

GAHC010141462019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/5/2022

SRI AMARJIT BARMAN AND 4 ORS
S/O SRI KANAK BARMAN, R/O KHATABARI, WARD NO.1, P.O. NALBARI,
DIST. NALBARI, ASSAM, PIN 781335.

2: SRI AMINUL HAQUE MAZUMDAR
S/O MD. ANAYATUR RAHMAN
R/O VILL. DUDHTPATIL
PART-5
P.S. SILCHAR
DISTRICT CACHAR
ASSAM
PIN 788003

3: SRI BABUL CHAMUAH
S/O LT. BENUDHAR CHAMUAH
R/O VILL KULA PATHAR
P.O. ARADHAL
P.S. DHEMAJI
DIST. DHEMAJI
ASSAM
PIN 787057

4: SRI JITEN GOGOI
S/O LT. RITU NATH GOGOI
R/O VILL LENGIERI SANTIPUR
P.O. G.B.B. PUKHURI
P.S. BAMUNBARI
DIST. DIBRUGARH
ASSAM
PIN 786613

5: SRI MADHURIMA CHETIA
D/O SRI INDRESWAR CHETIA
R/O VILL. BARKALAH

WARD NO. 6
P.O. AND P.S. SIMULIGURI
DIST. SIVASAGAR
ASSAM
PIN 786613

6: SRI NIYAMOT ALI
S/O RAHMAT ALI
R/O VILL. HURKAKUCHI
P.O. GOBINDAPUR
P.S. GOALPARA
DIST. GOALPARA
ASSAM
PIN 78310

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
CO-OPERATIVE DEPARTMENT, DISPUR, GUWAHATI-781006

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
GOVT. OF ASSAM
KHANAPARA
GUWAHATI
ASSAM

3:THE ASSAM STATE CO-OPERATIVE UNION
REPRESENTED BY THE PRESIDENT
ASSAM STATE CO-OPERATIVE UNION
DR. B. BAROOAH ROAD
GHY-7
DIST. KAMRUP
ASSAM

4:THE CHIEF EXECUTIVE OFFICER
ASSAM STATE CO-OPERATIVE UNION
DR. B. BAROOAH ROAD
GUWAHATI-7
DIST. KAMRUP
ASSAM

5:THE PRINCIPAL SECRETARY
DEPARTMENT OF FINANCE
DISPUR
GUWAHATI-6
ASSA

Advocate for the Petitioner :

Advocate for the Respondent : SC, FINANCE DEPTT.

Linked Case : WA/168/2019

SHRI RAJAT CH. KALITA AND ANR
S/O- SHRI PARESH CH. DEKA
R/O- VILL.- BURHADOI
P.O. BURHA (DUMI)
P.S. SIPAJHAR
DIST.- DARRANG
ASSAM
PIN- 784148.

2: SHRI PHUKAN DAS
S/O- LATE CHANDRA DHAR DAS
R/O- VILL- BARDANGERI KUCHI
P.S. BAIHATA CHARIALI
DIST.- KAMRUP
ASSAM
VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM
CO-OPERATIVE DEPARTMENT
DISPUR
GUWAHATI- 781006.

2:THE REGISTRAR OF CO-OPERATIVE SOCIETIES
GOVT. OF ASSAM
KHANAPARA
GUWAHATI
ASSAM

3:THE ASSAM STATE CO-OPERATIVE UNION
REP. BY THE PRESIDENT
ASSAM STATE CO-OPERATIVE UNION DR. B. BAROOAH ROAD
GHY-7
DIST.- KAMRUP
ASSAM.

4:THE CHIEF EXECUTIVE OFFICER
ASSAM
ASSAM STATE CO-OPERATIVE UNION
DR. B. BAROOAH ROAD
GHY-7
DIST.- KAMRUP
ASSAM
5:THE PRINCIPAL SECRETARY

DEPARTMENT OF FINANCE
DISPUR
GUWAHATI-6
ASSAM

Advocate for : MRS N SAIKIA
Advocate for : SC
CO OP appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE KARDAK ETE**

JUDGMENT

Date : 17-10-2023

[Kardak Ete, J]

Since both the Writ Appeals involves same question of facts and law, the Writ Appeals are disposed of by this common judgment and order.

