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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: September 25th, 2026*

CNR No. DLHC010266342023

+ W.P.(C) 9341/2023

TOPLAND ENGINES PRIVATE LIMITEDPetitioner

Through: Mr. Kumar Sambhav (through
V.C.), Mr. Karan Vyas & Mr. T
Chandrashekhar, Advs.

versus

TOPLAD PRIVATE LIMITED & ANR.Respondent

Through: Mr. Nishant Gautam, CGSC
with Ms. Kavya Shukla, Mr.
Vineet Negi & Mr. Vibhav V.
Nath, Advs. for R-2.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. By the present petition, the petitioner challenges the order dated 15.05.2023 (hereafter '**impugned order**') passed by Respondent No. 2 pursuant to which the application preferred by the petitioner under Section 16 of the Companies Act, 2013 for issuance of directions to Respondent No. 1 to rectify its name was rejected.

2. Succinctly put, the petitioner company was incorporated on 11.04.2021 and is in the business of manufacturing and providing service in the field of diesel engines, generators and parts thereof. On the other hand, Respondent No.1 company was incorporated on 18.06.2020 and is in the business of providing online and offline education to students in various disciplines including Company

Signature Not Verified

Signed By: SANJAY W.P.(C) 9341/2023
KUMAR
Signing Date: 30.09.2026
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Secretary, Chartered Accountant, and Cost Management Accountancy.

3. The petitioner had preferred an application under Section 16 of the Companies Act, 2013 seeking rectification in the name of Respondent No. 1 on the ground that the same closely resembled the name of the petitioner's company. It is the petitioner's case that it had earlier successfully defended the name "TOPLAND" in the following cases:

- a. Regional Director, MCA Ahmedabad against the company – Topland Ceramics Pvt Ltd which was incorporated on 17.02.2020;
- b. Regional Director, MCA Ahmedabad against the company – Topland Mineral and Logistics Pvt Ltd incorporated on 10.08.2016;
- c. The Hon'ble High Court at Calcutta against Topoland India Private Limited incorporated on 20.07.2018, *vide* order dated 30.03.2022

4. The application preferred by the petitioner was rejected by the impugned order noting that the name of Respondent No. 1 company is neither identical nor too nearly resembles either phonetically or otherwise with the registered trade mark of the petitioner company. Aggrieved by the same, the petitioner has filed the present petition.

5. The learned counsel for the petitioner submits that the impugned order is liable to be set aside since the name of Respondent No. 1 resembles too closely with the petitioner's registered trademark within the meaning of Section 16(1)(b) of the Companies Act, 2013.



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He submits that in the petitioner's own case, the Hon'ble High Court of Calcutta, by judgment dated 30.03.2022 in WPO 1174/2022 had directed '*Topoland India Private Limited*' to change its name to any other name which was not visually or phonetically similar to the expression 'TOPLAND'.

6. He submits that for assessing similarity between competing marks, the likelihood of deception or confusion has to be seen. He submits that the word 'TOPLAD' when construed as a whole is too identical to the registered trademark of the petitioner. He consequently submits that the impugned order is liable to be set aside.

7. *Per contra*, the learned counsel for Respondent No. 2 submits that the impugned order is well reasoned and warrants no interference by this Court. She submits that the regional director specifically held that the competing names had to be examined as a whole; and that the common expression 'TOP' could not, by itself, confer any exclusivity. She submits that the distinguishing parts of the names being 'LAND' and 'LAD' create separate and distinct commercial expressions. She submits that the names, when compared as a whole from the standpoint of a person of average intelligence and imperfect recollection, does not give rise to such deceptive similarity so as to justify interference under Section 16 of the Companies Act, 2013.

8. She further submits that the Respondent No. 2 rightly took into account the fact that the businesses of the parties are wholly distinct and while the petitioner is engaged in the business of manufacturing diesel engines, generators and allied machinery, Respondent No. 1 is engaged in imparting education, online learning services and



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coaching. She submits that the trade channels, target consumers, commercial sphere and nature of the services of the two companies are completely different and consequently, there can be no likelihood of deception as rightly appreciated by Respondent No. 2.

