

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5684 of 2018**

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Avinash Kumar Gupta, Son of Shri Vinda Prasad Gupta, Resident of Village-Purani Bazar, Post-Ramnagar, Police Station-Ramnagar, District-West Champatan.

.... .... 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.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Manoj Kumar, Adv

Ms. Saliha Sabiha, Adv

For the Respondent/s : Mr. ANIL KR.SINHA-GA1

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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 quashing the entire Certificate proceedings in Certificate Case No. 35 of 2015-16 presently pending before the Sub-Divisional Officer-cum-Certificate Officer, Bagaha; and for connected reliefs.

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.9,91,872.00 recoverable in terms of the notice



dated 07.07.2015 issued by the Certificate Officer in Certificate Case No. 35 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, date and the requisite satisfaction of the Certificate Officer with regard to the amount recoverable etc.

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 filling 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 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 in Certificate Case No. 35 of 2015-16, pending in the Court of Sub-Divisional Officer-cum-Certificate Officer, Bagaha.

**(Vikash Jain, J)**

Chandran/BT

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| AFR/NAFR          | NAFR       |
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