2. Heard Ms. N. Saikia, learned Counsel representing the appellants in both the Appeals. Also heard Mr. G. Bordoloi, learned Standing Counsel for the Co-Operative Department representing the respondents No.1 & 2, Mr. J. Barman, learned Counsel appearing on behalf of Mr. J.K. Goswami, learned Counsel representing the respondents Nos.3 & 4 and Mr. P. Nayak, learned Standing Counsel for the Finance Department, Government of Assam representing the respondent No.5.

3. These intra-Court Appeals have been preferred by the appellants against the common judgment and order dated 25.04.2019, passed by the learned Single Judge in WP(C) No.2971/2012 (against which the Writ Appeal No.05/2022 has been preferred) and WP(C) No.2047/2017 (against which the Writ Appeal No.168/2019 has been preferred) respectively, along with WP(C)

No.2556/2012, WP(C) No.2622/2013 and WP(C) No.812/2013, whereby the prayer of the petitioners (present appellants) for a direction to the State respondents for payment of monthly salary and other emoluments, as revised from time to time and to continue to provide grant-in-aid has been rejected by holding that the petitioners being employees of the Assam State Cooperative Union (in short 'the ASCU'), which is a registered Cooperative Society would not be entitled to a writ in the nature of Mandamus against the State Government. The learned Single Judge has held that the Writ Petition is not maintainable against the State respondent and it would not be appropriate to issue Mandamus upon the State of Assam.

4. The case of the appellants, shorn of unnecessary details, in brief, may be narrated as under:

The appellants are working as District Co-Operative Education Development Officer (DCEDO) in the ASCU, which organization was sponsored and financed by the Government of Assam for promotion of Co-Operative education, training, publicity and propaganda work throughout the State of Assam. Since its inception in the year 1955-56, the Government of Assam has been providing financial assistance to the ASCU for smooth implementation of the above mentioned schemes. But in spite of discharging equal and similar kind of duties, the appellants are deprived of their legitimate scale of pay as received by their Senior counterparts. Although the budget proposal for the employees of SCU for salary and allowances. have been forwarded to the Registrar of Cooperative Societies, Assam by the CEO, ASCU, same has not been sanctioned timely. The appellants approached this Court earlier by filing Writ petition being WP (C) 7086/2005 wherein vide Order dated 24.02.2006 a direction was issued for payment of salary of employees of the ACSU. The appellants contended that

despite such order of this Court, the respondent authorities have not paid the salaries to the appellants regularly. Being aggrieved by the inaction of the respondent authorities for payment of regular salary, the appellants again approached this Court by filing the WP(C) No.2971/2012 and WP(C) No.2047/2017 respectively, praying for payment of regular salary including the revised salary as per resolution dated 28.12.2006 taken by the President of ASCU by providing grant-in-aid.

5. The learned Single Judge, after hearing the parties and on consideration of materials available on record, has dismissed the writ petitions (supra) and other analogous batch of writ petitions by the impugned judgement and order dated 25.04.2019. Hence, being aggrieved by the impugned judgement and order dated 25.04.2019, the appellants have preferred the present Appeals.

6. Ms. N. Saikia, learned counsel for the appellants submits that the principle of *per incurium* cannot be drawn since the judgment and order dated 24.02.2006 of the learned Single Judge in WP(C) No.7086/2005 has been confirmed by the Division Bench. Unless a Higher Court or Full Bench set aside the judgment of the Single Bench as *per incurium*, the judgment remains as it is confirmed by the Division Bench. Moreover, there is no legal flaw in holding that ASCU is a Government Instrumentality under Article 12 of the Constitution of India which point was raised by the then Government Advocate in Review Petition as well as in the Writ Appeal but same was answered in negative and the Hon'ble Court did not interfere with the order of the learned Single Judge. As such, judgment of the learned Single Judge as well as the Division Bench cannot be said to be *per incurium* since the Writ Petition was filed against the Government Officers as the main respondents and there is no law or Act stating

that the ASCU is not a Government entity. Hence, relief under Article 226 of the Constitution of India against the Government Authority cannot be denied to the appellants.

