh*, Senior Panel Counsel appearing on behalf of respondent nos. 1 & 2, sought time to take instructions and pursuant thereto, states that an opinion under *Section 16(1)(a)* of the Act is routinely made on the basis of applications which have been preferred by existing companies that have a grievance, with respect to a similar or identical name of a newly registered company.

4. *Mr. Mohd. Kashif*, counsel for petitioner/company, however, contends that giving such an interpretation to *Section 16 (1)(a)* will make *Section 16 (1)(b)* completely redundant. For this purpose, he has relied upon the decision of High Court of Madras in ***M/S T.T. Ltd. v. Union of India & Anr.,*** W.P. No. 52/2022, where the Court has expressed their opinion in *paragraph nos.19 & 20*, which are extracted hereunder:

> "*19. Section 16 of the Companies Act, 2013 comprises of two parts. The first part viz., Section 16 (1) (a) gives the Central Government, the Suo motu power to direct the Company to change its name based on its findings that the name of the said Company is identical with or*

too nearly resembles the name by which the Company in existence had been previously registered. The second part is on an application submitted by a registered proprietor of a trade mark alleging that the name of the other Company is identical with or too nearly resembles a registered trade mark of such proprietor under the Trade Marks Act, 1999.

20. The petitioner contends in these Writ Petitions that even on an application, the second respondent can exercise its power under Section 16 (1) (a) of the Companies Act, 2013 which in the considered view of this Court is incorrect. The reason being is that under Section 16 (1) (a) of the Companies Act, 2013, it begins with the phrase "in the opinion of the Central Government" which is distinct from section 16(1)(b) which power is exercised only on an application by the Registered Proprietor of a Trade Mark. Therefore, Section 16(1)(a) of the Act is a Suo-motu power vested exclusively by the Central Government. When the Registered Proprietor of a Trade Mark is empowered to exercise its right seeking for rectification under section 16(1)(b), the intention of the legislature would never have been to grant them dual rights under the very same section of either exercising right under section 16(1)(a) or under section 16(1)(b). The conjunction "or" is also deliberately omitted between section 16(1)(a) and 16(1)(b) to make the distinction which makes it clear that the intention of the legislature was not to grant right to a registered Proprietor of a trade mark to exercise its rights for rectification of the name both under section 16(1)(a) and section 16(1)(b) of the Companies Act, 2013. The power under section 16(1)(a) is exclusively vested with the Central Government and is a suo motu power. However, the said suo-motu power can be exercised by the Central Government only after its objective satisfaction. The applications filed by the petitioner under section 16(1)(a) before the second respondent being not maintainable, the second

> *<u>respondent has rightly rejected the applications</u>. Earlier instances of the second respondent entertaining such applications on behalf of the petitioner cannot be a ground for this Court to accept the contention of the petitioner that the applications filed by the petitioner under section 16(1)(a) of the Act is maintainable. Further the precedents of the second respondent's orders under section 16(1)(a) are not binding on this Court and also does not have any persuasive value as the said precedents are not in accordance with law and not rendered by constitutional courts. Erroneous orders passed earlier by the second respondent under Section 16 (1) (a) of the Companies Act, 2013 which have been placed on record before this Court as precedents by the learned counsel for the petitioner is not in accordance with the statute viz., Section 16 (1) (a) of the Companies Act, 2013 and therefore, even by way of persuasion, the said erroneous orders cannot be considered by this Court and has to be rejected outright. None of the decisions of the High Courts relied upon by the learned counsel for the petitioner dealt with the maintainability of an application under section 16(1)(a) of the Act and therefore, they have no bearing to the facts of the instant case.*"
>
> (emphasis added)

5. On a careful perusal of the opinion of Madras High Court, it would appear that such an observation has been made in context of the particular facts and circumstances of the case. The issue which was canvassed was, whether a rectification under *Section 16 (1)(a)* of the Act could be exercised after a long passage of time and the Court in *paragraph no.18* stated that some bar of limitation ought to be there. The said paragraph is extracted as under:

