

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5777 of 2018

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Raju Yadav, Son of Shri Ramayan Yadav, Resident of Village-Khataura, Post-Gudgudi, Police Station-Ramnagar, District-West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, West Champaran, Bettiah.
4. The District Certificate Officer, West Champaran, Bettiah.
5. The Sub-Divisional Officer-Cum-Certificate Officer, Bagaha, District-West Champaran.
6. The Superintendent of Excise, West Champaran, Bettiah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manoj Kumar,
Ms. Saliha Sabiha, Advocates
For the Respondents : Mr. Vivek Prasad, GP7

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-04-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for the following
reliefs-

“(i) For issuance of writ in the nature of certiorari for quashing the Order dt. 15/02/2018 passed by the Certificate Officer in Certificate Case No. 37/2015-16 whereby and whereunder warrant has been issued against the petitioner (Annexure-4).

(ii) For issuance of writ directing the respondents to decide the Certificate Case No. 37 of 2015-16 initiated against the petitioner in accordance with law and not on the basis of the demand raised by the Excise Superintendent, West Champaran Bettiah.



(iii) For issuance of writ directing the respondent to re-calculate the dues on the basis of the lifting quota supplied by the respondents to the petitioner's Group/shops.

(iv) For issuance of writ directing the Respondent No. 5 not to take any coercive steps against the petitioner during the pendency of the present application.

(v) For any other relief/reliefs for which the petitioner is entitled for."

3. The immediate concern of petitioner in this case is that a warrant of arrest has been issued against him in connection with the dues amounting to Rs. 5,12,590/- recoverable in terms of the notice dated 07.07.2015 issued by the Sub-Divisional Officer-cum-Certificate Officer, Bagaha in Certificate Case No. 37 of 2015-16.

4. It is submitted neither on behalf of the petitioner that the entire Certificate proceeding is without jurisdiction, based as it is on the Certificate dated 07.07.2015 which has been filed without however, recording thereon the certificate case number, the requisite satisfaction of the Certificate Officer nor the individual liability of the two persons against whom recovery is sought to be made.

5. A Division Bench of this Court in *Nageshwar Prasad Singh vs. Rai Bahadur Kashinath Singh* (1958 BLJR 820) considered the effect of a defective certificate on the validity of the proceedings and observed as follows :-

"The Certificate-Officer must meticulously apply his mind to filing the certificate and filing in the columns and blanks



correctly and in appending his certificate in the form prescribed, and that the filling in of the forms is a matter of substance and is imperative, to give the certificate the force of a decree of court of law, and if it is found that the Certificate-Officer had not applied his mind at all and that some of the blank spaces were not filled up, or were incorrectly filled up, the document so prepared and filed is not a certificate under the Public Demands Recovery Act. The certificate proceedings are wholly in valid and the officer concerned acts without jurisdiction”.

6. In the above facts and circumstances and with the consent of the parties, the present writ petition is disposed of setting aside the Certificate dated 07.07.2015 granting liberty to the Certificate Officer, Bagaha to draw up a certificate afresh in accordance with law. In the meantime, no coercive action shall be taken against the petitioner in connection with Certificate Case No. 37 of 2015-16, pending in the Court of Sub-Divisional Officer-cum-Certificate Officer, Bagaha.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.04.2018
Transmission Date	N.A.