9. I have heard the counsel and perused the record.

10. Before advertizing to deal with the merits of the case, it is firstly apposite to examine the contours of Section 16 of the Companies Act, 2013. The same reads as under:

16. Rectification of name of company.—(1) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which,—

(a) in the opinion of the Central Government, is identical with or too nearly resembles the name by which a company in existence had been previously registered, whether under this Act or any previous company law, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a period of three months from the issue of such direction, after adopting an ordinary resolution for the purpose;

(b) on an application by a registered proprietor of a trade mark that the name is identical with or too nearly resembles to a registered trade mark of such proprietor under the Trade Marks Act, 1999 (47 of 1999), made to the Central Government within three years of incorporation or registration or change of name of the company, whether under this Act or any previous company law, in the opinion of the Central Government, is identical with or too nearly resembles to an existing trade mark, it may direct the company to change its name and the company shall change its name or new name, as the case may be, within a 56[period of three months] from the issue of such direction, after adopting an ordinary resolution for the purpose.

(2) Where a company changes its name or obtains a new name under sub-section (1), it shall within a period of fifteen days from the date of such change, give notice of the change to the Registrar alongwith the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and the memorandum.

[(3) If a company is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the company in such manner as may be prescribed



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and the Registrar shall enter the new name in the register of companies in place of the old name and issue a fresh certificate of incorporation with the new name, which the company shall use thereafter:

Provided that nothing in this sub-section shall prevent a company from subsequently changing its name in accordance with the provisions of Section 13.]

11. In accordance with Section 16(1)(b) of the Companies Act, 2013, an application can be made by a registered proprietor of a trademark to the Regional Director in effect stating that the name of the company is *identical with or too nearly resembles* their registered trademark. The said application ought to be made within three years of incorporation or registration of change in name of the company involved. From a reading of Section 16 of the Companies Act, 2013 as reproduced *supra*, the same gets triggered when any company, be it through inadvertence or otherwise, registers itself with a name that is either *identical* or which nearly resembles another company or a registered trademark.

12. A Coordinate Bench of this Court in the case of ***CGMP Pharmaplan (P) Ltd. v. Regional Director, Ministry of Corporate Affairs : (2010) 159 Comp Cas 231***, while examining the contours of the power vested in a Regional Director when deciding an application for rectification and the manner of exercise of the power observed as under:

“16. The above submissions have been considered. This Court finds no error having been committed by Respondent 1 in coming to the conclusion that the Petitioner's name, i.e., “cGMP Pharmaplan (P) Ltd.” too nearly resembles the name of Respondent 2 i.e. NNE Pharmaplan India Limited. The prominent part of both names is the coined word “PHARMAPLAN”. The two names are to be compared as a whole. When so compared, the name of the Petitioner too nearly resembles the name of



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Respondent 2. In terms of para 28 of the Guidelines, if the dissimilar portions of the names are removed i.e. NNE and cGMP, then the remaining portion is the identical word “PHARMAPLAN”. The word “PHARMAPLAN” being a coined word is indeed the prominent and distinctive part of the names of both the Petitioner and Respondent 2. When compared as a whole, it would be apparent that the two names structurally and phonetically too nearly resemble each other.

17. The decision in Montari Overseas Limited makes it clear that a civil court exercising its powers in terms of the CPC and determining in a passing-off action if one name is confusingly deceptive or similar to another name, is exercising a jurisdiction independent of the jurisdiction of Respondent 1 in respect of the registering of a company's name. The latter is a power vested in the Central Government in terms of Sections 20 and 22 of the Act. While it is true that Respondent 1 cannot approach the case as it would in a trade mark dispute, it is nevertheless required to come to the conclusion whether the name of which the registration is sought or has been granted too nearly resembles the name of another company. Mr Chandra is right in his contention that the powers of the Central Government under Section 22 of the Act are wider inasmuch as there is no need to examine whether there is a likelihood of deception or confusion. It is enough to examine if the name registered too nearly resembles another registered name. Respondent 2 has been able to show that both names too nearly resemble each other.”