7. Ms. N. Saikia, learned counsel contends that the judgment and order dated 25.04.2019 suffers from flawed interpretation and misconception. The judgment talks about *per incuriam*, relying on a decision of the Hon'ble Supreme Court rendered in the case of **State of Assam vs. Barak Upatyaka D.U. Karmachari Sanstha** reported in **(2009) 5 SCC 694**, which was passed on 17.03.2009. Therefore, according to her, the judgment dated 17.03.2009 cannot come in the way at any level to apply the principle of *per incurium* in the present proceeding. While making an attempt to distinguish the above referred decision of the Hon'ble Supreme Court, she submits that the ASCU and Cachar and Karimganj District Milk Producers Co-operative Union Ltd (in short CAMUL) stand on different footing although both the societies are registered under the Cooperative Societies Act. The ASCU is a Government Society created by the Government for the purpose of Education and training to public in general and is a non-profitable organization created pursuant to a Cabinet Decision having its stand all over India. On the other hand, the CAMUL is purely a business organization earning money by selling dairy products and concerned with monetary profit and loss of the business, whereas ASCU is not carrying any business since its inception till date and is supported by the State Government by paying salary and other allowances and as such the facts as well as the law applied by the learned Single Judge in the impugned Judgment and Order dated 25.04.2019 is absolutely different. Referring to the impugned judgment and order of learned Single Judge, she has submitted that the learned Single Judge has relied on the decision of the Hon'ble Supreme Court in the case of **Barak**

Upatyaka D.U. Karmachari Sanstha (Supra) but ignored the fact that the CAMUL is a business organization processing & selling milk in the market whereas the ASCU is an institution imparting Cooperative Education on behalf of the Government to facilitate the common people in Cooperative Education. Therefore, both organizations cannot be put on the same pedestal when there is vast difference of their aims, objects and constitution. Moreover, grant-in-aid was provided to CAMUL only for different development activities under the Centrally Sponsored Scheme between 1981-1986 and was released on 50:50 basis by Central and State Government, with 70% loan component and 30% grant component.

8. Ms. Saikia, learned counsel for the appellants submits that the principle of *per incurium* can be applied where a Court omits to consider a binding precedent of the same Court or the Superior Court, rendered on the same issue or where a Court omits to consider a statute while deciding the issue. In the present case, the judgment and order dated 24.02.2006 passed in WP(C) No.7086/2005, the Division Bench in Writ Appeal No.369/2007, has confirmed the judgment and refused to interfere with the judgment. As such, the earlier judgment has attained finality and Hon'ble Court in contempt petition has accepted that the required amount should be paid to the Writ Appellants as directed by the learned Single Judge. In this regard, the Registrar of Assam State Co-Operation Department, Additional Chief Secretary including the Hon'ble Minister has approved the payment to the appellants. The learned counsel for the respondent has also given legal opinion to release the salary as directed by the Hon'ble Court but at this stage, the learned Single Judge ignoring the above mentioned facts and circumstances refused to pass any direction to the respondents to release the salary, declaring the earlier

judgment, which was passed seventeen (17) years back, to be *per incuriam*, which is impermissible in the eyes of law.

9. While placing reliance on the case of **Steel Authority of India vs. National Union Waterfront Workers**, reported in **(2001) 7 SCC 1**, Ms. Saikia submits that the Hon'ble Apex Court held that the history of exploitation of labour is as old as the history of civilization and there has been ongoing struggle by labourers and their organizations against such exploitation but it continues in one form or the other. After enactment of the Constitution of India, the State is under an obligation to improve the working conditions of the workforce. Articles 23, 38, 39, 43, 43-A, 14 and 15 are relevant in this regard and the Preamble of the Constitution is the lodestar and guide to those who find themselves in a grey area, while dealing with its provisions. As such, the impugned judgment and order dated 25.04.2019 refusing to issue direction to the State Government for payment of salaries to the employees of ASCU is not sustainable in law.

10. Ms. Saikia, learned counsel for the appellants further submits that the learned Single Judge has held that the ASCU is an authority within the meaning of Article 12 of the Constitution of India but refused to issue direction to the State authority to pay the salary. Since, the Government is paying the salaries of the appellants from its inception in the year 1955 till 2012, without any break, the Government is bound to pay the salary and other expenditures in the form of grant-in-aid to ASCU. Unless a Cabinet Decision is taken in this regard or otherwise, either to liquidate the society by giving golden handshake to the employees, the respondents cannot refuse to pay the salary by sitting tight on the plea of opening of Assam Rajiv Gandhi University of Cooperative Management. The learned Single Judge in one hand has held that the ASCU is an authority under Article 12 of the Constitution of India and on the other hand,

refused to direct the State authority to pay the salaries of the appellants following the bye laws of ASCU. As such, the judgment and order dated 25.04.2019 is bad in law and is liable to be set aside and quashed.