"*18. The power to direct rectification under section 16(1)(a) is exclusively vested with the Central Government and is a suo motu power. Even if the Central Government decides to initiate suo motu proceedings under section 16(1)(a) now, the said proceedings will be hopelessly barred by limitation as the said power would have been exercised not within a reasonable time. Just because, there is no limitation prescribed under section 16(1)(a), it cannot be construed that there is no time limit. Under section 22(1) of the old Companies Act, 1956 twelve months period was fixed for the exercise of suo motu action and therefore, it can be conclusively held that even under section 16(1)(a) of the new Companies Act, 2013 suo motu power will have to be exercised by the Central Government within a reasonable time. The respective third respondent Company having been incorporated long time back much prior to the coming into force of the new Companies Act, 2013, the question of the Central Government initiating its suo motu power under section 16(1)(a) of the Companies Act, 2013 at this stage will not arise and will be barred by limitation. This Court is therefore, of the considered view that the second respondent has rightly rejected the applications filed by the petitioner on the ground of limitation.*"

(emphasis added)

6. It was in this context that the Madras High Court made the observations in *paragraph nos.19 & 20,* as extracted above. Further, what had prevailed with the Madras High Court, in the facts of that case, is that the petitioner had failed in its attempt to get an order of injunction before the Delhi High Court, during the pendency of disposal of the trademark suit and, had therefore, filed an application under *Section 16 (1)(a)* of the Act. In this regard, the Madras High Court noted as under:

"*21. The petitioner having failed in its attempt to get an order of injunction before the Delhi High Court, pending disposal of the trademark suit against the third respondent has filed the applications under Section 16 (1) (a) of the Companies Act, 2013. The respective third respondent will be put to irreparable loss, if the applications under section 16 of the Act is entertained that too, when the petitioner has failed in its attempt to get an order of injunction before the Delhi High Court to restrain the respective third respondent company to use the name by establishing prima facie case, balance of convenience and by proving irreparable hardship. The second respondent is certainly bound by the findings and decision of the Delhi High Court and therefore, has rightly rejected the applications under the impugned orders on the ground of res-judicata.*"

(emphasis added)

7. Notwithstanding this, in the opinion of the Court, the order being passed under *Section 16(1)(a)* of the Act, even though triggered by an application, cannot be considered to be invalid or without jurisdiction, for the simple reason that it was triggered on the basis of information given by an applicant.

8. Under *Section 16(1)(a)* of the Act, decision is taken by the Central Government if it opines, that the name of a newly registered company is identical with or too nearly resembles the name of a company in existence which had been previously registered, and therefore, it can direct the newly registered company to change its name.

9. The contradistinction drawn out by counsel for petitioner with *Section 16(1)(b)* of the Act, which is triggered by an application made by a registered

proprietor of trademark, is not tenable. *Section 16(1)(b)* of the Act is naturally triggered by an application, since the registered proprietor of a trademark, who is aggrieved with an identical name being used by a newly registered company, will necessarily apply for getting the name struck off. However, *Section 16 (1)(a)* of the Act is a wider power, which allows the Central Government to *suo motu*, on its own, direct rectification of a name, in case, it is found to be identical or too similar.

10. It cannot be expected that for every newly registered company, there will always be a situation, where the registering authority is able to trundle through various names in order to check, whether they are identical with or nearly resemble a previously registered name. Even assuming that threshold has been overcome, the previously registered company can be naturally aggrieved, if the names are too close, particularly, if the industry or areas that they work in are almost similar, as in the present case.

11. In the present case, it has been admitted by counsel for petitioner that the petitioner/company is working in exactly the same area as that of respondent no.3/complainant company *i.e.* DNA testing. Therefore, the similarity between *DNA Forensics Test Solutions Pvt. Ltd.* (*petitioner company*) and *DNA Forensics Laboratory Pvt. Ltd* (*respondent no. 3/complainant company*) is too similar/almost identical, to ignore.

12. The Central Government cannot be precluded from formulating an opinion and moving forward with a decision under *Section 16(1)(a)* of the Act, only because it has been triggered by an application. That would be

curtailing and binding the hands down of the regulator to an extreme and illogical extent.

13. Accordingly, petition is dismissed. Pending applications, if any, are rendered infructuous.

14. Judgment be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 24, 2026/ak/*sp*