(emphasis supplied)

13. The reading of Section 16 of the Companies Act, 2013 makes it plain that the power stipulated in the said provision is wider and stricter than the standard contemplated in trademark dispute inasmuch as the Regional Director, in an application under Section 16 of the Companies Act, 2013 is only required to ascertain whether the name of the company in question is *identical* or *too nearly resembles* another registered name and not whether there is a likelihood of deception or confusion.

14. Adverting now to the facts of the present case, as the counter affidavit manifests, the petitioner registered the trademark



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‘TOPLAND’ in the year 2008. The impugned order also records that considering the future projects and diversification, the petitioner got the trademark “TOPLAND” registered in all classes including Class 41 which includes education.

15. The rationale adopted by Respondent No. 2 while passing the impugned order thereby noting that the name of Respondent No. 1 company is neither identical nor too nearly resembles either phonetically or otherwise with the registered trade mark of the petitioner company was to segregate the disputed name into two parts. It was noted that the word “LAND” and “LAD” had distinct meanings and no exclusivity could have been claimed over the common word “TOP”.

16. In the opinion of this Court, the path adopted by Respondent No.2 in segregating “TOPLAND” and “TOPLAD” into two words is erroneous. The Regional Director, in terms of Section 16 of the Companies Act, 2013 was only required to ascertain whether the expression “TOPLAD”, in whole, was *identical* or *too nearly resembled* the registered trademark of the petitioner.

17. Upon a holistic comparison, it is apparent that the terms “TOPLAD” and “TOPLAND”, when compared as a whole, are phonetically and structurally similar. In the present case, except for the letter ‘N’, both the words completely resemble each other and to the mind of a person with average intelligence, the mere negation of the letter ‘N’ would not make the names visually or phonetically dissimilar. Infact, the negation of the letter ‘N’ in ‘TOPLAD’ is more likely to be slurred over while pronunciation. Consequently, the mere



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removal of a letter in the name 'TOPLAD' does not suffice to make it phonetically or structurally distinct from the petitioner's registered trademark 'TOPLAND'. In ***Essco Sanitations v. Mascot Industries (India) : 1982 SCC OnLine Del 110***, *albeit* this case pertains to infringement of trademark, this Court had found similarity in the marks 'ESSCO' and 'OSSO' and held that the difference of vowels in the rival marks was not enough to make them dissimilar and the words were more likely to be mispronounced. Similarly, in the case of ***Ajanta Pharma Limited v. I-Well Pharma and Others : 2021 SCC OnLine Bom 3219***, the Bombay High Court noted that the difference in the marks 'OLOPAT' and 'OLPET' was one of missing vowel, and the distinction between the same would not be accounted for by anyone while pronouncing the same.

18. This Court ought to have a realistic consciousness of the fact that the names are to be used in an Indian market and that it is the perception and assessment of an Indian consumer that will ultimately guide the determination of dissimilarity. In this regard, the manner in which the rival marks would ordinarily be pronounced, as well as the manner in which they would be written or represented in Indian languages, constitutes an important indicator in assessing their resemblance.

19. This Court, therefore, is of the opinion that the name 'TOPLAD' *too nearly resembles* the registered trademark of the petitioner 'TOPLAND'.

20. While it is true that the scope of interference under Article 226 of the Constitution of India is limited, and this Court does not sit in



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appeal over the findings rendered by the concerned authorities, considering that the name of Respondent No. 1, in terms of the mandate under Section 16(1)(b) of the Companies Act, 2013, resembles closely with the registered trademark of the petitioner, the finding rendered by the impugned order cannot be sustained.

21. The impugned order is consequently set aside, and Respondent No. 1 is directed to change its name from “TOPLAD PRIVATE LIMITED” to any other name which does not resemble the expression “TOPLAND”.

22. Respondent No. 2 is consequently directed to take steps as specified in law in terms of this order within a period of four weeks.

23. The present petition stands disposed of in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 25, 2026
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