11. Ms. Saikia, learned counsel for the appellants further contended that the learned Single Judge has failed to appreciate the decisions in catena of cases by the Hon'ble Apex Court that the Government cannot take advantage of its dominant position and compel any worker to work even as a casual labourer on starvation of wages. It may be that the casual labourer has agreed to work on such low wages but he does so because he has no other choice and it is the poverty that has driven him to that state and the Government should be a model employer. India being a Socialist Republic, it implies the existence of certain important obligations which the State has to discharge and it is the right of everyone who works to just and favourable remuneration ensuring a decent living for himself and his family, without discrimination of any kind to equal pay for equal work.

12. Ms. N. Saikia learned counsel for the appellants submits that the learned Single Judge has wrongly quoted a paragraph from the judgment passed in WP(C) No.7086/05 in para 36 of the impugned judgment. But in the judgment dated 24.02.2006, passed in WP(C) No.7086/2005, no such language or finding is found in the said judgment on the basis of which the present writ petitions have been rejected and as such the judgment and order dated 25.04.2019, apparent on the face of it is wrong, since the finding is based on non-existent materials.

13. On the contrary, Mr. G. Bordoloi, learned standing counsel for the Co-Operative Department representing the respondents No.1 & 2, while reiterating the stand taken by the respondents No.1 & 2, before the learned Single Judge,

submits that the Writ petitions are not maintainable as the ASCU is not a State within the meaning of Article 12 of the Constitution nor it is an instrumentality of the State Government. The ASCU is a Co-operative Society registered under the Assam Cooperative Societies Act, 1949 (now the Assam Cooperative Societies Act, 2007), having its own Bye-Laws and is a self-governed body, controlled by an Elected Board of Directors, which run the Society as per the Bye-Laws. It appoints its own employees and the Government of Assam has no role to play in the matters of appointment of staffs and consequential payment of their salaries and allowances.

14. Mr. Bordoloi, learned standing counsel further submits that payment of salaries to the employees of the ASCU, including their engagement and appointment of its employees is the prerogative of its Board of Directors. Though the State Government used to provide grants-in-aid to the ASCU till 2012-13, the Cooperative Department of the Government of Assam has no role and responsibility for payment of salary to the employees of the ASCU. Whatever the State Government provided to the ASCU in the form of grant-in-aid was not only for the payment of salaries of its employees but it was for overall components of the ASCU. There is no dispute that the ASCU is not a Government organization and its employees are not Govt. servants, therefore, the appellants have no right to claim any salary as well as the arrear salary from the State Government.

15. Mr. Bordoloi, the learned standing counsel further submits that the last grant-in-aid was sanctioned for ASCU by the Government of Assam on 08.03.2013, by releasing an amount of Rs.60,00,000/- (Rupees sixty lakhs) only for the year 2012-13. In the said communication it has been clearly indicated that the ASCU should generate its own funds for the employees. This decision of

the Government, not to advance any grant-in-aid to the ASCU has not been challenged and in fact, there is no scope to challenge as such, as the Society or its Board of Directors is responsible to manage its own funds to run the ASCU and also for payment of salaries to its employees. In any case, the appellants have no right to claim for payment of salary as well as arrear salary from the State Government/ Co-Operative Department.

16. Mr. P. Nayak, learned standing counsel for the Finance Department, Government of Assam representing the respondent No.5, while referring to the affidavit-in-opposition filed on behalf of the respondent No.5, submits that the role of ASCU was for implementation of education, training, publicity for the development of Co-operative movement for the State, however, with the establishment of Assam Rajiv Gandhi University of Co-Operative Management (ARGUCOM), the role of capacity development, education and training has been fully entrusted to ARGUCOM. Therefore, a policy decision was taken by the Government, not to grant financial assistance to ASCU. It was desired as per policy that ASCU should take its own decision regarding its funding for existence and activities without depending on the State Government. However, in the Departmentally Related Standing Committee (DRSC) meeting held on 27.02.2017, in respect of Co-operation Department, the committee recommended to provide an amount of Rs.50.00 (L) to ASCU as financial assistance during 2017-18.

