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

+ W.P.(C) 4588/2016

BAPTIST CHURCH TRUST ASSOCIATION Petitioner

Through Mr. Abhishek Maratha, Nupur
Sharma, and Mr. Anshul Sharma,
Advocates.

versus

**THE SECRETARY, GOVERNMENT OF INDIA
& ORS.**

..... Respondents

Through Mr. Anil Soni, Advocate for UOI.
Mr. Niraj Chaudhary and Mr. A. S.
Shama, Advocates.
Mr. Santosh Kumar and Mr. Rajiv
Ranjan Mishra, Advocates for R4.

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

ORDER
21.08.2018

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1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 15.02.2016 issued by the Regional Director (NR), Ministry of Corporate Affairs (hereafter "MCA"). The petitioner is a company incorporated under the Companies Act, 1913. A writ petition (Civil Writ Petition No.3043/2006) came to be filed before the High Court of Patna in respect of affairs of the petitioner company. The said writ petition was disposed of by order dated 22.02.2011 directing the Regional Director (hereinafter "RD") to make an enquiry into the allegations stated therein. Pursuant to the said order, the MCA appointed an Inquiry Officer sometime

in June/July 2012. The said Inquiry Officer issued a show cause notice on 01.08.2012. The petitioner responded to the said show cause notice on 14.08.2012. It also filed additional documents on 29.08.2012.

2. The Inquiry Officer submitted a report on 21.09.2012. The findings returned by the Inquiry Officer are disputed by the petitioner. The petitioner company filed a protest petition before the RD on 07.03.2013 impugning the findings in the report dated 21.09.2012.

3. The petitioner claims that the said enquiry report was accepted by the Ministry of Corporate Affairs and a Memorandum dated 17.07.2013 was issued by the RD without considering its protest petition. Aggrieved by the same, the petitioner filed a writ petition (WP(C) No.2097/2014) before this Court assailing the enquiry report dated 21.09.2012 as well as the Memorandum dated 17.07.2013 issued by the RD. The said writ petition was disposed of by an order dated 31.03.2014, whereby the RD was directed to dispose of the petitioner's Protest petition within a period of eight weeks. It was further directed that no coercive steps be taken against the petitioner till the disposal of the protest petition.

3. It is in the aforesaid context that the RD has passed the impugned order dated 15.02.2016. A plain reading of Paragraph 4 of the impugned order indicates that the RD has declined to examine the findings arrived at by its predecessor and has concluded that the RD has no power to review the said findings. Plainly, the aforesaid conclusion cannot be sustained, as the RD was specifically directed to consider the petitioner's protest petition and dispose of the same. It was, thus, necessary for the RD to examine all contentions raised by the petitioner and pass a reasoned order without

reference to the earlier decision.

4. Mr. Soni, learned counsel appearing for the respondents states that the matter may be remanded to the RD to consider afresh.

5. In view of the above, the impugned order dated 15.02.2016 is set aside and the RD is directed to consider the petitioner's protest petition afresh uninfluenced by any observations made by his predecessor. The petitioner's protest petition shall be disposed of by a reasoned order within 12 weeks from today after affording the petitioner's authorized representative a reasonable opportunity to be heard. In the meanwhile, no coercive steps shall be taken against the petitioner.

6. The petition and the pending applications are disposed of in the above terms.

VIBHU BAKHRU, J

AUGUST 21, 2018
dr