17. Mr. Nayak, learned standing counsel while referring to the Bye-Laws of the ASCU, particularly Clause 7, which provides for fund of the Union submits that the fund of the ASCU shall be derived from the annual subscription of members, grants-in-aid from the Government, Educational Fund created out of Cooperative Development Fund, Donation and Contribution of the Cooperative

Institutions/Organizations, other Philanthropic Organizations/persons, bodies, institutions, etc., contributions from profit of the member society, sale, production of publication, periodicals, text books, film, etc., loans and advances, etc. Though ASCU was provided grant-in-aid by the Government, it does not mean that the employees/the appellants have a right to claim for payment of salary from the State Government. It clearly indicates that grant-in-aid is one of the areas from where the ASCU could derive the funds, however, the State Government, way back in 2012-13, had clearly indicated that no further grant-in-aid shall be provided to the ASCU, while releasing the last grant-in-aid, amounting to Rs.60,00,000/- in the year 2012-13.

18. Mr. Nayak submits that the submission that the Cooperative Society is a instrumentality of the State under Article 12 of the Constitution of India and therefore, Writ petition is maintainable against the State Respondent, is total misconception on the part of appellants in as much as Cooperative Society may be in a given case falls under the instrumentality of the State under Article 12 of the Constitution of India. In such a case writ petition may be maintainable against the co-operative society but not against the State Government. However, in the present case the claim of the appellants in their Writ Petition is against the State Government for payment of salary as well as arrear salaries to the appellants and not to the Cooperative Society. Therefore, writ petitions and the writ appeals are not maintainable against the State of Assam and as such same are liable to be dismissed.

19. We have considered the submissions made by learned counsels for the parties. We have also perused the materials available on record.

20. Indisputably, the appellants are employees of the ASCU, who are working as District Co-Operative Education Development Officers (DCEDO), an

organization initially sponsored and financed by the Government of Assam by way of grant-in-aid for promotion of Co-Operative education, training and publicity for development of Co-Operative movement throughout the State of Assam, which was registered under the Assam Cooperative Societies Act, 1949 (now the Assam Cooperative Societies Act, 2007).

21. The key issue is as to whether the State Government has any obligation to provide funds for payment of salary to the appellants who are the employees of ASCU, which is a registered Cooperative Society or as to whether the Government of Assam is under the legal duty to provide grant-in-aid to the ASCU for payment of salaries and allowances to its employees.

22. On consideration of the materials on record, it transpires that the ASCU is a Cooperative Society registered under the Assam Cooperative Societies Act, 1949 (now the Assam Cooperative Societies Act, 2007). There is no deep and pervasive control over the ASCU by the State Government. Therefore, we are of the view that the ASCU cannot be said to be an authority or instrumentality of the State under Article 12 of the Constitution of India. Writ petition may be maintainable if it is established that the Government has deep and pervasive control of the Cooperative Society. However, in such a case also, the claim would be against the Cooperative Society, which may fall within the meaning of authority/instrumentality of the State under Article 12 of the Constitution of India. In any event, the Writ Petitions are not at all maintainable against the State of Assam which has no liability towards the ASCU or its employees. Resultantly, no claim for payment of salary against the State Government would be maintainable.

23. We take note of the fact that the State of Assam had provided grant-in-aid to the ASCU till 2012-13 and while releasing the sanctioned amount of

Rs.60,00,000/- for the year 2012-13, the State Respondent has clearly indicated that no more grant-in-aid shall be provided to the ASCU. We also take note of the fact that in the earlier round of litigation, the learned Single Judge of this Court directed the respondents to expedite the issue of payment of regular salary and directed the State Government to release the fund expeditiously while disposing of the writ petition being WP(C) 7086/2005 vide short order dated 24.02.2006. It transpires on a careful perusal of the said order dated 24.02.2006, that the grievance of the petitioners was for regular scale of pay after being upgraded to the post of organizing secretary on the ground that the petitioners are similarly situated to the other employees who are discharging the same work. The case projected in that case is completely different from the present case. The issue of maintainability or otherwise was not determined at all and no law has been laid down therein. Moreover, said direction had been issued without determination of the key issue arisen in this the present proceedings. Therefore, we are of the view that such a direction dated 24.02.2006 passed in the said WP(C) 7086/2005 cannot form a precedent entitling the appellants to lay a claim for payment of regular salary from the State Government and for a direction to continue to provide grant-in aid.

24. Having regard to the contention of the appellants on the principle of *per incuriam*, we find it unnecessary to venture on the same as law is too well settled and in view of the discussions which we have made herein above. We have also carefully considered the case laws which has been relied on by the learned counsel for the appellants. On such consideration, we find that there would not be any quarrel on the observations and propositions of law laid down by the Hon'ble Supreme Court. The case laws relied on by the learned counsel for the appellants do not come to the aid of the appellants as the same are not

relevant and applicable in the facts and circumstance of the case in hand.

25. We are unable to agree with the view of the learned Single Judge that that the ASCU is an authority within the meaning of Article 12 of the Constitution of India, as there is nothing on record to show that the State of Assam has deep and pervasive control over the ASCU. Merely because by virtue of the provisions of Section 25 of the Assam Cooperative Societies Act, 2007 money as envisaged therein statutorily come into the coffers of ASCU and its existence has its source in the Act, by itself would not be a ground to hold that ASCU falls within the meaning of authority or instrumentality of State under Article 12 of the constitution of India.

26. A profitable reference may be made to the similar case of **Barak Upatyaka D.U. Karmachari Sanstha (Supra)**, wherein the Hon'ble Apex Court has observed which is reproduced herein under:

“9.The various averments of the respondent in the writ petition about the all pervasive financial, administrative and functional control of CAMUL by the state Government, even if assumed to be true, may at best result in CAMUL, being treated as ‘state’ within the meaning of that expression under [Article 12](#) of the Constitution of India. If it is a “State”, in case of violation of any of the fundamental rights of its employees, by CAMUL as employer, the employees were entitled to claim relief against CAMUL, by taking recourse to a writ petition under [Article 226](#) of the Constitution of India. But the fact that a corporate body or co-operative society answers the definition of “State” does not make it the “State Government”, nor will the employees of such a body, become holders of civil posts or employees of the state Government. Therefore the fact that the CAMUL may answer the definition of "state" does not mean that the State Government is liable to bear and pay the salaries of its employees.

13. If the salaries are not paid, the remedy of the employees of CAMUL is to proceed against CAMUL, in accordance with law, by approaching the forum under the appropriate labour legislation or the [Co-operative Societies Act](#). But a trade union representing the employees of a co-operative society cannot, by filing a writ petition, require the Government to bear and pay the salaries of the employees of the co-operative society, howsoever pervasive, the control of the state government, over such society. Nor is any right created to demand the continuance of financial

assistance to a co-operative society, on the ground that such assistance has been extended by the government, for several years.

14. The respondent has not been able to show any right in the employees of CAMUL against the State Government, or any obligation on the part of the State Government with reference to the salaries/emoluments of employees of CAMUL either under any statute or contract or otherwise.”.

However, as the relief sought for by the appellants is primarily focused on the State of Assam, we do not propose to dwell any further on this issue which is otherwise inconsequential for deciding the lis.

27. In the present case also the appellants have failed to show any right against the State Government or any obligation on the part of the State Government with reference to the salaries/emoluments of employees of ASCU either under any statute or contract or otherwise. Mere sporadic financial assistance by way of grant-in-aid for several years neither makes State respondent responsible to bear salaries of employees of ASCU nor creates any legal right to demand continuance of such grant-in-aid. Therefore, no writ is maintainable against the State Government of Assam, consequently no direction can be issued for payment of salary to the appellants as well as for providing grant-in-aid to ASCU.

28. In view of the discussions made herein above, we find no infirmity in the judgment and order dated 25.04.2019 of the learned Single Judge, so far it relates to rejection of prayer of appellants for a direction to the Government of Assam for payment of salaries and allowances to the appellants. However, the conclusion of the learned Single Judge, holding the ASCU an authority under Article 12 of the Constitution of India, is interfered with and accordingly stands reversed.

29. In the result, both writ appeals fails and are dismissed. No order as to

costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant